



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding **THE WHISTLER HOUSING AUTHORITY LTD.** and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, FFT

Introduction

On February 20, 2023, the Tenant applied for a Dispute Resolution proceeding seeking an Order to comply pursuant to Section 62 of the *Residential Tenancy Act* (the “Act”) and seeking recovery of the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing. S.D. and G.C. attended the hearing as agents for the Landlord, and they advised of the correct name of the Landlord. As such, the Style of Cause on the first page of this Decision has been amended accordingly.

At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, none of the parties could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, they were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited, and they were reminded to refrain from doing so. As well, all parties in attendance provided a solemn affirmation.

The Tenant advised that she served a separate Notice of Hearing and evidence package to each named Respondent by registered mail on February 25, 2023, and S.D. confirmed that the Landlord received these packages. Based on this undisputed testimony, in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was duly served the Tenant’s Notice of Hearing and evidence packages. As such, I have accepted this evidence and will consider it when rendering this Decision.

S.D. then advised that the Landlord's evidence was served to the Tenant by registered mail on April 13, 2023, and the Tenant confirmed that she received this package. As service of this evidence complied with the timeframe requirements of Rule 3.15 of the Rules of Procedure, I have accepted this evidence and will consider it when rendering this Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to an Order to comply?
- Is the Tenant entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on February 1, 2017, that the rent was currently established at \$890.50 per month, and that it was due on the first day of each month. A security deposit of \$406.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence for consideration.

During the hearing I advised the Tenant that it was not entirely clear what breaches of the *Act* she was attempting to have rectified based on what she noted in her Application below:

I am being harassed on false accusations by my landlord on a number of accounts. Management also is not in agreement of short term drop off and pick up rules at the front of the building. My vehicle has been monitored incorrectly and towed. I'm being penalized [sic] and threatened. I am being accused of making "Side Deals" after being informed by email of rules from one manager. Management is fabricating complaints about me. Much of my communication is in email as evidence.

She was provided with an opportunity to clarify what the exact breaches of the *Act* were, and it was apparent that the Tenant was confused, and likely conflated different issues with the parking dispute. I advised the Tenant that this hearing would primarily address the claim with respect to the parking issue.

The Tenant advised that there was no street parking or loading zone for residents of the building, but there were eight visitor spots available. However, she stated that the office primarily uses those spots. She testified that she made a request to G.C. for permission to park for loading and unloading purposes, and that G.C. gave her permission to do so for 15 minutes either in a visitor parking spot or on a dirt patch near the building. Despite this, she stated that she was towed improperly from the visitor parking zone. She alleged that S.D. acknowledged this rule but indicated that residents were not allowed to park in those places. She referenced the documentary evidence submitted to support this position.

S.D. advised that the issue is not that the Tenant is parking on the property, the issue is that the Tenant is parking on the property for more than the allotted 15 minutes. As well, he testified that when the Tenant is not parking in one of the visitor stalls, she elects to park in a fire lane. He referenced documentary evidence from September 14, 2020, of this parking in the fire lane, as well as the notification that the Tenant was parked for longer than 15 minutes.

G.C. directed me to a November 19, 2020, warning letter to the Tenant regarding her parking behaviour. As well, she agreed that she permitted the Tenant to park in designated areas for no more than 15 minutes; however, the warning was given because the Tenant was parked in those areas for longer than 15 minutes. As well, she noted that the Tenant would park in the fire lane, but would insist on calling this a "loading zone". G.C. testified that this parking arrangement permitting the Tenant to park in a visitor parking stall or a dirt patch beside the building for no longer than 15 minutes was rescinded on February 21, 2023, because the Tenant would continuously not comply. Despite this, she advised that the Tenant has continued to park on the property.

The Tenant advised that it is her belief that the notices placed on her car were inaccurate, with the exception of the time that she parked in the fire lane. She confirmed that she parked in the fire lane improperly; however, she contradictorily stated that S.D. permitted her to park there with her hazard lights on. As well, she acknowledged that she was towed from a visitor parking stall because she had parked there for 25 minutes.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

When reviewing the totality of the evidence before me, the consistent and undisputed evidence is that parking is not included in the Tenant's tenancy agreement. Moreover, it appears as if G.C. made an exception to allow the Tenant to park in a visitor stall or a dirt patch area for no more than 15 minutes. However, despite this exception, the Tenant has admitted that she has parked on occasion improperly in a fire lane and was also towed from a visitor parking stall when she was parked there for longer than the 15 minutes permitted. In my view, it is clearly evident that the Landlord has attempted to allow the Tenant to park in designated areas for not more than 15 minutes at a time as a courtesy to the Tenant to allow for unloading or loading of items.

However, it is also clearly evident that the Tenant has attempted to push the boundaries of this courtesy by parking in areas not approved for parking, or by parking in approved areas for longer than permitted. There is no doubt in my mind that the Tenant has been acting in an inappropriate manner in an attempt to take advantage of this courtesy for her own benefit and convenience. Furthermore, given that the Tenant has acknowledged that she has knowingly parked in a fire lane, I find that I can reasonably conclude that she is fully aware of her actions and that she is doing this intentionally.

Based on my assessment of the evidence before me, I am satisfied that the Tenant is not entitled to park anywhere on the property unless she has entered into a paid parking agreement with the Landlord. Furthermore, I accept that G.C. permitted the Tenant to park for less than 15 minutes in specific spots on the property; however, the Tenant's negligent actions and behaviours in attempting to take advantage of this courtesy have led to this courtesy being rescinded. I do not find that the Tenant has demonstrated that the Landlord has breached the *Act* or the tenancy agreement in any of her submissions. Rather, the Tenant is cautioned that any continued actions of parking her vehicle in any areas on the property without a paid parking agreement with the Landlord could result in the jeopardization of her tenancy.

As the Tenant was not successful in her claim, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this Application.

Conclusion

The Tenant's Application is dismissed in its entirety.

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 6, 2023

Residential Tenancy Branch