



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDCT, OLC, PSF, FF

Introduction

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

- a. A monetary order in the sum of \$190
- b. An order that the landlord provide services or facilities required by the tenancy agreement or law.
- c. An order that the landlord comply with the Act, regulations and/or the tenancy agreement.
- d. 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 personally served on the landlord on January 22, 2018. With respect to each of the applicant's claims I find as follows:

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to a monetary order and if so how much?
- b. Whether the tenant is entitled to an order that the landlord provide services or facilities required by the tenancy agreement or law.
- c. Whether the tenant is entitled to an order that the landlord comply with the Act, regulations and/or the tenancy agreement.

d. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence:

On May 14, 2015 the tenant and the previous landlord entered into a one year fixed term tenancy agreement that provided that the tenancy would begin on June 1, 2015, end on May 31, 2016 and become month to month after that. The tenancy agreement provided that the rent was \$2300 per month. The tenants paid a security deposit of \$1150 prior to the start of the tenancy.

The parking section of the tenancy agreement refers the parties to the rent section. The rent section is blank where it deals with parking fees. The section below for "Other Fee(s)" is also blank. The tenant testified the previous landlord told him that parking and a storage locker was included with the rent. As a result the tenant did not pay any additional sums for parking and the rent.

The rental property was sold to the respondent and they took over in early 2017. The tenant continued to pay the rent to the new landlord with no additional sums for parking and a storage locker.

In the late spring the tenant was advised that they would be charged \$75 for parking and \$20 for a storage locker starting August 1, 2017 (the date set for the Rent Increase). The tenant paid storage fee charge as they felt they had not alternative. As a result the tenant has paid \$160 for the storage locker (\$20 a month for 8 months commencing August 1, 2017 up to and including March 1, 2018). The tenant did not pay the parking fee charge. Instead he was forced to park on the street and incurred an additional \$90 for a one year resident pass. He subsequently made inquiring and submits these services are included with the rent in the original tenancy agreement. He seeks reimbursement of the amount paid and an order that the landlord comply with the previous tenancy agreement which provides that parking and storage is included with the rent.

The landlord submits as follows:

- There are 28 units in the rental property. They took over ownership and management as of January 1, 2017. There are 24 parking stalls. One or two are presently vacant.

- The records of the previous management was very disorganized. In some cases the tenancy agreement specifically indicated that parking was included. In other cases there was a “0” in the section dealing with the charge for parking.
- In this case the tenancy agreement is blank where it relates to parking. This does not mean parking is included with the rent and the landlord has the right to make a charge for it. Similarly the landlord has the right to make the additional charge for storage.

Analysis:

After carefully considering all of the evidence I determined that parking and storage was included with the rent for the following reasons:

- The tenancy agreement does not make an additional charge for parking and storage although there are spaces for such an additional charge.
- The conduct of the parties including the previous landlord indicates that both operated under the basis that parking and storage was included with the rent. The previous landlord did not make a charge and the tenants did not pay any additional sum for these services.
- The law provides that where there is an ambiguity in a contract, the contract is to be interpreted contra proferentum (against the party who drafted it). In this case the landlord prepared and drafted the agreement. I accept the submission of the tenants that they should not be required to pay the price of any uncertainty where the previous landlord prepared the agreement.
- The tenancy agreement from the previous landlord binds the parties including the new landlord.

Orders:

I ordered that the landlord comply with the tenancy agreement provision that a storage locker is included with the rent and refrain from charging an additional sum for the storage locker.

I further ordered that the landlord provide the tenant with a parking stall at no additional charge. I decline to order that the landlord provide a specific stall as that requirement was not included in the tenancy agreement.

I determined the tenant is entitled to reimbursement of the additional sum of \$20 per month for the storage locker (for the period August 1, 2017 to and including March 31, 2018) which totals \$160. In addition I determined the tenants are entitled to recover the sum of \$90 for the cost of a resident parking permit. I ordered that the landlord pay to the tenant the sum of \$250 plus \$100 for the cost of the filing fee for a total of \$350 such sum may be deducted from future rent.

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: March 15, 2018

Residential Tenancy Branch