



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "*Act*") for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67.

The landlord did not attend the hearing. I kept the teleconference line open from the scheduled hearing time for ten minutes to allow the landlord the opportunity to call. The teleconference system indicated only the tenant and I had called into the hearing. I confirmed the correct participant code was provided to the landlord.

The tenant testified that the tenant personally served the landlord with the Notice of Hearing and Application for Dispute Resolution on July 19, 2019 by delivering copies to the landlord at the landlord's residence. Based on the undisputed testimony of the tenants, I find the tenants served the landlord with the documents pursuant to section 89 of the *Act*.

Issue(s) to be Decided

Is the tenant entitled to an order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67?

Background and Evidence

The tenant testified that the rental unit was in the lower level of a townhouse. The tenant testified that he did not have a written tenancy agreement with the landlord and he later discovered that the strata council prohibited the renting of his unit.

The tenant testified that the landlord advised him that he could occasionally park in the

visitor parking area. The tenant testified that he relied on this information and parked in the visitor section.

The tenant testified that his vehicle and his friend's vehicle were towed, on the instruction of the strata council, from the visitor parking area for a total cost of \$470.86. The tenant is requesting reimbursement of this amount from the landlord.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy agreement or the *Act*, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. The purpose of compensation is to put the claimant who suffered the damage or loss in the same position as if the damage or loss had not occurred. Therefore, the claimant bears the burden of proof to provide sufficient evidence to establish **all** of the following four points:

1. The existence of the damage or loss;
2. The damage or loss resulted directly from a violation – by the other party – of the *Act*, regulations, or tenancy agreement;
3. The actual monetary amount or value of the damage or loss; and
4. The claimant has done what is reasonable to mitigate or minimize the amount of the loss or damage claimed, pursuant to section 7(2) of the *Act*.

In this case, the onus is on the tenant to prove entitlement to a claim for a monetary award. The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

I find that the tenant has not provided sufficient evidence to establish that the landlord has failed to comply with the *Act*, regulations, or tenancy agreement. The tenant did not articulate which section of the *Act*, regulations, or tenancy agreement that he alleges the landlord breached. The tenant has essentially argued that the landlord misrepresented the parking rules at the rental unit and the tenant relied on this false representation to his detriment. However, I can not find a basis under the *Act*, regulations, or tenancy agreement for or such a claim of misrepresentation. Accordingly, I dismiss the tenant's application for compensation under section 67 of the *Act*.

Conclusion

I dismiss the tenant's application for compensation under section 67 of the *Act*.

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: October 25, 2019

Residential Tenancy Branch