



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, CNL, MNDC, FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and the witness the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

Issues(s) to be Decided

On the application for dispute resolution the applicant had written down for different dispute codes as follows:

- CNC - which stands for cancel a Notice to End Tenancy issued for cause.
- CNL - which stands for cancel Notice to End Tenancy issued for landlord use of rental property.
- MNDC - which stands for money owed or compensation for damage or loss under the act regulation or tenancy agreement.
- FF - recover filing fee from the landlord for the cost of this application.

However the first two dispute codes are not relevant and have obviously been included by mistake, because no Notice to End Tenancy is have been issued against his tenant, and what the tenant is really wanting is \$600.00 compensation for four months loss of use of the garage at the rental unit and to recover her \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- When she rented the rental unit from the landlord she was informed that the use of the garage would be included.
- The tenancy agreement states that there is parking for two vehicles included in the tenancy, and since there is only room for one vehicle in the driveway that proves that the use of the garage was included with the tenancy.
- Just prior to moving into the rental unit the landlord informed her that she still had some belongings in the garage and asked if it would be all right to leave them there for a couple of weeks and she agreed to this request.
- This tenancy began in October 1, 2009 and to date they still do not have the use of the garage.

The applicant is therefore requesting an order for loss of use of the garage in the amount of \$150 per month.

The respondent testified that:

- The tenant was informed over the phone prior to viewing the rental unit that if she was not renting the unit furnished then the garage could not be included as she would need to garage to store her furniture.
- When the tenant came to view the rental property she was very adamant that she wanted the garage for her husband's car and at that time I informed her that if I was able to sell my furniture that was stored in the garage I would allow them to use a portion of the garage, even though the garage was not part of the tenancy agreement.
- I have not been able to sell my furniture and therefore it is still stored in the garage.

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- There is nothing on the tenancy agreement that states that the garage is included.
- The tenancy agreement says that there is parking for two vehicles, and that is true, there is parking for one vehicle in the driveway and there is free on street parking available for the other vehicle.

The respondent therefore request to this application be dismissed.

Witness for the respondent stated:

- She wrote the ads for the rental unit and the ads stated that rent would be \$1450.00 if it was rented furnished in \$1250.00 if it was rented unfurnished. There was no mention of the garage in the ads.

Analysis

It is my decision that the evidence indicates that the garage was included in this rental. The tenancy agreement states there is parking for two vehicles and that means that there should be parking for two vehicles on the rental property not one vehicle on the rental property and one hit and miss on the street if the space is available.

The landlord stated that she had told the tenants that they could use the garage if she was able to sell her furniture however I think it's more likely that she had expected to be able to sell her furniture and had requested some extra time to allow her to do so, which is what the tenant stated.

Therefore since it is my decision that the garage is part of this rental agreement I will allow a reduction in rent for loss of use of the garage, however I find the amount claimed of \$150.00 per month to be unreasonable, and I will therefore only allow \$50.00 per month reduction in rent.



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Therefore since the tenant applied for loss of use of the garage for a period of four months, I will order that the landlord reimburse the tenant in the amount of \$200.00,

I further order that the respondent bear the \$50.00 cost of the filing fee that the applicant paid for this dispute resolution hearing

Conclusion

I have allowed \$250.00 of the tenants claim. The tenant may therefore make a one-time deduction of \$250.00 from future rent payable to the landlord.

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: February 18, 2010.

Dispute Resolution Officer