



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Reliance Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI OLC FF

Introduction

This hearing dealt with the tenant's application to dispute a rent increase, as well as for an order that the landlord comply with the Act, regulation or tenancy agreement. Specifically, the tenant disputed an increase in her parking fee. The tenant and the landlord participated in the teleconference hearing.

The landlord confirmed that they received the tenant's application and evidence. The tenant received the landlord's evidence but I did not have that evidence before me. The landlord faxed in the evidence after the hearing concluded.

Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the cost for parking included in the rent, or is it a separate service or facility?

Background and Evidence

The tenancy began on December 1, 2011. The tenancy agreement indicates that several services or facilities, including "storage" are included in the rent. The box for "Parking for [] vehicle(s)" is not checked. Under "additional information" in the same section of the agreement, the following has been added: "Locker#21, Parking Spot for additional \$35/Month."

The tenant stated that when the tenancy began, there was no parking spot available, and she did not pay \$35.00 on top of her rental amount until she received a parking

spot. The tenant stated that the first parking stall she had was an aboveground spot, and later she moved into an underground spot. The tenant stated that once she started paying for parking, she always paid \$35.00 per month, and she paid it with her rent in one lump sum. The tenant submitted copies of additional rent increases she has received over the years of her tenancy. The landlord consistently raised the rent amount but excluded the the parking amount, which remained at \$35.00.

On March 14, 2014 the tenant and the landlord signed a "Residential Parking Agreement." The agreement indicates that the tenant agreed to pay \$35.00 per month for one parking stall. Included in this agreement is a term requiring the landlord to give the tenant one month's notice "for any parking stall rent adjustments." The tenant stated that she completed this document in good faith to provide the landlord with information, and she assumed that her parking would not be increased. The tenant submitted that the landlord is trying to establish a parking agreement that never existed.

On July 29, 2016 the landlord served the tenant with a notice that the rate for her parking stall would increase from \$35.00 to \$75.00 per month. The tenant submitted that the landlord may not increase her parking fee any more than the amount prescribed for rent increases under the Act, because parking is an included facility or service and is therefore part of her rent.

The landlord submitted that because the tenant signed the Residential Parking Agreement, the landlord is entitled to increase the parking fee. The landlord submitted that the parking space rental is separate from the residential unit rental.

Analysis

Based on my interpretation of the tenancy agreement in this case, I find that the parking fee is not part of the rent. The tenancy agreement indicates that storage space is included with the rent, and no separate charge is indicated for the tenant's storage locker. The agreement specifically sets out a separate charge for the parking. The tenant did not pay the \$35.00 indicated for parking until she had a parking spot. If parking was intended to be included in the rent, the landlord would have deducted an amount for the service or facility until one was provided for the tenant.

I find that the method by which the landlord increased the rent but excluded the parking amount from the rent increase further supports my interpretation of the tenancy agreement. Finally, the tenant signed an agreement for her parking spot, and the agreement specifically distinguishes the parking fee from rent.

I find that in this case the parking fee meets the definition under section 7 of the Residential Tenancy Regulation of a non-refundable fee for a service or facility. As such, the landlord may increase this amount from time to time, and it is not subject to the rent increase rules under the Act.

As the application was not successful, the tenant is not entitled to recovery of the filing fee for the cost of her application.

Conclusion

In this case, the parking fee is not part of the rent, and is therefore not subject to the rent increase rules under the Act.

The tenant's application is dismissed.

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: November 10, 2016

Residential Tenancy Branch