



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASSOCIA BC
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, FFT

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for a monetary order for money owed or compensation for damage or loss under the Act, the tenancy agreement or the regulation and for recovery of the filing fee paid for this application.

The tenant and the landlord's agents, hereafter "landlord", attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, each party confirmed receipt of the other's evidence, with the exception of a video clip from the tenant.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary and digital evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation from the landlord and to recovery of the filing fee paid for this application?

Background and Evidence

The written tenancy agreement submitted into evidence shows this tenancy began on July 1, 2018 and that monthly rent was \$1,915.00. The tenant submitted that he vacated the rental unit on February 28, 2019.

The tenant's monetary claim is for the value of items he said was stolen from his car while it was parked in the parkade of the residential property and for the insurance deductible, as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. A Versace bag	\$244.16
2. A diamond gold ring	\$356.23
3. ICBC deductible	\$300.00
4. A Burberry watch	\$383.38
5. Filing fee	\$100.00
TOTAL	\$1,383.77

The tenant provided a copy of a diamond bond number document from a jewelry store, dated March 26, 2014, a copy of a receipt for a bag purchase, and a copy of an emailed receipt for a Burberry watch. I note that the diamond bond number document lists someone other than the tenant, but with the same last name.

In support of his application, the tenant submitted that someone broke into the residential apartment building and smashed his car window while it was parked in the underground parkade in the residential property. Several items of personal property were stolen by thieves, as listed above, which did not include other items stolen, a laptop computer and cash. The tenant confirmed that the police are investigating the theft.

The tenant said the thieves accessed the parkade through the fitness room attached to the building and the through-door was not locked.

The tenant submitted that he was advised from the police investigating the theft and a locksmith that the building should have had a deadbolt lock and because it did not, he should pursue the landlord for compensation.

The tenant submitted that the landlord was negligent in ensuring the parkade was securely locked at all access points. Further, the tenant said that the thieves did not break into the building as there was not a smashed door, which meant that the doors were not securely locked. The tenant said it looked as though the thieves could have accessed the building with a knife, as there were no scratches around the key fob scanner.

The tenant submitted that he had notified the landlord was constantly being left open in the weeks before the theft due to the construction outside.

Landlord's response-

The landlord submitted that the building is locked and secure and is only accessed through a key fob system.

The landlord submitted that the thieves broke into the fitness room and then were able to access the parkade, as the city fire code prevented them from locking that door, as it was a fire escape.

The landlord submitted that all doors that can legally be locked under the city fire code are locked.

The landlord submitted that the tenant's car should have been locked and that he should not have left his valuables in his car. The landlord said that the tenant received a welcome package when he moved in, which cautioned all tenants not to leave their personal property in their car.

The landlord questioned why the tenant did not claim for the stolen personal property under his vehicle's insurance policy.

Tenant's rebuttal-

The tenant submitted that he did not receive the welcome package from the landlord.

Analysis

In a claim for damage or loss under the Act, Residential Tenancy Branch Regulations or tenancy agreement, the claiming party, the tenant in this case, has to prove, with a

balance of probabilities, four different elements, as provided for in sections 7 and 67 of the Act:

First, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the party took reasonable measures to minimize their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

In the case before me, there was no evidence to dispute that the building and parkade are accessed only through a key fob system or that thieves broke into the fitness room associated with the residential property.

I accept the landlord's undisputed evidence that they are prevented from locking the through-door between the fitness room and parkade due to city fire code regulations.

I also accept that the tenant was the victim of a criminal act when his car was broken into and property stolen. I, however, do not find it reasonable or logical that the landlord can be held responsible for the criminal acts of others.

For this reason, I find the tenant has submitted insufficient evidence to support that the landlord has violated the Act, the Regulations, or the tenancy agreement. As a result, I find the tenant has not met his burden of proof for his monetary claim.

I therefore dismiss the tenant's application, including his request to recover the filing fee, without leave to reapply.

Conclusion

The tenant's application is dismissed, without leave to reapply, for the reasons set out above.

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 26, 2019

Residential Tenancy Branch