



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FF

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order that the landlord comply with the Act, Regulations or tenancy agreement
- b. An order to recover the cost of the filing fee?

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail to where the landlord carries on business on June 12, 2017. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the Tenant is entitled to an order that the landlord comply with the Act, Regulations or tenancy agreement.
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on April 1, 2013. The written tenancy agreement provided that the tenant(s) would pay rent of \$2150 per month payable in advance on the first day of each month. The rent has been increased and it presently is \$2270 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$1075 on March 5, 2013.

The box in the tenancy agreement that deals with parking is checked and states "See Clause 6 Rent." The section dealing with rent indicates "0" for parking fees. The tenancy agreement does not make mention of storage.

The tenant testified that parking and storage was included with the rent. However, the landlord is attempting to charge \$75 for parking and \$20 for rent under separate agreements.

The tenant produced a letter from the previous building manager stating that one parking space and one locker was included with the rent and at that time the landlord did not charge separately for these facilities.

Landlord's evidence:

- The representative of the landlord testified the landlord purchased the rental property in 2015. He became the manager of this building in January 2017.
- The documents on file for the rental property were incomplete and chaotic.
- There are 28 rental units in the rental property. There has been a turnover of about 30% to 40% since the landlord purchased the property.
- With the new tenants it is clearly set out in the tenancy agreement that parking and a storage locker are separate charges and a separate agreement was required for these services.
- With the older tenants the landlord would reduce the rent where they had a tenancy agreement that stated an additional charge was for parking and storage locker. Those tenants signed separate agreements for the parking and storage locker.
- In the case of the tenant the tenancy agreement does not state that parking and storage is included as part of the rent. As a result the landlord is demanding the tenant pay the extra sums for those services.
- The landlord stated the evidence of the previous manager is not credible. His departure was acrimonious. He talked to the previous manager who acknowledged writing the letter for the tenant but it was clear from his discussions with him that the previous building manager wanted to make things difficult for the landlord.

Analysis

After carefully considering all of the evidence I determined that parking and the storage locker was part of the original tenancy agreement and there is no legal basis for the landlord to make separate charges for these services for the following reasons:

- The original tenancy agreement appears to have a check mark in the box for parking and refers to the rent section. When one goes to the rent section it provides there is "0" charge for parking fees and other fees.
- The tenant has been using the parking spot and the storage locker since he moved into the rental unit in 2013 without paying an extra charge. There is no evidence the previous landlord made a separate charge for these services.

- The present landlord purchased the property in 2015. No objection was made by the present landlord until the spring of 2017.
- The previous building manager confirmed that parking and the storage locker was part of the original agreement. The representative of the landlord testified he talked to the previous manager who confirmed he wrote the letter. The representative submits the statement is false because the previous building manager left on bad terms. While this can raise a suspicion it is not sufficient to disregard this testimony especially given that is confirmed by the testimony of the tenancy and that no objection has been made since the tenant moved in until the spring of 2017.

Order:

As a result I determined the residential tenancy agreement includes the cost of parking for one stall and the use of one storage locker as part of the rent. I order the landlord comply with the tenant agreement and refrain from demanding additional sums for the parking stall and storage locker. As the tenant has been successful in this application I order that the landlord reimburse the tenant the cost of the filing fee in the sum of \$100.

With respect to each of the tenant's claims I find as follows:

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on both parties.

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: August 08, 2017

Residential Tenancy Branch