



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ASSOCIATED PROPERTY MANAGEMENT  
(2001) LTD. and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      CNR, DRI, MT, OLC

### Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution filed on January 14, 2019 in which the Tenant sought the following relief:

- to cancel a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities issued on November 27, 2018 (the "Notice");
- an order for more time to make an application to cancel the Notice;
- an Order that a rent increase is of no force and effect; and,
- an Order that the Landlord comply with the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and/or the tenancy agreement.

The hearing was scheduled for teleconference at 11:00 a.m. on this date. Only the Tenant called into the hearing. She gave affirmed testimony and was provided the opportunity to present her evidence orally and in written and documentary form, and to make submissions to me.

The Landlord did not call into this hearing, although I left the teleconference hearing connection open until 11:19 a.m. Additionally, I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the Tenant and I were the only ones who had called into this teleconference.

As the Landlord did not call in, I considered service of the Tenant's hearing package. The Tenant testified that she personally served the Landlord's representative, J.R., with the Notice of Hearing and the Application on January 15, 2019. I accept the Tenant's undisputed testimony in this regard and find the Landlord was duly served as of January 15, 2019 and I proceeded with the hearing in their absence.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Rules of Procedure*. However, not all details of the Tenant's submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Preliminary Matter—Issues to be Decided

The Tenant stated she participated in a Tenant Meeting with the Landlord on December 4, 2018 regarding the Notice at which time the Landlord's representative J.R. confirmed the Landlord wished to withdraw the Notice. However, as this was not confirmed in writing, she made her application disputing the Notice.

Hearings before the Residential Tenancy Branch are conducted in accordance with the *Residential Tenancy Branch Rules of Procedure*. Rule 6.6 provides that when a tenant applies to cancel a notice to end tenancy the landlord must present their evidence first as it is the landlord who bears the burden of proving (on a balance of probabilities) the reasons for ending the tenancy. Consequently, even though the Tenant applied for dispute resolution and is the Applicant, the Landlord was required to attend the hearing to provide evidence in support of the Notice.

As the Landlord failed to attend the hearing, I find the Landlord has failed to meet the burden of proving the reasons for issuing the Notice; consequently, I hereby grant the Tenant's request to cancel the Notice.

#### Issues to be Decided

1. Is the Tenant entitled to an Order that a rent increase is of no force and effect?
2. Is the Tenant entitled to an Order that the Landlord comply with the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, and/or the tenancy agreement.

#### Background Evidence

Written submissions provided by the Tenant confirmed that her tenancy began July 31, 2016.

The Tenant testified that at no time was she late with her rent during her tenancy. Despite this, she received the Notice indicating she was in arrears of rent. After some effort attempting to communicate with the Landlord's representatives as well as obtaining records from her bank confirming her rent payments were made on time (and most times before the date they were due) the Landlord informed her they wished to withdraw the Notice.

The Tenant indicated that she received also received a Notice of Rent Increase dated October 15, 2018. She stated that the amount of her rent, the increase amount, and the date of the last rental increase were all incorrect on the Notice of Rent Increase. The Tenant further stated that she brought this to the Landlord's representatives' attention, who at first told her they would "get back to her". The Tenant further stated that on February 21, 2019, J.R. confirmed that they did not intend to increase her rent until July 2019.

### Analysis

After consideration of the Tenant's undisputed testimony and evidence and on a balance of probabilities, I find as follows.

A tenant's rent may only be increased in accordance with Part 3 of the *Residential Tenancy Act* and Part 4 of the *Residential Tenancy Regulations*.

In the absence of evidence from the Landlord as to the contents of the Notice of Rent Increase issued October 15, 2018, I am unable to find that it complies with Part 3 of the *Act* and Part 4 of the *Regulations*. I therefore find the Notice of Rent Increase issued October 15, 2018 to be of no force and effect.

Should the Landlord wish to raise the Tenant's rent, they must issue a new Notice of Rent Increase and must ensure this Notice complies with the *Residential Tenancy Act* and the *Regulations*.

### Conclusion

The Tenant's Application for an Order canceling the Notice is granted. The tenancy shall continue until ended in accordance with the *Residential Tenancy Act*.

The Notice of Rent Increase issued October 15, 2018 is cancelled and of no force and effect.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 25, 2019

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Residential Tenancy Branch