



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** OLC

### **Introduction**

This hearing dealt with an application by the tenant, pursuant to the *Residential Tenancy Act*, for an order directing the landlord to comply with the *Act*

Both parties attended this hearing and were given full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. Both parties represented themselves. The tenant's legal advocate attended and assisted the tenant.

As both parties were in attendance I confirmed service of documents. The landlord confirmed receipt of the tenant's application for dispute resolution and evidence. The landlord said that he had not submitted any evidence of his own. I find that the landlord was served with the tenant's materials in accordance with sections 88 and 89 of the *Act*.

### **Issues to be decided**

Has the landlord fulfilled his responsibilities as a landlord with regard to being in compliance with the *Act*?

### **Background and Evidence**

The tenancy started on November 17, 2003. Rent is \$470.00 due on the first of each month.

The tenant's main complaint is that some of the occupants of the apartment building smoke inside the building and inside their suites which results in smoke entering his living areas. The tenant filed a handwritten list of the dates and times that he encountered the problem.

The landlord testified that he has taken several steps to enforce the no smoking policy which include posting signs in the building, having a designated smoking area outside the building, informing new tenants of the no smoking policy and the designated smoking area and walking the hallways at least six times a day to check for smoking infractions – the last one being between 10 pm to 12 midnight.

The landlord stated that both he and the building manager used to be smokers and have an added interest in enforcing the policy. The landlord applied to evict three separate tenants for smoking inside the building and the applications were heard by an arbitrator. The landlord was unsuccessful in all three. Two of the three tenants continue to reside in the building.

The landlord testified that the building is located in the middle of an area that brings a host of other problems to the building. Sex trade workers and homeless people are constantly present in the immediate neighbourhood which also has ongoing drug activity. The landlord testified that he does his best to curb all undesirable activity and the smoking incidents have decreased in the last couple of years. The tenant agreed that in the last three weeks there has been a marked improvement in the frequency of people smoking inside the building.

The tenant also testified that since the start of tenancy, he had a parking spot that was very convenient for him, but in March of this year he was asked to stop parking his vehicle at this location and was allotted a spot on a hill. The tenant stated that the “spoiler” on his vehicle gets damaged when he goes up the hill and requested that he be given a parking spot on flat ground. The tenant stated that he felt that the landlord was harassing him because he had filed an application for dispute resolution.

The landlord stated that in March 2018, an inspection was conducted by the local fire department and they ordered the landlord to convert the area that the tenant parked his car at, into a fire land and prohibit the parking of any vehicles. The landlord requested two tenants to stop parking in this area and assigned them available parking spots.

The landlord stated that the only available parking spots were on the hill which is used as a parking lot in which several occupants of the building park their vehicles. The landlord stated that he has not been notified by the other tenants who park on the hill, of any problem with damage to the underside of their vehicles. The landlord offered the tenant the option of trading spots with another tenant or waiting till a spot became available. The landlord agreed to give the tenant a parking spot on a lower level as soon as it became available.

### **Analysis**

Based on the testimony of both parties, I find that the landlord has done whatever is possible to enforce the no smoking policy in the building. The landlord has posted signs, designated a smoking area outside, informed new tenants of the designated area and the no smoking policy and remains vigilant by patrolling the hallways in the building at least six times a day. The landlord has even taken three tenants to arbitration for smoking infractions but was unsuccessful.

Regarding parking, the landlord was ordered by the fire department to create a fire lane in the area that the tenant parked his vehicle, since the start of tenancy. The landlord provided an alternative parking spot which the tenant is not happy with. To accommodate the tenant's wishes, the landlord agreed to assign a spot that the tenant is requesting for as soon as it becomes available and even offered to approve a trade if the tenant found someone who is willing to trade parking spots with him.

Based on the above, I find that the landlord has not acted in a manner that is noncompliant with the *Act*. Accordingly, I dismiss the tenant's application for an order directing the landlord to comply with the *Act*.

### **Conclusion**

The tenant's claim is dismissed in its entirety.

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: June 21, 2018

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Residential Tenancy Branch