



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## DECISION

Dispute Codes      **DRI, FFT**

### Introduction

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

1. An Order to dispute a rent increase that is above the amount allowed by law pursuant to Section 36 of the Act; and,
2. Recovery of the application filing fee pursuant to Section 65 of the Act.

The hearing was conducted via teleconference. The Landlord and the Tenant attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

The Tenant confirmed that she personally served the Landlord at his place of work with the Notice of Dispute Resolution Proceeding package for this hearing on November 29, 2022 (the "NoDRP package"). The Tenant said she received an email on November 30, 2022 confirming that the Landlord had received the NoDRP package. I find that the Landlord was sufficiently served with the NoDRP package on December 2, 2022, in accordance with Section 64(2)(b) of the Act.

### Issues to be Decided

1. Is the Tenant entitled to an Order to dispute a rent increase that is above the amount allowed by law?
2. Is the Tenant entitled to recovery of the application filing fee?

### Background and Evidence

I have reviewed all written and oral evidence and submissions presented to me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The Tenant testified that this periodic tenancy began in March 2012. Monthly rent is \$300.00 payable on the first day of each month. Since January 1, 2023, the Tenant has been paying \$306.00 per month.

The Tenant is disputing a rent increase she received from the Park Manager in a letter in about October 2022. The letter stated that rent is going up from \$300.00 per month to \$311.00 per month in January 2023. The Park Manager did not use the RTB approved form.

The Tenant said she is agreeable to pay a 2% increase, but nothing above that.

The Tenant said there was no previous order made by an arbitrator about a rent increase in the park. The Tenant has not agreed to an increase in writing.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Part 4 – Rent Increases in the Act is the relevant part of the legislation that is applicable to this matter. Residential Tenancy Branch Policy Guideline #37-Rent Increases helps parties understand issues that are relevant when imposing rent increases.

Section 36 of the Act specifies the permitted amount of a rent increase that may be imposed by the landlord on their tenants. Section 36(1)(c) of the Act states a landlord may impose a rent increase only up to the amount agreed to by the tenant in writing.

The Tenant testified that she is agreeable to a 2% rent increase which would make her new rent amount to be \$306.00 per month. She said she has been paying this amount since January 1, 2023. I find the Tenant agrees to a \$6.00 rent increase which is in line with the allowable 2% increase. The Tenant's new rent amount is \$306.00 per month.

The Landlord is at liberty to apply for an additional rent increase for capital expenditures in accordance with the Act, the Manufactured Home Park Tenancy Regulation, and the applicable Policy Guidelines.

As the Tenant was compelled to apply to dispute a rent increase, I find she is entitled to recovery of the application filing fee paid to start this application. The Tenant may, pursuant to Section 65(2) of the Act, withhold \$100.00 from next month's pad rent due to the Landlord.

### Conclusion

The Tenant's new rent amount is set at \$306.00 per month.

The Tenant may withhold \$100.00 from next month's pad rent to recover her application filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: May 01, 2023

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Residential Tenancy Branch