



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNDC, FF

Introduction

Some documentary evidence and written arguments has been submitted prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the applicant the opportunity to testify at the hearing.

The applicant testified that the respondent(s) were served with notice of the hearing by registered mail that was mailed on March 8, 2012; however the respondent(s) did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for a monetary order for \$1857.60 and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- She is being charged by the strata council for damages to the overhead parking gate that was damaged in an incident that involved her tenant's vehicle.
- She has been told by the property manager the damage to the gate was her tenants fault, and has supplied a witness statement from the building manager.
- She is also being charged a \$200.00 fine because the strata property managers state that her tenant has been parking his vehicle in the visitor parking, in violation of the strata bylaws and rules.

The applicant is therefore requesting a monetary order to cover the cost of the repair to the overhead gate and the fine.

Analysis

It is my finding that the applicant is not met the burden of proving that the tenant is liable for the damage caused to the overhead gate in the parking area.

The applicant did not present any witness testimony at the hearing, and the letter from the building manager is inconclusive as he did not actually witness the damage occur.

The property managers appear to have come to the conclusion that the tenant must have been at fault, however they have provided no evidence to show that there was any negligence on the part of the tenant, nor have they provided any evidence to substantiate their claims that the overhead gate was functioning properly at the time.

Therefore I am unwilling to order that the tenant pay the cost of the repair of this overhead gate.

I also deny the landlords request for a \$200.00 parking fine, because again the landlord has provided no evidence to show when or where the tenant violated the parking restrictions, nor is there any evidence to show that the tenant was ever informed of any parking restrictions.

Conclusion

This application is dismissed in full 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: May 10, 2012.

Residential Tenancy Branch