



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      DRI FF

### Introduction

This hearing was convened pursuant to the Tenant's Application for Dispute Resolution made on January 10, 2020 (the "Application"). The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order relating to a disputed rent increase; and
- an order granting recovery of the filing fee.

The Tenant and R.C. attended the hearing at the appointed date and time and provided affirmed testimony.

The Tenant was unable to provide evidence with respect to service of the Notice of Dispute Resolution Hearing package. However, R.C. acknowledged receipt. Further, R.C. testified that the Landlord's documentary evidence was served on the Tenant in person on March 3, 2020. The Tenant acknowledged receipt. No issues were raised during the hearing with respect to service or receipt of these documents. The parties were in attendance or were represented and were prepared to proceed. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given a full 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, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issues to be Decided

1. Is the Tenant entitled to an order relating to a disputed rent increase?
2. Is the Tenant entitled to an order granting recovery of the filing fee?

### Background and Evidence

The parties agreed the tenancy began on August 1, 2016. On August 1, 2019, the Tenant moved into a different unit. The amount of rent due is in dispute. The Tenant paid a security deposit of \$450.00, which the Landlord holds.

The Tenant testified that on August 1, 2019 he moved from unit #203 to unit #205, both of which are 1-bedroom apartments. However, the Tenant testified that he previously received a Notice of Rent Increase concerning unit #203 dated May 15, 2019 (the "Notice"), a copy of which was submitted into evidence. The Notice purported to increase rent for unit #203 from \$965.00 to \$989.00, effective September 1, 2019. Relying on the Notice, the Tenant testified to his belief that rent for unit #205 should continue at the rate indicated in the Notice. The Tenant asserts that the increase in rent for unit #205 is above the amount allowed under the *Act*.

In reply, R.C. testified the Tenant asked to move to unit #205 because it has laminate flooring throughout, is 20-30% larger, and suited the Tenant's needs better. In addition, R.C. testified that the Tenant was asked via text message to meet to sign a new tenancy agreement on August 7, 2019. A copy of the text message exchange as submitted into evidence. However, the new tenancy agreement was not signed at that time because the Tenant was waiting for his wife to return from overseas so she could sign it. R.C. testified the Tenant was aware of the difference in rent and has paid \$1,300.00 per month since moving into unit #205. In further support, the Landlord submitted a copy of a new tenancy agreement for unit #205, signed by the Tenant and S.Y. on January 23, 2020, and which confirms the new tenancy began on August 1, 2019.

The Tenant did not dispute the testimony of R.C. and stated that he only disputed his rent because he was advised to do so.

### Analysis

In light of the oral and documentary evidence submitted by the parties, and on a balance of probabilities, I find:

Sections 40-43 of the *Act* set out the process for a landlord to follow in order to increase rent during a tenancy. These provisions permit a landlord to increase rent in the prescribed amount once every 12 months. Further, a landlord must give adequate notice in the approved form.

After careful consideration of the evidence and submissions, I find that the above provisions apply to an ongoing tenancy. In this case, I find that the parties created a new tenancy for the rental of unit #205, which commenced on August 1, 2019. I accept the evidence of R.C. who testified that unit #205 has laminate floors throughout and is larger in size, features that appealed to the Tenant. I also find it is more likely than not that the parties discussed the increased rent for unit #205 as evidenced by the payment of rent in the amount of \$1,300.00 per month since August 1, 2019. The finding that a new tenancy was created was further supported by the new tenancy agreement signed by the Tenant and S.Y. on January 23, 2020.

Considering the above, I find that the Tenant's Application is dismissed without leave to reapply. The amount of rent due will continue at the agreed rate subject to any increases permitted under the *Act*.

### Conclusion

The Tenant's Application is dismissed without leave to reapply. The amount of rent due will continue at the agreed rate subject to any changes authorized or ordered under to the *Act*.

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: March 10, 2020

---

Residential Tenancy Branch