



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Northview Canadian High Yield Residential  
Fund and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      DRI, FFT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on May 23, 2021 (the "Application"). The Tenant applied to dispute a rent increase, and for the return of the filing fee, pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant and the Landlord's Agents T.G. and A.E. attended the hearing at the appointed date and time. At the start of the hearing, the Landlord's Agents confirmed that they received the Tenant's Application and documentary evidence. As such, I find these documents were sufficiently served pursuant to Section 71 of the *Act*. The Landlord's Agents confirmed that the Landlord did not provide any documentary evidence in response to the Application.

The parties were given an 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. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

1. Is the Tenant entitled to compensation relating to the Landlord's rent increase, pursuant to Section 42, 43, and 67 of the *Act*?

### Background and Evidence

The parties testified and agreed to the following; the one year fixed term tenancy began on June 1, 2020 until May 31, 2021. At the time of signing the tenancy agreement, the

parties agreed that the base rent was \$960.00 due on the first day of each month. The parties agreed that by signing a one-year fixed term tenancy, the Tenant was entitled to a \$175.00 incentive credit which was applied to her monthly rent during the one-year term. As such, the Tenant paid \$785.00 to the Landlord for 12 months, until the expiry of the fixed term.

The parties stated that they were aware that after the one-year tenancy, the rent would revert to \$960.00 as of June 1, 2021. The Tenant stated she is unsure if the Landlord is permitted to request \$960.00 given the current rent increase freeze. The parties confirmed that the Tenant has been paying \$960.00 to the Landlord since June 1, 2021. Furthermore, the parties agreed that the Tenant had the option to enter into a new fixed term lease to continue receiving the incentive credit, however, the Tenant chose to maintain a month to month periodic tenancy. If successful, the Tenant is also seeking the return of the filing fee.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 42 of the *Act* outlines the allowable timing and notice of rent increases;

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 rental unit;
  - (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.

Section 43 of the *Act* outlined the allowable amount of rent increase;

A landlord may impose a rent increase only up to the amount that is calculated in accordance with the Regulations, ordered by the Director, or agreed to by the tenant in writing.

In this case, I find that the parties had agreed at the start of the tenancy that the rent was \$960.00. I accept that the Landlord offered a rent rebate of \$175.00 each month in exchange for the Tenant committing to a one year lease. I accept that the Tenant was aware that once the one-year lease had elapsed, that the rent was meant to return to the base rent rate of \$960.00 each month. I find that the Landlord has not increased the rent. I find that the Tenant had been provided a promotional rent reduction for the term of 12 months which has since expired, resulting in the rent returning to its original agreed upon amount of \$960.00. As such, I dismiss the Tenant's Application without leave to reapply.

As the Tenant was not successful with her Application, I find that the Tenant is not entitled to the return of the filing fee.

### Conclusion

The Landlord has not increased the Tenant's rent. The Tenant's Application to dispute the rent increase is therefore dismissed without leave to reapply.

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: September 24, 2021

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Residential Tenancy Branch