



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

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

DECISION

Dispute Codes OLC, FF

Introduction

This hearing convened to deal with the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant applied for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement and to recover the cost of the filing fee.

The tenant and the landlord's agent (landlord) attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed. The parties confirmed receipt of the other's evidence. The parties were cautioned that they may not record the hearing.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, written, and other evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced in this Decision. Further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision, per Rule 3.6.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the tenant entitled to the order mentioned above and recovery of the cost of the filing fee?

Background and Evidence

The written tenancy agreement states the tenancy began on September 1, 2021, for a monthly rent of \$2,600, and a security deposit and pet damage deposit of \$1,300 being paid by the tenant. The tenant said current monthly rent is \$2,640.

The tenant described the claim in their application as follows:

Another tent in my building has harassed, stalked, and keyed my car causing over \$1000 worth of damage to my property. When I went to management I was met with resistant of cooperation to provide me a safe place to live. Managment has refused to cooperate with police investigating and have decided to protect the individual who damaged my property. This has caused me major emotional distress and continued harassment. I feel unsafe in my building and unprotected.

[Reproduced as written]

The tenant testified to the following in support of their application: After returning to the building on August 26, 2022, they were tired and did not want to unpack their car, so they parked in a parking spot designated for someone else. The next day, after returning to their car, there was a note left which read, “*Resident Parking not allowed!!! Your licence plate given to management & towing company. Go back to Alberta orger!*”. They reported the note to the landlord’s agent, believing it was mean and aggressive. The event of August 26, 2022 creeped them out and they felt violated. They have been getting bad vibes and bad energy from this other tenant and have been reporting them to the landlord.

In a written submission, the tenant wrote the following describing the events the day following the note being left on their car and other allegations, reproduced in part as follows:

A few hours later I checked my social media and its public therefore anyone can watch my stories. I can see who watches my stories and noticed an unusual profile which in fact matched the individual I suspected. I contacted management again that day to pass along the information. I felt very uneasy that this person had been searching for me

online and unaware how he knew my information. Was my information provided to him thru management? Management told me they'd look into the matter.

I moved my car tat morning to the location at the rear entrance on the parkade exit along the alley wall. The passenger side was parked very close to the wall. My car sat there for two days unmoved. It wasn't until I went and moved my car Sunday that I noticed a huge key scratch along the passenger side. I contacted the building manage again Sun Aug 28th expressing my concerns and fears of my property being damaged further and my general wellbeing around a neighbour who I had no relation to. I still don't now the suspect's name. This was not provided to me from building management, nor was it provided to the police when the investigation was open.

*It wasn't until the following Thursday Sept 1st that I was able to first connect with (agent name) the building manager. I asked repeatedly to have this further investigated and was told the "video" shows nothing. I then related to (*landlord representative name*) to have my concerns escalated and have experienced the same level of cooperation. (*landlord name*) building management failed to investigate a illegal matter despite my requests.*

After discovering the building management lack of concern and support for my safety concerns and the damage to my property I opened an investigation with the VPD. The VPD were provided a screen shot of an individual in the alley a video of someone approaching my car. They were not provided with the suspects information or any other information and video of this suspect over the course of Aug 25th-Aug 29th.

[Reproduced as written except for redacting
personal information to protect privacy]

Additional testimony from the tenant included the following: The other tenant continues to harass and bully her, calling her by her dead mother's first name, which was something they obviously researched online to find.

Additional evidence filed by the tenant included unlabeled emails and videos.

Landlord's response –

The landlord testified to the following: They were not aware of any further mocking as claimed by the tenant. They have reviewed their video tapes and did not see the other tenant key the tenant's car, and they are not responsible for damage occurring off the property. They have provided the police department with all their video. The other

tenant has also contacted the police department, who reported an assault by this tenant. They were aware in November that the police had talked to the tenants but they were not aware of any other ongoing issues.

In a written submission, the landlord wrote the following, in part:

At [redacted] we look to provide tenants with a positive living experience that is safe, comfortable, and respectful. Throughout our experiences with [redacted], we have found her to consistently use abusive and vulgar language, act in a rude manner towards both [redacted] employees as well as other residents. In one case, it was documented to even go as far as physical assault. The following will outline how we attempted to assist with her issues in relation to her car as well as display examples of her treatment of both [redacted] employees and her fellow residents.

1. Vehicle Incidents

[redacted] maintains a strict policy to which we do not share tenants' information. We have not and will not do this, as such the claims that [redacted] may have shared one tenants vehicle information with another are simply false. Upon receiving notice from [redacted] that she had been greeted with a unruly note on her car, we opened up an investigation into the situation. Although we are not able to provide the name of the party responsible, we can confirm that a verbal conversation occurred in which our Building Manager [redacted] spoke with the responsible party. In this conversation, [redacted] confirmed that they admitted responsibility and accepted that their actions were inappropriate, apologizing immediately and ensured that moving forward they would direct any complaints to management directly.

With regards to the second complaint surrounding her damage which occurred to her car. Please note that we are unable to control and monitor areas that are outside of our property. The alleyway in which she parked is not within the purview of [redacted], we do not have any cameras properly monitoring said area. As such we were unable to corroborate any of the claims that were made by [redacted] stating that another tenant was responsible for the damage. Further, upon the involvement of the police as recommended, we were able to provide what assistance we could, as per the screenshots below:

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Additionally, the landlord's evidence included emails sending video to the police department and 3 emails from other tenants in the building describing the behaviour of, and encounters, with this tenant.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

The onus to prove their case is on the person making the claim, in this case, the tenant.

While I have reviewed the evidence submitted prior to the hearing and the oral evidence from the hearing, I refer to only the relevant evidence regarding the facts and issues in determining this Decision.

In this case, I find the tenant has not described the particular part of the Act or tenancy agreement for which they seek enforcement. The tenant rather described issues they have in how the landlord is handling the issues described in their evidence. I will address the issues raised by the tenant.

As to the first issue brought forth, the tenant submitted that a rude note was left on their car one night while having it parked in an unauthorised space overnight. In this case, I find that had the tenant not parked their car in an unauthorised parking space, they would not have received this note. I find this amounts to unclean hands on the tenant's part. Apart from that, I find the evidence shows the landlord reviewed the security footage, found who left the note and addressed the matter with that tenant. It is not the right of the tenant to know in what manner the matter was dealt with, as I find that would violate the other tenant's rights to privacy.

As to the matter of the tenant's car being keyed and damaged while parked in the alley, I find the landlord is not responsible for a tenant's property that was left off-premises when the damage occurred. The tenant claims that the landlord should use all their security footage in order to piece together whether the other tenant might have damaged the tenant's car. I do not find there was sufficient evidence to show another tenant damaged the tenant's car that was parked off premises, and even if that had been the case, I find a landlord cannot be held responsible for any tenant's actions off-premises. That would be a police matter.

The tenant complained of the other tenant's alleged presence on their social media accounts. I find the landlord has no control over who visits someone's social media accounts.

The tenant complained that they have had multiple run-ins with the other tenant and the other tenant in question continues to harass, intimidate, and bully the tenant. Having reviewed the tenant's evidence, I find the tenant submitted insufficient evidence that the other tenant has done so. There was no corroborating evidence supplied by the tenant, only communication with the landlord alleging the behaviour. However, the landlord filed

evidence showing multiple complaints from other tenants about this tenant's behaviour, and rude emails being sent to the landlord's staff.

I find the evidence shows that the tenant has filed police complaints about the other tenant and that other tenants have filed at least one police complaint about this tenant, as shown by the landlord's evidence. I also find the landlord's evidence supports that they have cooperated with the police as to turning over video footage.

If any of the police complaints had been shown to have merit, I would have expected a police report to be filed in evidence.

For all the reasons mentioned above, I find the tenant submitted insufficient evidence to support their application for an order requiring the landlord to comply with the Act, regulations, or tenancy agreement. I therefore **dismiss** the tenant's application, **without leave to reapply**, which includes the request for recovery of the filing fee.

Conclusion

The tenant's application is dismissed, without leave to reapply, due to insufficient evidence of a breach of the Act, or the tenancy agreement.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: April 18, 2023

Residential Tenancy Branch