



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      DRI

### Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant filed on October 2, 2022, under the *Residential Tenancy Act* (“the Act”) to dispute a rent increase. The matter was set for a conference call.

The Tenant attended the hearing and were each affirmed to be truthful in their testimony. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing documentation was considered. Section 59 of the *Act* and the Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Landlord testified the Application for Dispute Resolution and Notice of Hearing had been served to the Landlord by text message on December 15, 2022, as per the sub-service order they received from the Residential Tenancy Branch, dated December 13, 2022. A screen image of the text message was submitted into documentary evidence as proof of this service. I find that the Landlord had been duly served in accordance with the *Act*.

The Tenant was provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

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.

### Issue to be Decided

- Was the rent increase notice issued by the Landlord, dated September 16, 2022, in excess of the allowable amount?

### Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The undisputed testimony of the Tenant is that this tenancy began on September 1, 2022, that rent in the amount of \$2,200.00 is due on the first day of each month and that the Landlord collected a \$1,100.00 security deposit at the outset of this Tenancy. The Tenant testified that they did not submit a copy of the tenancy agreement into documentary evidence as the Landlord has refused to provide them with a copy of the signed agreement.

The Tenant testified that the Landlord issued them a rent increase notice on September 16, 2022, which indicated that their rent was going up \$100.00 per month, from a monthly rent of \$2,200.00 to a new monthly rent amount of \$2,300.00 effective November 1, 2022. The Tenant testified that they knew the increased amount was in excess of the regulated increase allowed and that the notice did not provide for the required three-month Notice period, so they did not pay the requested increase and filed for these proceedings.

The Tenant is requesting that the rent increase notice be cancelled.

### Analysis

Based on the testimony, the documentary evidence before me, and on a balance of probabilities, I find as follows:

Section 43 of the *Act* states the following regarding rent increases:

***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.*

*(2) A tenant may not make an application for dispute resolution to dispute a rent increase that complies with this Part.*

*(3) In the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations referred to in subsection (1) (a) by making an application for dispute resolution.*

*(4) [Repealed 2006-35-66.]*

*(5) If a landlord collects a rent increase that does not comply with this Part, the tenant may deduct the increase from rent or otherwise recover the increase.*

Pursuant to section 43(1) of the *Act* a landlord may impose a rent increase only up to the amount calculated in accordance with the regulations. This amount is set by the Residential Tenancy Branch each year, and for 2023 it is set at 2% for residential tenancies. Which would have allowed for a \$44.00 a month rent increase under this tenancy agreement.

I have reviewed the rent increase notice issued by the Landlord and find that the \$100.00 monthly rent increase contained in this notice equalled a 4.55% increase in monthly rent. I find that the Landlord is in breach of section 43 of the *Act* by issuing this rent increase to the Tenant in excess of the allowable amount.

Therefore, I find that pursuant to section 43 of the *Act* this rent increase notice is of no force or effect.

Conclusion

I find that the Landlord breached section 43 of the *Act* when they issued a rent increase above the allowable amount.

I find that the rent increase notice dated September 16, 2022, is of no force or effect under 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 17, 2023

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Residential Tenancy Branch