



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

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

## **DECISION**

Dispute Codes      DRI

### Introduction

This hearing dealt with an Application for Dispute Resolution (application) seeking remedy under the *Manufactured Home Park Tenancy Act* (Act) to dispute a rent increase.

The tenant, an agent for the tenant, TF (agent), the landlord, and a witness for the landlord, LS (witness) attended the teleconference hearing. The witness was not called to testify during the hearing. The parties were affirmed and given the opportunity to present evidence and ask questions during the hearing. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

The parties confirmed that they had received documentary evidence from the other party and that they had the opportunity to review that evidence prior to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

The parties were informed at the start of the hearing that recording of the dispute resolution is prohibited under the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) Rule 6.11. The parties were also informed that if any recording devices were being used, they were directed to immediately cease the recording of the hearing. In addition, the parties were informed that if any recording was surreptitiously made and used for any purpose, they will be referred to the RTB Compliance Enforcement Unit for the purpose of an investigation under the Act. Neither party had any questions about my direction pursuant to RTB Rule 6.11.

### Preliminary and Procedural Matter

The parties confirmed their respective email addresses at the outset of the hearing and stated that they understood that the decision would be emailed to them.

### Issue to be Decided

- Did the landlord impose a rent increase in accordance with the Act?

### Background and Evidence

The tenant testified that they have been renting the same site since 2010 but that it could possibly be earlier. The tenant stated that site rent was initially \$125.00 per month and after four years, sometime in 2014 and by consent of the tenant, the site rent was increased to \$150.00 per month. According to the tenant, the site rent has always included the monthly utilities.

The tenant has applied to dispute a rent increase, which the tenant describes is the new owner requesting an additional \$51.35 per month, or \$616.00 annually, to cover the costs of utilities. Once again, the tenant stated that monthly site rent included utilities, and the tenant's position is that the landlord is attempting to increase site rent in a method not approved under the Act.

The landlord, who became the new owner of the manufactured home park (home park) as of August 16, 2020, when the landlord purchased the home park. The landlord testified that upon purchasing the home park, there were no written tenancy agreements from any tenants in the home park. The landlord, as a result, created a tenancy agreement for each tenant and the tenant refused to sign the tenancy agreement. As a result, the tenant is relying on the verbal tenancy agreement they had with the previous owner of the home park. The landlord stated that all tenants, except for the tenant in this matter, have signed the new tenancy agreements provided to them.

During the hearing, the landlord originally stated that utilities were mentioned in the new park rules provided to all tenants. As a result, the landlord was asked to bring to my attention the park rules portion that referred to utilities, to which the landlord was unable to find such a section of the park rules during the hearing.

The landlord was asked if they provided a formal notice under the Act of a rent increase to include the extra \$51.35 being claimed for utilities or any other formal notice under

the Act. The landlord was unable to direct my attention to any formal notice of rent increase document provided to the tenant under the Act. In fact, the only document that the landlord was relying upon was the unsigned tenancy agreement provided to the tenant and of which the tenant refused to sign.

The other documents referred to by the parties were not relevant to this dispute as they related to either fire regulations, warnings about fires on the rental site, or were related to a different site in the home park.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

**Rent increase** – Part 4 of the Act deals with rent increases. Section 34 and 35 of the Act apply and state:

#### **Rent increases**

**34 A landlord must not increase rent except in accordance with this Part.**

#### **Timing and notice of rent increases**

**35(1)** A landlord must not impose a rent increase for at least 12 months after whichever of the following applies:

- (a) if the tenant's rent has not previously been increased, the date on which the tenant's rent was first payable for the manufactured home site;
- (b) if the tenant's rent has previously been increased, the effective date of the last rent increase made in accordance with this Act.

**(2) A landlord must give a tenant notice of a rent increase at least 3 months before the effective date of the increase.**

**(3) A notice of a rent increase must be in the approved form.**

**(4) If a landlord's notice of a rent increase does not comply with subsections (1) and (2), the notice takes effect on the earliest date that does comply.**

[my emphasis added]

Firstly, given the lack of a formal notice of rent increase form from the landlord, I agree with the tenant that the landlord has attempted to increase site rent to add \$51.35 in

monthly utilities in a method that is not approved under the Act. There are 2 forms under the Act, *Form RTB-11A, Notice of Rent Increase – Manufactured Home Site (auto-calculating version)* and *Form RTB-45, Notice of Standard Rent Increase – Manufactured Home Site*. In the matter before me, the landlord failed to use either of these forms. Therefore, I find the landlord failed to issue a Notice of Rent Increase in the approved form under the Act. Furthermore, due to the State of Emergency in BC, Form RTB-11A are for rent increases that will come into effect no earlier than 2022 while Form RTB-45 are for rent increase that do not come into effect until July 10, 2021 at the earliest.

Given the above, I find the tenant was not required to sign the tenancy agreement provided to them, and that the monthly site rent remains at \$150.00 per month including utilities. I have made this finding pursuant to section 62(3) of the Act as I have insufficient evidence before me that the tenant was paying utilities in addition to the monthly site rent between 2010 and August 16, 2020, when the landlord became the new owner of the home park.

The monthly rent shall only be increased in a method approved under the Act.

As the filing fee was waived it is not granted.

### Conclusion

The tenant's application is fully successful. Monthly site rent remains \$150.00 including utilities until increased in a method approved under the Act.

The filing fee is not granted as it was waived. This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: April 7, 2021

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Residential Tenancy Branch