



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes OLC FF

Introduction

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

- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- authorization to recover the filing fee for this application pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. No issues were raised with respect to the service of the application and evidence on file.

Issues

Should the landlord be issued an order requiring the landlord to comply with the Act, regulation or tenancy agreement?

Is the tenant entitled to recover the filing fee?

Background and Evidence

The tenancy for this unit in a 460-unit strata complex began December 1, 2017. At the start of the tenancy, the tenants signed a form "K" under the Strata Property Act acknowledging to abide by strata bylaws and also a pre-authorized debit form authorizing the landlord to withdraw any fines imposed by the strata corporation.

The tenant is claiming the landlord automatically withdrew \$1000.00 from his account for five separate strata infractions of \$200.00 each. All of the fines were in regards to a vehicle exiting the complex before the security gate fully closed. The tenant did not dispute three of these infractions which he acknowledged were his vehicle. The tenant

did not agree with two of the fines and argued the vehicle did not belong to him or any of his visitors. The tenant testified that he had a hearing with the strata council on the matter and he was expecting a report with the decision but instead his account was debited for the fines.

The landlord submits that the tenants were advised of the infractions and had a hearing on the matter. After the hearing, the strata proceeded with issuing the fines to the landlord but advised the landlord they would provide the tenants with an opportunity to review the camera footage and make submissions on the matter to have the fines set aside. The landlord submits the strata decision was communicated to the tenants. The landlord submits the strata reviewed camera footage of the vehicles leaving the complex as well as data of which fob was used. The landlord submits the vehicles and/or fobs were connected to the tenants' unit which is why the strata issued the fines. The strata provided footage to the landlord who in turn sent copies of the footage to the tenant and requested a response. The landlord submits they gave ample opportunity for the tenants to respond before debiting the tenants account for the charges that had already been charged to the landlord by strata. The landlord submits they even offered the tenants opportunities to review the footage in person.

The tenant acknowledged receiving e-mails from the landlord containing the security footage but testified that he could not view it because it was on a company e-mail account.

Analysis

There was no dispute that the tenants signed both a form "K" and a pre-authorized debit authorization at the start of the tenancy in regard to abiding by strata by-laws and authorizing the landlord to debit his account for any infractions. There is not any dispute the landlord was charged \$1000.00 by the strata in relation to the unit occupied by the tenants.

The tenant acknowledged being responsible for three of the five fines levied. The tenants were provided notice of the infractions and provided a hearing with the strata on the matter. The landlord further provided the tenants with an opportunity to review the camera footage in regard to the two disputed charges prior to debiting the tenants account for the fines. I find the tenants did not respond to the landlord's request even though being given ample opportunity to do so. The tenant provided no explanation of why he failed to take the landlord up on the request to review the footage in person.

I find that on a balance of probabilities the tenants were responsible for the fines levied against the landlord by the strata.

The tenants' application for an order for the landlord to comply with the Act is dismissed without leave to reapply.

As the tenants were not successful in this hearing, the tenants are not entitled to reimbursement of the filing fee.

Conclusion

The tenants 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: March 03, 2020

Residential Tenancy Branch