



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      DRI

### **Introduction**

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

- a determination regarding their dispute of an additional rent increase by the landlord pursuant to section 43.

While the tenant JM attended the hearing by way of conference call, the landlord did not. I waited until 9:40 a.m. to enable the landlord to participate in this scheduled hearing for 9:30 a.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant testified that the landlord was served with the tenants' application package by way of email on June 15, 2021 to the landlord's agent. The tenant testified that they used the designated email that was previously used for communication with the landlord, and that it was designated for service of documents. In accordance with sections 88, 89, and 90 of the Act, I find the landlord deemed served with the package and documents 3 days after emailing. The landlord did not submit any written evidence for this hearing.

### **Issues to be Decided**

Are the tenants entitled to a determination regarding their dispute of an additional rent increase by the landlord?

## **Background and Evidence**

The tenant provided the following submissions for this hearing. This tenancy began as a fixed-term tenancy on June 1, 2019. Both parties signed a new fixed-term tenancy agreement on May 22, 2020 for a new fixed-term from June 1, 2020 to May 31, 2021. Monthly rent was set at \$2,200.00, payable on the first of the month. A security and pet damage deposit was collected at the beginning of the tenancy in the amounts of \$1,100.00 each deposit, which the landlord still holds.

The tenant testified that sometime on or around March 2021 the landlord attempted to serve the tenants with a Notice of Rent Increase in the amount of \$200.00. The tenant submits that the landlord wanted to recover the cost of utilities, and presented different amounts to the tenants. The tenants testified that as of the hearing date, the landlord has decided not to impose the rent increase, and the tenancy has continued on a month-to-month basis after May 31, 2021, the end of the last fixed-term.

## **Analysis**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

Section 43.1 of the *Act* states the following about rent increases.

### **Notice of rent increase has no effect**

**43.1** (1) For the purposes of this section, a date that applies under section 90 (a), (b), (c) or (d), or that is prescribed under section 97 (2) (p), as the date a notice is deemed to be received is the date that applies regardless of whether the notice is received earlier or later than that date.

(2) A notice given under this Part for an increase based on a calculation made under section 43 (1) (a) has no effect if the notice

(a) is received before September 30, 2021, as determined under subsection (1) of this section, and

(b) has an effective date that is after March 30, 2020 and before January 1, 2022.

A Notice of Rent Increase given for an annual rent increase has no effect if the notice is received before September 30, 2021, and has an effective date that is after March 30, 2020 and before January 1, 2022.

In this case, I find that the landlord had attempted to serve the tenants with a Notice of Rent Increase before September 30, 2021, for an effective date that falls between March 30, 2021 and January 1, 2022. Accordingly, this Notice of Rent Increase has no effect. I order that the monthly rent of \$2,200.00 is to remain the same until increased in accordance with the *Act*.

### **Conclusion**

I find that the landlord had attempted to serve the tenants with a Notice of Rent Increase before September 30, 2021, for an effective date that falls between March 30, 2021 and January 1, 2022. Accordingly, this Notice of Rent Increase has no effect. I order that the monthly rent of \$2,200.00 is to remain the same until increased in accordance with 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: July 19, 2021

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Residential Tenancy Branch