



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Shirlyn Investment LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RR PSF RP FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on July 15, 2021. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the *Act*).

Both parties attended the hearing and provided affirmed testimony. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. The Landlord confirmed receipt of the Tenant's Notice of Hearing package(DVD), served around April 2, 2021. The Landlord also confirmed receipt of the second package (DVD) around July 1, 2021. No issue was raised with respect to service of those packages and the Landlord was able to open and respond to all evidence presented by the Tenant. I find the Tenant sufficiently served the Landlord with the Notice of Dispute Resolution and his evidence package.

The Tenant confirmed receipt of the Landlord's evidence and no issue was raised with service. I find the Landlord sufficiently served his evidence for the purposes of this proceeding.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision. Not all documentary evidence and testimony is summarized, unless it is relevant and has bearing on my decision.

Preliminary and Procedural Matters #1 – Severing of issues

The Tenant applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not the Tenant is entitled to be provided with the storage locker he said he was promised, and whether he is entitled to compensation for not being provided the storage locker. As a result, I exercised my discretion to dismiss the following ground on the Tenant's application:

- I want repairs made to the unit, site or property. I have contacted the landlord in writing to make repairs but they have not been completed

Preliminary and Procedural Matters #2 – amount and scope of claim

The Tenant initially filed his application for a rent reduction of \$3,110.00, and on his application, and on the Notice of Hearing, it was identified that this is based on the fact he never received a storage locker he feels he was promised at the start of the tenancy. Subsequent to this, the Tenant uploaded a monetary order worksheet around 10 days before the hearing to increase the amount to over \$5,000.00 and to include costs for plumbing repair. However, the Tenant did not file an amendment with our office to update the amount of his claim, and did not serve that amendment to the Landlord. As such, the modified claim is denied as it has not been filed properly, and the Tenant's claim will be limited to the issues and amounts noted on his initial application form.

Preliminary and Procedural Matters #3 – Recording of Hearing

At the outset of the hearing, I reminded the parties that as per Rule 6.11, the recording of hearings is prohibited.

6.11 Recording prohibited

Persons are prohibited from recording dispute resolution hearings, except as allowed by Rule 6.12. Prohibited recording includes any audio, photographic, video or digital recording.

6.12 Official transcript

A party requesting an official transcript by an accredited Court Reporter must make a written request stating the reasons for the request to the other party and to the Residential Tenancy Branch directly or through a Service BC Office not less than seven days before the hearing.

An arbitrator will determine whether to grant the request and will provide written reasons to all parties and issue any necessary orders.

If permission is granted, the party making the request must:

- a) prior to the hearing, provide the Residential Tenancy Branch with proof of the Court Reporter's accreditation; Residential Tenancy Branch Rules of Procedure These Rules of Procedure take effect at 4:30 pm PST on August 7, 2020 page 24*
- b) make all necessary arrangements for attendance by the accredited Court Reporter and their necessary equipment;*
- c) pay the cost of the accredited Court Reporter's attendance at the dispute resolution hearing;*
- d) pay the cost of the Court Reporter's services and the cost of transcripts; and*
- e) provide all parties and the Residential Tenancy Branch with official copies of the transcript.*

After reminding the parties of Rule 6.11, I asked if anyone was recording the hearing, and the Tenant confirmed that he was. At that time, I ordered the Tenant to stop recording, and to delete the recording. The Tenant resisted, and argued. I again ordered the Tenant to stop recording, and to delete the recording, as it was done contrary to Rule 6.11. The Tenant was warned that failure to comply with this Order could result in

administrative penalties pursuant to section 87.3(2). After a conversation with the Tenant, he stated that he stopped recording the hearing, and deleted what he had already recorded. The hearing proceeded based on his affirmed testimony regarding this matter.

Issue(s) to be Decided

1. Is the Tenant entitled to monetary compensation in the form of a rent reduction?
2. Should the Landlord be ordered to provide services or facilities required by the tenancy agreement or the law (the storage locker)?

Background and Evidence

A copy of the tenancy agreement was provided into evidence, which shows that monthly rent was set at \$1,050.00 and was due on the first of the month. The Tenant moved in around June 4, 2018, and continues to reside in the unit.

The Tenant asserts that when he went to view the unit before he moved in, the Landlord showed him around the unit, and the storage locker area downstairs in the building. The Tenant asserts that when he was viewing the unit, the Landlord told him that he would be entitled to use one of the 18 individual storage lockers for his own use as part of his monthly rent.

The Tenant stated that he did not attempt to use or take advantage of any storage locker until December 2018, when he went down to view the locker around 6 months after he moved in. At that time, the Tenant stated that he noticed all storage lockers were full. The Tenant had conversations via text and phone call (copies of which are provided into evidence) with the Landlord about wanting to use the storage locker starting at the end of December 2018. Following this, the Tenant stated that the Landlord never cleared out a locker, or provided him the space that he was promised when he was shown the unit 6 months prior. The Tenant stated the Landlord has never made any efforts to help him get a locker for his use.

The Tenant feels that the Landlord should have at least offered him one of the lockers that have come available since this issue arose 2.5 years ago. The Tenant is seeking a rent reduction around \$90.00 per month for the duration of the tenancy. As noted on his initial application, this amount is \$3,110.00, as this is the amount is based on the monthly fee he says he paid for storage at a private facility before he moved into this

unit. The Tenant has since tried to increase that amount, but that issue was addressed above.

The Tenant stated that he has had several unclear and inconsistent conversations with the agents of the Landlord about how many lockers there are, whether each unit is entitled to one, and why he has been unable to use one for his suite.

The Landlord's agent, J.D., stated that he has been a building manager at this apartment building for 11 years, and stated that all the lockers in the building are occupied on a first come, first served basis. The Landlord's agent, J.D., stated that this particular rental unit is not tied to any specific storage unit, and the previous renters of this unit didn't actually have or use any storage locker. J.D. stated that he was the one who showed the rental unit, and the building to the Tenant in May of 2018, and he denies ever promising the storage locker to the Tenant, or showing it to him and saying that it would be included in the tenancy agreement. The Tenant says this is a lie and says he was promised a locker.

J.D. stated that if storage were included with tenancy agreement, and part of monthly rent, then it would be indicated on the tenancy agreement, which it is not. The Landlord stated that there is no term on the tenancy agreement which specifies that storage is included with rent, and he denies ever offering the unit to the Tenant, either implicitly or explicitly. J.D. stated that if there was a storage locker free at the time the Tenant moved in, then he could have asked to use it, but since it was first come first served, by the time the Tenant asked for the locker, in December 2018, they were all occupied to some degree. J.D. stated that one of the lockers is used by the building for storage and reiterated that not all units get lockers, despite there being an equal number of units and lockers.

The Tenant does not agree, and feels the Landlord should have to pay for a retroactive rent reduction for not delivering on the storage locker promises he made.

Analysis

A party that makes an application against another party has the burden to prove their case, for this type of claim. The onus is on the Tenant to establish that he was entitled to use of the storage locker as part of his tenancy agreement in order to be successful in his application under either of the above noted issues/grounds.

I have reviewed the testimony and evidence on this matter, and although the Tenant asserts he was promised a storage locker as part of his monthly rent, and as part of his tenancy agreement, this is not reflected in the tenancy agreement that was provided into evidence. Under the portion of the tenancy agreement that lists what is included in rent, there is no mention of a storage locker. The Landlord specifically denies promising that a storage locker would be provided to the Tenant and states that these lockers are first come first serve, depending on availability, and it does not mean the Tenant is entitled to one. I do not find any of the text messages or recorded voice calls taken after the agreement was signed are such that they sufficiently proof that the storage locker was promised as part of the tenancy, either implicitly or explicitly.

When two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim.

I do not find the Tenant has sufficiently demonstrated that he was entitled to exclusive use of a storage locker in the building as part of his tenancy agreement. As such, I dismiss the Tenant's application for a rent reduction due to not having access to the above noted storage locker. Further, I dismiss the Tenant's request for an order that the Landlord provide him with a storage locker, going forward.

The Tenant's application is dismissed, in full, without leave.

Conclusion

The Tenant's application is dismissed, in full, without leave.

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: July 16, 2021

Residential Tenancy Branch