



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NEWTON MOBILE HOME PARK and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes     DRI, FFT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on January 23, 2019 (the "Application"). The Tenant applied for the following relief, pursuant to the *Manufactured Home Park Tenancy Act* (the "Act"):

- to dispute a rent increase
- an order granting recovery of the filing fee.

The Tenant as well as the Landlord's agent L.M. and representative H.S. attended the hearing at the appointed date and time, and provided affirmed testimony.

The Tenant testified that she served her Application and documentary evidence package to Landlord by registered mail on January 23, 2019. L.M. confirmed receipt. L.M. testified that he served the Tenant with the Landlord's documentary evidence in person on February 14, 2019. The Tenant confirmed receipt. Pursuant to Section 88 and 89 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary Matters

At the start of the hearing, the parties agreed that this matter falls under the Manufacture Home Park Tenancy Act. The Tenant filed her Application under the Residential Tenancy Act. The parties agreed that the Application should be amended to ensure the appropriate legislation is applied in relation to the Tenant's claims.

### Issue(s) to be Decided

1. Is the Tenant entitled to an order cancelling the Notice of Rent Increase dated January 16, 2019, pursuant to Section 36 of the Act?
2. Is the Tenant entitled to an order granting the return of the filing fee, pursuant to Section 65 of the Act?

### Background and Evidence

The parties testified and agreed to the following; the tenancy began on June 29, 2004. Rent in the amount of \$631.37 is due to be paid to the Landlord each month. The Tenant did not pay a security deposit.

L.M. testified that he served the Tenant in person with a Notice of Rent Increase dated January 16, 2019. The Notice of rent increase indicates that the Tenant's rent will increase by \$37.66, which brings the Tenant's amount of rent owed to \$699.03 effective May 1, 2019. L.M. testified that the rent increase is comprised of the 2.5% inflation rate + the proportionate increase in local government and utility fees for common property.

H.S testified that the Landlord calculated that increase in property taxes from 2017 to 2018 in the amount of \$6,909.82, as well as the increase in utilities, \$4,113.06 for a total annual increase of \$11,022.88. H.S. stated that \$11,022.88 was then divided by the number of lots in the Mobile Home Park (42), leaving the amount of \$262.45 annual increase per lot. H.S. testified that \$262.45 divided by 12 months of the year resulted in a proportionate rent increase of \$21.87. The Landlord submitted documentary evidence in support of these calculations.

The Tenant testified that she agrees with the 2.5% rent increase, however disputes the proportionate increase calculated by the Landlord. The Tenant indicated that the Landlord did not account for the different lot sizes throughout the park. The Tenant

stated that her lot is much smaller than other lots found in the Mobile Home Park, therefore, she feels as though the proportionate amount of rent increase should consider the lot size as well.

### Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 36(1) of the *Act* states that a landlord may impose a rent increase only up to the amount (a) calculated in accordance with the regulations.

According to the Section 32(1) of the Mobile Home Park Tenancy Regulations (the "Regulations"), a proportional amount means the sum of the change in local government levies and the change in utility fees divided by the number of manufactured home sites in the landlord's manufactured home park.

Section 32(3) of the Regulations, for the purposes of section 36 (1) (a) of the *Act*, in relation to a rent increase with an effective date on or after January 1, 2019, a landlord may impose a rent increase that is no greater than the amount calculated as follows; inflation rate + proportional amount.

The parties agreed that the Landlord served the Notice of Rent Increase dated January 16, 2019 to the Tenant in person on the same day. The parties agreed that the Notice indicates that the Tenant's rent is due to be increased in the amount of \$37.66, bringing the Tenant's total rent owed to the Landlord in the amount of \$669.03 a month. I find the Notice of Rent Increase was sufficiently served pursuant to Section 88 of the *Act*.

In this case the Tenant testified that the Landlord should have considered the different lot sizes when determining her proportionate rent increase. I find that the *Act* and the Regulations make no mention to the Landlord needing to consider the different lot sizes when calculating the proportionate rent increase. I find that Section 32 of the Regulations only mentions the sum of the change in local government levies and the change in utility fees divided by the number of manufactured home sites in the landlord's manufactured home park. I find that the Landlord has complied with the *Act* and Regulations relating to the rent increase.

As such, I uphold the Landlord's Notice of Rent Increase dated January 16, 2019. I dismiss the Tenant's Application without leave to reapply. I order that the Tenant comply with the Notice of Rent Increase.

As the Tenant was not successful with their Application, I find that the Tenant is not entitled to the recovery of the filing fee.

Conclusion

The Landlord's Notice of Rent Increase dated January 16, 2019 is upheld. The Tenant's Application is dismissed without leave to reapply.

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

Dated: March 21, 2019

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Residential Tenancy Branch