



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, MNDC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for an order to cancel the addition rent increase, a monetary order for compensation, and allow a tenant to reduce rent for services or facilities agreed upon but not provided.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Preliminary issue

The parties agree that the landlord served the tenant with three months notice of a rent increase, which is to commence April 1, 2012. The parties agree that the notice is in the prescribed form and the rent increase falls within the limits permitted by the Act. The parties agree that there has been no previous rent increase in the past twelve months. Filed in evidence is a copy of the notice of rent increase.

The legislation permits a landlord to impose a rent increase permitted under the Residential Tenancy Act. The tenants rent cannot be increased unless the tenant has been given proper notice in the approved form at least 3 months before the increase is to take effect. The tenant's rent can only be increased once every 12 months. A rent increase that falls within the limit permitted by the applicable Regulation cannot be disputed at a dispute resolution hearing.

As this rent increase falls with the limit permitted by the Act. I find the tenant's application to dispute the rent reduction has no merit and cannot be disputed at a dispute resolution hearing. Therefore, I dismiss the tenant's application to cancel the rent increase.

This hearing proceeded on the balance of the tenants claim in the application.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for compensation under the Act?
Is the tenant entitled to a rent reduction for loss of services or facilities?

Background and Evidence

The tenancy began on April 1, 2011. Rent in the amount of \$750.00 was payable on the first of each month. A security deposit of \$375.00 was paid by the tenant.

Parking

The tenant testified commencing May 15, 2011, she was not able to use the parking facilities provided to her under the tenancy agreement. The tenant stated the landlord used her parking spot to park a tent trailer and later a travel trailer. The tenant stated she did not have access to the parking facilities until October 19, 2011. The tenant is seeking compensation in the amount of \$265.00 for the loss of her parking facilities.

The tenant testified she was able to park on the street in front of the rental unit at no cost. However, at times, it was not convenient as the parking spot in front of the rental unit was not always available and she had to park down the street a few houses away.

The landlord testified the tenant did lose her parking facilities from June 18, 2011 to the end of August 2011, due to a travel trailer that was purchased. However, the travel trailer was sold in August 2011 and parking facilities were available to the tenant. The landlord states the tenant was fully aware the travel trailer was gone as the tenant is a smoker and the designated spot for smoking was by the travel trailer. The landlord stated the tenant chose to park on the street as it was more convenient for the tenant as the designated parking facilities is located at the back of the property.

The tenant argued that she does smoke daily in the designated smoking area but had no idea that the trailer was gone and the spot was available. The tenant acknowledges the parking facilities and smoking area are in the same area.

Filed in evidence is a text message from the tenant, which indicates loss of parking facilities in the month of June or July. Filed in evidence is the landlord text message indicating loss of parking facilities commencing June 18, 2011.

Storage

The tenant testified when she entered into the tenancy agreement the landlord provided her a small area to store her belongings in the garage. The tenant stated that she explained to the landlord that she had washer and dryer and needed to store them. The tenant stated the landlord hesitated, but agreed she could store those items.

The tenant testified that on October 24, 2011, the landlord text messaged her and told her that she had to clear all her stuff out of the storage area. As a result, she gave her washer, dryer and dishwasher away and is seeking to recover the cost for those items in the amount of \$630.00. The tenant is also seeking \$506.00 for compensation for loss storage facilities and is seeking a rent reduction of \$80.00 per month.

The landlord testified the tenant was given a small area to store her belongings. The tenant was told that she could use that area for items that would fit into that area. The landlord stated the tenant was at least eight feet outside her designated spot and was asked to remove some of the items.

The landlord testified that tenant was never told to remove all of her items from the storage facilities and the tenant still has access to store items in the designated spot. Filed in evidence is a copy of the text message dated October 24, 2011.

Internet Service

The tenant testified internet service was not a term of the tenancy agreement. The tenant stated the landlord gave her access to her personal internet account and since the landlord changed her password, she no longer has access. The tenant is seeking compensation in the form of a rent reduction at the rate of \$40.00 per month for loss of internet service.

The landlord testified she gave the tenant access to her personal internet account and had to change her password, because she was notified by the internet service provider that the account was being abused for copyright infringements. Filed in evidence is a warning letter from the internet provider, alleging abuse of services.

Analysis

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

Parking

The parties agree the tenant lost the use of her parking facilities. The tenant's evidence was that she no longer had access for parking on May 18, 2011. However, the tenant's text message which states "I lost my parking sometime in June or July" [reproduced as written]. The landlord's evidence was the tenant was unable to use the parking facilities from June 18, 2011.

The evidence of the tenant was that she was unaware until October 19, 2011, that the travel trailer was gone and that her parking facility was available. The evidence of the landlord was the tenant smoked daily in the designated smoking area, which was beside the travel trailer and it would have been impossible for her not to see the travel trailer gone.

I prefer the evidence of the landlord over the tenant's, the tenant's verbal testimony was conflicting with the documentary evidence filed by the parties which confirms the tenant lost the parking spot on June 18, 2011. The tenant's evidence was she had no idea the travel trailer was gone in August 2011, however, the tenant smokes daily in the designated smoking area, which is beside the parking facilities. I find that it would not be possible for the tenant not to have noticed the travel trailer was no longer in the parking

area. Therefore, I find the tenant loss the use of her parking facilities from June 18, 2011 to the end of August 2011.

However, the tenant did have alternative parking at no cost and on occasion was inconvenient by having to park a few house away. Therefore, I grant the tenant compensation the amount of \$30.00 for loss of parking facilities for that time period.

Storage

The evidence of both parties was the tenant did have a small area to store her belongings. The evidence of the tenant was the message dated October 24, 2011, sent by the landlord told her she had to remove all of her belongings from the storage area. As a result, she gave away her dishwasher, washer and dryer. The evidence of the landlord was the tenant was told to remove some of her belongings as she was outside her designated area. The evidence of the landlord was the tenant still has the original designated area to store some of her belongings.

The text message dated October 24, 2011, states "sorry to bother you but will you be able to clear some of the stuff outta the garage soon" [reproduced as written]. There is no reference in the text message, which would suggest the tenant was required to remove all of her belongs or that the landlord was taking away her storage facilities that was originally provided to the tenant under the tenancy agreement.

I find the landlord has not taken away or reduced the tenant storage facilities. The tenant was given a small designated area to store personal items. The tenant had excessive items that exceeded the designated space and was asked to clear them from the unauthorized area. Therefore, I dismiss the tenant claim for compensation for loss of the storage facilities. I also, dismiss the tenant request for a rent reduction.

The tenant is seeking compensation for items she gave away as a result of having to clear her items out of the unauthorized area. I find the tenants claim has no merit. Therefore, the tenants request for compensation for those items is dismissed.

Internet

The parties agree the internet services was not a term of the tenancy agreement. The evidence was the landlord gave the tenant her password to her personal account. The evidence of the landlord was the tenant abused her account and she changed her password.

As the tenancy agreement did not provided the tenant with internet access, I find the tenants claim for a rent reduction for loss of service has no merit. Therefore, I dismiss the tenants claim for a rent reduction for loss of services.

As I have found the tenant did loss parking facilities for a specified period, the tenant is entitled to deduct \$30.00 from a future month rent payable. The tenant is not granted

the cost for filing the application as the tenant's application has largely been unsuccessful.

Conclusion

The tenant is granted a monetary claim, and may deduct that claim from a future month rent payable.

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 22, 2012.

Residential Tenancy Branch