



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PACIFIC COVE PROPERTIES  
INC and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FFT, MNDCT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for money owed or compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement, pursuant to section 67; and
- authorization to recover the filing fee for its application from the landlord, pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord's agents acknowledged receipt of evidence submitted by the tenants. The landlord did not submit any documentation for this hearing. I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant facts and issues in this decision.

### Issues to Decide

Are the tenants entitled to a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement?

Are the tenants entitled to the recovery of the filing fee from the landlord for this application?

### Background and Evidence

The tenants gave the following testimony. NE testified that she has resided in the unit since July 2015. NE testified that she got married and her husband moved in with her in September 2017. JT testified that he filled out an application to move into the suite and was approved by the property manager. JT testified that he was told that the company

policy was that the rent would increase by \$100.00 for each additional occupant. NE testified that she paid the additional fee for five months but was unhappy that she had to do so. NE testified that she brought this to the attention of the management and that as of February 1, 2018 the company stopped charging the additional \$100.00 per month. The tenants request the “overpayment” of rent for the five months as well as the recovery of the \$100.00 filing fee for a total monetary claim of \$600.00.

The landlord’s agents gave the following testimony. TC testified that the tenants agreed to the additional charge and it wasn’t an issue until NE brought it to his attention 5 months later. TC testified that as a show of “good faith” he sent the tenants a letter advising that they would be waiving the additional occupant charge from February 1, 2018. TC testified that he thought that was the end of the matter. NA testified that the tenant willingly agreed to their policy and that they did not raise this issue again until filing this application until almost two years later. The agents submit that the tenant’s application should be dismissed.

### Analysis

Section 43 of the act addresses the issue before me as follows:

#### **Amount of rent increase**

- 43** (1) A landlord may impose a rent increase only up to the amount
- (a) calculated in accordance with the regulations,
  - (b) ordered by the director on an application under subsection (3), or
  - (c) agreed to by the tenant in writing.

Although the tenant did not agree to the rent increase in writing, their actions clearly indicate that they did accept it. Firstly, by applying to add the additional occupant to the agreement knowing full well that the rent would go up by \$100.00 and then paying that amount for five months. As soon as the issue was brought to the landlord’s attention they acceded to the tenants request and waived further payment of the \$100.00 rent increase. The tenants could have filed an application to dispute the notice but chose not to or advise the landlord from the outset; but rather waited almost two years to file a dispute even though the matter had been resolved. NE testified that “it took some time to get the information needed”. I find that; based on the tenant’s own testimony, they knowingly and willingly agreed to the \$100.00 rent increase and that they have not

provided sufficient evidence that they were opposed to it prior to the one conversation held five months after the increase. Based on all the above, I hereby dismiss the tenant's application in its entirety without leave to reapply.

Conclusion

The tenant's application is dismissed in its entirety 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 *Residential Tenancy Act*.

Dated: September 12, 2019

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Residential Tenancy Branch