



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standard

A matter regarding ACTION PROPERTY MANAGEMENT and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, OLC, PSF, RR, FFT

Introduction

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

- a monetary order for compensation for damage or loss under the *Act*, *Residential Tenancy Regulation* ("*Regulation*") or tenancy agreement, pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement, pursuant to section 62;
- an order requiring the landlord to provide services or facilities required by law, pursuant to section 65;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for this application, pursuant to section 72.

The landlord's agent ("landlord") and the tenant attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that she was the owner of the landlord company named in this application and that she had permission to speak on its behalf as an agent. This hearing lasted approximately 53 minutes.

The landlord confirmed receipt of the tenant's application for dispute resolution hearing package and the tenant confirmed receipt of the landlord's evidence package. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenant's application and the tenant was duly served with the landlord's evidence package.

Issues

Is the tenant entitled to a monetary order for compensation for damage or loss under the *Act*, *Regulation* or tenancy agreement?

Is the tenant entitled to an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement?

Is the tenant entitled to an order requiring the landlord to provide services or facilities required by law?

Is the tenant entitled to an order to allow him to reduce rent for repairs, services or facilities agreed upon but not provided?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

Both parties agreed to the following facts. This month-to-month tenancy began on July 28, 2017. Monthly rent in the amount of \$600.00 is payable on the first day of each month. A security deposit of \$300.00 was paid by the tenant and the landlord continues to retain this deposit. A written tenancy agreement was signed by both parties. The tenant continues to reside in the rental unit.

The tenant testified that he requires a parking spot with a plug-in at the rental building because the landlord took his spot and gave it to another tenant. He confirmed that he wants a refund of \$257.00 for the landlord towing his vehicle, despite the fact that it had expired vehicle insurance. He stated that someone stole his insurance sticker and other cars in the same parking lot have expired insurance and do not get towed by the landlord. The tenant said that he cannot live at his rental unit because the landlord's technician sprayed "dangerous chemicals" in his kitchen, so he was living elsewhere. He provided a letter from the place where he has been staying for the last two months. He said that the landlord promised him another rental unit at a previous Residential Tenancy Branch ("RTB") hearing but has not delivered. The file number for that hearing appears on the front page of this decision. He maintained that he is seeking two months' rent reimbursement of \$1,200.00 for this issue.

The landlord disputes the tenant's application. She testified that it is safe for the tenant to live in the rental unit, there was no reason for the tenant to live elsewhere for two months because of a parking issue, and the landlord offered another rental unit to the tenant, but he refused. She said that the tenant changed the locks to his rental unit, so the landlord did not have access to inspect for any chemical issues. During the hearing, the landlord offered to inspect the tenant's rental unit on December 18, 2019, for chemical issues but the tenant refused saying that it was "not a big deal." The tenant confirmed that the landlord did not want to find anything wrong in his unit, so they would just say that they found no problems. The landlord maintained that the same chemicals issue was raised by the tenant in March 2019, at a previous RTB hearing in April 2019, and it was dismissed by the Arbitrator. The landlord provided a copy of that previous RTB decision. The tenant confirmed that the issues were in June or July 2019 and they were new issues, not the same as in the previous RTB hearing. The landlord confirmed that on December 11, 2019, fire testing was done in the rental unit and the landlord's staff member inspected the entire unit and reported back to the landlord about the kitchen, bathroom, bedroom and all areas. She explained that there were no issues, including chemical spraying problems.

The landlord said that the tenant was previously using a parking spot when he first moved in and the rental building was not full. She stated that the parking spot is not assigned to the tenant's rental unit and now that the building is full, he is not entitled to use that same spot. She explained that the parking lot is missing the tenant's spot, so she was working on finding the tenant a permanent parking spot with a plug-in. She confirmed that the tenant's vehicle was towed from the landlord's parking lot because he had an unlicensed vehicle with expired insurance, and he was warned by the landlord with a letter to remove or insure the car, but he refused. The tenant denies receiving any such warning from the landlord. The landlord offered a temporary and permanent parking solution to the tenant during the hearing, to which the tenant agreed.

Analysis

Services and Facilities

I order the landlord to provide the tenant with a temporary parking spot with a plug-in at B103 at the sister building in the same parking lot from December 17, 2019 to January 31, 2020. This spot is only available while the tenant is residing in the rental unit. Both parties agreed to this during the hearing.

I order the landlord to provide the tenant with a permanent parking spot with a plug-in at the tenant's rental building in the same parking lot by January 31, 2020. This spot is only available while the tenant is residing in the rental unit. Both parties agreed to this during the hearing.

I order the tenant to provide the landlord with new keys to access the tenant's rental unit by December 18, 2019. Both parties agreed to this during the hearing.

Monetary Claim

Pursuant to section 67 of the *Act*, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove a loss, the tenant must satisfy the following four elements on a balance of probabilities:

- 1) Proof that the damage or loss exists;
- 2) Proof that the damage or loss occurred due to the actions or neglect of the landlord in violation of the *Act*, *Regulation* or tenancy agreement;
- 3) Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- 4) Proof that the tenant followed section 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage being claimed.

On a balance of probabilities and for the reasons stated below, I dismiss the tenant's monetary application of \$1,457.00 without leave to reapply.

I dismiss the tenant's application for \$257.00 for a vehicle towing reimbursement. The tenant agreed during the hearing that he had expired vehicle insurance. The landlord confirmed that the tenant's towing bill shows that it was towed for expired insurance. The fact that other vehicles may have expired insurance is not relevant to the tenant's application, as the tenant is the only party that is asking for reimbursement. Further, the RTB does not set City bylaw rules or rules regarding vehicle insurance.

I dismiss the tenant's application for \$1,200.00 for two months' rent reimbursement. I find that the tenant failed to provide sufficient evidence that he cannot live at the rental unit because the landlord's technician sprayed chemicals all over his kitchen. The tenant alleged the same issue at a previous RTB hearing, which was dismissed. I find that the tenant was unable to provide sufficient evidence that any new events happened since the previous hearing. He was even unsure of when it started, claiming that it was

June or July 2019. I accept the landlord's testimony that the rental unit was inspected as recently as December 11, 2019 for fire testing, and the landlord received a report that all areas were inspected by the landlord and there were no issues regarding safety. I also find that, during this hearing, the tenant refused the landlord's offer to conduct an inspection in the rental unit on December 18, 2019. He indicated it was "not a big deal" and said that he would call the City to inspect instead.

As the tenant was only successful where the landlord agreed to certain provisions, as noted above, I decline to award the \$100.00 application filing fee to the tenant.

Conclusion

I order the landlord to immediately provide the tenant with a temporary parking spot with a plug-in at B103 at the sister building in the same parking lot from December 17, 2019 to January 31, 2020. This spot is only available while the tenant is residing in the rental unit.

I order the landlord to provide the tenant with a permanent parking spot with a plug-in at the tenant's rental building in the same parking lot by January 31, 2020. This spot is only available while the tenant is residing in the rental unit.

I order the tenant to provide the landlord with new keys to access the tenant's rental unit by December 18, 2019.

The remainder of the tenant's application is dismissed without leave to reapply.

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: December 19, 2019

Residential Tenancy Branch