



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI MNDC OLC FF O

Introduction

This hearing dealt with applications by seven tenants to dispute increases in parking, storage and laundry, as well as for monetary compensation and an order that the landlord comply with the Act.

The hearing first convened on October 31, 2012. At that time, three tenants and an agent for the landlord participated in the teleconference hearing. At that time, the tenants and the landlord stated they understood that other tenants wished to have their applications heard on the same issues. I therefore adjourned the hearing. Four other tenants submitted applications that were joined and heard in a teleconference hearing on December 5, 2012. On that date, all seven applicant tenants and the agent for the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. On December 5, 2012 I informed the parties that I had not yet received the files for three of the applications, but I would hear testimony from all parties and ensure that I had the additional three files before me when I considered the evidence and rendered my decision. I received the additional files on December 12, 2012. I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Can the landlord begin to charge the applicants for storage lockers?

Can the landlord increase the applicants' parking fees?

Can the landlord increase the laundry fees?

Should I order that the landlord provide an emergency contact number?

Background and Evidence

Undisputed Facts

The applicant tenants all reside in apartments in an 18-unit building. All tenants were given a notice of rent increase effective May 1, 2012. The respondent landlord purchased the building on August 15, 2012.

On September 1, 2012, the landlord served the tenants with notices indicating that the parking fees would be increasing to \$50 for indoor parking and \$75 for outdoor parking; and that all tenants whose tenancy agreement did not indicate that storage was included would be required to pay \$10 per month for storage.

On September 16, 2012, the laundry fees were increased from \$1 per machine to \$2.50 per machine.

Tenants' Evidence

The tenants dispute the landlord's authority under the *Residential Tenancy Act* to increase their parking, storage and laundry fees, where applicable. They also seek an order that the landlord provide the tenants with an emergency 24-hour contact number, as the current building manager has indicated that their number is only to be called during business hours.

Storage Lockers

All of the applicant tenants received one storage locker at the outset of their tenancy, and they understood that the storage lockers were included in the rent. Aside from Tenant 7, whose tenancy agreement specifically indicates that her storage locker is included in her rent, and Tenant 1, who does not have a written tenancy agreement, each tenant's written agreement makes no reference to a storage locker. Tenant 5 stated that he specifically asked the landlord's agent at the outset of the tenancy whether the storage locker was included in rent, and the agent verified that it was included.

Parking

Tenant 1 does not have a written tenancy agreement. She moved into the rental unit in 1977. She did not have a car until 1990 or 1991. At that time, the tenant made a verbal agreement with the landlord's agent that the tenant would pay \$12 per month for one outdoor parking spot. In 1994, she moved her car to an indoor parking spot and paid

\$25 per month for parking. In 1995, she was given a notice of rent increase and her parking was rolled into her rent on that notice.

Tenant 3 moved into his unit in December 1995. He had a big car, so he could not park in outside parking, and he was told that there was no inside parking available, so he parked his car on the street. In 1997 he got an inside parking spot. He was not charged any additional amount for parking. His understanding was that his parking was and still is included in his rent.

Tenant 4 moved into her unit in October 2001. Her tenancy agreement indicated monthly rent of \$850. She did not have a car at that time. In 2003 she got an outside parking spot and began to pay \$865 for parking and rent.

Tenant 6 moved into his unit in November 2005. His tenancy agreement indicated monthly rent of \$865. There was no parking available at the outset of his tenancy, but he got an outdoor parking spot one month later, with no increase in his rent or a separate parking fee. He then moved to an indoor parking spot, again with no increase in his rent. His understanding is that his parking is included in his rent.

Tenant 7 moved into her unit in August 2010. Her tenancy agreement indicated monthly rent of \$925. The box indicating that parking is included in rent is not ticked off on her tenancy agreement. At the time of renting, the landlord's agent told the tenant that rent was \$910 or \$925 to include one outdoor parking spot. The tenant paid \$30 per month for two outdoor parking spots.

Landlord's Response

Aside from the tenancy agreement of Tenant 7, which clearly includes a storage locker in parking, the applicant tenants' agreements do not indicate that parking or storage is included in rent. Therefore, the landlord is entitled to charge for storage, and may increase the parking amount beyond the allowable rent increase percentage under the *Residential Tenancy Act*.

In regard to Tenant 1, the landlord agreed that they did not have a copy of a written tenancy agreement in her file. Their records show that Tenant 1's parking fee was rolled into her rent in 1995.

In regard to Tenants 3 and 6, the landlord questioned why they did not seek a reduction in rent for the periods of time at the outset of their tenancies when they say parking was included in their rent but they did not have a parking space.

In regard to the increase in laundry fees, the landlord confirmed that they have a 100 percent revenue interest in the laundry fees, and they made a decision to increase the fees from \$1 to \$2.50 per machine.

In regard to an emergency contact number, the building manager is available for emergencies at all times, not only during business hours.

Analysis

Tenant 1 – No Written Tenancy Agreement

In the absence of a written tenancy agreement, the standard terms apply, as set out in the schedule to the Residential Tenancy Regulation. When a term of an unwritten tenancy agreement is in dispute, it is necessary to make a determination about those terms based on the evidence of any agreements or implied agreements between the landlord and the tenant. In regard to Tenant 1's parking and storage, I have made determinations as set out below.

Storage Locker Fees

I find that for Tenants 1 through 6, their storage lockers are included in their rent. The fact that their tenancy agreements, for Tenants 2 through 6, do not specifically exclude a storage locker does not automatically infer that their storage lockers are not included in their rent. No tenancy agreement specifically indicates every service or facility that is included in the rent. Further, I accept the testimony of Tenant 5 that the landlord's agent specifically told him that the storage locker was included in his rent. Therefore, the landlord may not charge the applicant tenants for their assigned storage lockers.

Parking

Parking is an item that may be included in rent. Whether or not a tenant's parking is included in rent must be determined based on the tenancy agreement as well as any other agreements between the landlord and the tenant regarding parking, which may create additional terms of the tenancy agreement.

If a tenant's parking is included in their rent, the landlord cannot charge that tenant any additional amount for their current parking space, only increase the tenant's rent in accordance with the Act.

If a tenant's parking is separate from their rent, the landlord cannot increase the fee for their current parking beyond the amount they now pay, as the Act only allows for an increase in rent, not for increases of any other fees related to the tenancy.

I have separately interpreted whether each applicant tenant's parking is or is not included in their rent, based on the evidence presented, and I have concluded as follows:

Tenant 1

The landlord and the tenant both agreed in the hearing that when Tenant 1 first obtained an outdoor parking space she paid an additional \$12 for that space, and when she obtained an indoor parking space, she paid \$25 for that space. I find that when Tenant 1 received her notice of rent increase in 1995, she accepted that her parking had been rolled into her rent, and her parking is therefore included in her rent. The landlord may not charge Tenant 1 any additional amount for her one indoor parking spot.

Tenant 3

I accept the evidence of Tenant 3 that his parking was included in his rent, as he was not required to pay any additional amount when he obtained parking. The landlord therefore may not charge Tenant 3 any additional amount for his one indoor parking spot.

Tenant 4

I find that when Tenant 4 began paying an increase of \$15 for her outside parking spot in 2003, it was established that her parking fee was \$15. The landlord therefore may not charge Tenant 4 any more than \$15 for her one outdoor parking spot.

Tenant 6

I accept the evidence of Tenant 6 that his parking was included in his rent, as he was not required to pay any additional amount when he obtained parking. The landlord therefore may not charge Tenant 6 any additional amount for his one indoor parking spot.

Tenant 7

I find that Tenant 7's parking is not included in her rent, as that box was not ticked off under items included in rent. I accept her testimony that she made an agreement with the landlord that she would pay \$30 per month for two outdoor parking spots. The landlord therefore cannot charge Tenant 7 more than \$30 per month for each of her two outdoor parking spots.

Laundry Fees

The tenants may have suffered a financial loss due to the increase in their laundry fees, but they did not present any specific evidence regarding those losses. It is therefore open to the tenants to apply for monetary compensation or a reduction in rent regarding their increased laundry costs.

Emergency Contact Number

The landlord stated in the hearing that the building manager's number is the 24-hour emergency contact number. I therefore do not find it necessary to order the landlord to provide an emergency contact number.

Filing Fees

As the tenants were mostly successful in their applications, they are entitled to recovery of their filing fees.

Conclusion

The landlord may not charge the applicant tenants any amount for storage, as their storage lockers are included in their rent.

Where I have found that a tenant's parking is included in their rent, the landlord may not charge the tenant any additional amount for their current parking spot.

Where I have found that a tenant's parking fee was set at a specific amount, the landlord may not charge any amount above the current fee for their current parking spot(s).

In the case where an applicant tenant paid the increased parking fee, they may deduct any overpayment from their next month's rent.

I note that I have not considered or made findings regarding the rent increase notices that each of the tenants received in May 2012. However, my findings regarding the status of each of the applicant tenants' parking may have an impact on those notices, particularly where I have found that a tenant's parking fees are not included in their rent.

Tenant 1 may deduct her \$50 filing fee from her next month's rent; the other applicant tenants may each deduct their \$25 filing fee from their next month's rent.

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: January 4, 2013.

Residential Tenancy Branch