



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF OLC PSF MNDC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a Monetary Order for damage or loss under the tenancy agreement, pursuant to section 67 of the *Act*;
- an Order directing the landlord to comply with the *Act* pursuant to section 62;
- an Order to provide facilities or services required by law pursuant to section 65 of the *Act*; and
- a return of the filing fee pursuant to section 72 of the *Act*.

Only the tenant appeared at the hearing. The tenant was given a full opportunity to be heard, to call witnesses, to present testimony and to make submissions.

The tenant explained that the tenant's Application for Dispute Resolution and evidentiary package was sent to the landlord by way of Canada Post Registered Mail on March 6, 2018. A Canada Post tracking number and receipt was provided at the hearing. Pursuant to sections 88, 89 & 90 of the *Act*, the landlord is deemed to have been served with these documents on March 11, 2017, five days after their posting.

Issue(s) to be Decided

Should the landlord be directed to comply with the *Act*?

Can the tenant recover the filing fee and a monetary award?

Should the landlord be directed to provide services under the terms of their tenancy agreement?

Background and Evidence

Undisputed testimony was provided to the hearing by the tenant that this tenancy began on February 14, 2014 and ended on April 15, 2018. Rent was \$885.00 and a security

deposit of \$400.00 paid at the outset of the tenancy, continues to be held by the landlord.

The tenant said that because he had recently vacated the rental unit, he was only pursuing the portion of his application related to the monetary award.

The tenant has applied for a monetary award of \$520.00 which he said represented the loss of a parking stall which was meant to be included in his tenancy and loss of cable for the final two months of his tenancy. The tenant said that these items were eliminated without any consultation or compensation being offered to him, and that the landlord ignored the tenant's attempts to speak with him about the loss.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the tenant to prove his entitlement to a claim for a monetary award.

The tenant provided undisputed testimony to the hearing that the landlord eliminated a parking spot that he had paid for under the terms of the tenancy and had cut off the cable which was also included in the tenancy. The tenant said that no compensation was offered to him, and that these services were seemingly eliminated by the landlord on a whim.

Section 27(1) of the *Act* states, "A landlord must not terminate or restrict a service or facility if providing the service or facility is a material of the tenancy agreement" while section 27(2) of the *Act* states, "A landlord *may* terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord gives 30 days' written notice, in the approved form, of the termination or restriction, and reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility."

No evidence was presented at the hearing that the landlord adhered to the requirements of section 27, and I accept the tenant's undisputed testimony that these

services were eliminated without any warning or compensation as is required under the terms of the *Act*. Some evidence was submitted to the hearing by the landlord but a review of these documents reveal that these items are largely information that the tenant supplied in support of his own hearing. I find that the tenant has shown that he has suffered a loss under the *Act* and I allow the tenant to recover the entire amount sought in his application for a monetary award.

As the tenant was successful in his application, he may recover the \$100.00 filing fee from the landlord.

Conclusion

I issue a Monetary Order pursuant to section 67 of the *Act* for \$620.00 in favour of the tenant as follows:

Item	Amount
Parking Charge	\$480.00
Loss of Internet	40.00
Return of Filing Fee	100.00
Total =	\$620.00

The tenant is provided with a Monetary Order in the above terms and the landlord must be served with this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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 16, 2018

Residential Tenancy Branch