



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding NORTHLAND PROPERTIES CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

PSF, FFT

Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenant in which the Tenant applied for an Order requiring the Landlord to provide services or facilities and to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that on March 11, 2022 he personally served the Dispute Resolution Package. The Agent for the Landlord acknowledged receipt of these documents.

The Tenant stated that the evidence submitted to the Residential Tenancy Branch on December 09, 2021, December 10, 2021, and March 11, 2022 was emailed to the Landlord on March 11, 2022. The Agent for the Landlord acknowledged receipt of these documents.

The Tenant stated that he did not serve the aforementioned documents earlier because he did not understand the time limits for serving documents. The Agent for the Landlord stated that the Landlord is prepared to proceed with the hearing even though the above documents were not served in accordance with the time limits established by the Residential Tenancy Branch Rules of Procedure. As the Agent for the Landlord agreed to proceed with the hearing in spite of the late service, the aforementioned evidence was accepted as evidence for these proceedings.

On March 22, 2022 the Tenant submitted evidence to the Residential Tenancy Branch. The Tenant stated that these documents were emailed to the Landlord on March 22, 2022. As this evidence was served to the Landlord well after the deadline for serving evidence and only 3 days before the hearing, it was not accepted as evidence for these

proceedings. The late service of this evidence is unfair to the Landlord, as it does not provide the Landlord time to respond to it.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

The participants were advised that the Residential Tenancy Branch Rules of Procedure prohibit private recording of these proceedings. Each participant affirmed they would not record any portion of these proceedings.

Issue(s) to be Decided:

Is there a need to issue an Order requiring the Landlord to provide covered parking to the Tenant, at no additional cost?

Background and Evidence:

The Tenant stated that his tenancy in this particular rental unit began in 2014, although he lived in the residential complex prior to moving into this unit. The Agent for the Landlord stated that the tenancy in this particular rental unit began in 2009.

The Agent for the Landlord and the Tenant agree that:

- The Tenant is currently required to pay monthly rent of \$890.00 plus a storage fee of \$15.00;
- The parties signed a tenancy agreement for the tenancy that began on February 01, 2014, which declares that there is a parking fee of zero dollars;
- The Tenant has had access to a designated undercover parking space since this tenancy began;
- The Landlord notified the Tenant that it will cost \$75.00 per month to continue parking in the underground parking, beginning on January 01, 2022;
- The Landlord notified the Tenant that alternate “free” parking is available in a lot on the south side of the building;
- The Tenant is still parking in his designated parking space and has not been paying a parking fee.

The Tenant submitted the first page of a tenancy agreement for a tenancy that begins on March 01, 2015. The Agent for the Landlord stated that she only has the first page of this tenancy agreement and she does not know if it was signed by the parties. The

Tenant stated that he has all three pages of the tenancy agreement and it is signed by the parties.

The Agent for the Landlord stated that the request to pay for parking was made prior to her becoming an agent for the Landlord and that she understands the Landlord will not be requiring the Tenant to pay a fee for continuing to park in his designated space.

Analysis:

On the basis of the undisputed evidence, I find that the Tenant has been provided with a covered, designated parking space which is included in his rent.

Section 27(2)(b) of the *Residential Tenancy Act (Act)* permits a landlord to restrict a service or facility that is not a material term of the tenancy or that is not essential to using the rental unit as living accommodations, only if the landlord reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

In these circumstances, the Landlord would only be able to require the Tenant to pay \$75.00 for the parking space he has been assigned for the duration of the tenancy if the Landlord reduced the rent by \$75.00.

As the Agent for the Landlord declared, at the hearing, that the Tenant will not be required to pay a fee to use his covered, designated parking space, I find there is no need to Order the Landlord to provide the Tenant with covered parking space, at no additional cost.

As the Landlord initially informed the Tenant that he would have to pay to continue to use his covered parking space, I find it was reasonable for the Tenant to file this Application for Dispute Resolution. I therefore find that the Tenant is entitled to recover the fee paid to file this Application.

Conclusion:

The Tenant has established a monetary claim of \$100.00 as compensation for the cost of filing this Application for Dispute Resolution and I am issuing a monetary Order in that amount. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

In the event the Tenant does not wish to enforce this Order through the Province of British Columbia Small Claims Court, the Tenant has the right to withhold \$100.00 from one monthly rent payment, pursuant to section 72(2)(a) 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: March 27, 2022

Residential Tenancy Branch