



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      RR, PSF, FFT

### Introduction

The Tenant filed an Application for Dispute Resolution on January 11, 2023 seeking:

- provision of services/facilities required by the tenancy agreement/law
- a reduction in rent for services/facilities agreed upon but not provided;
- reimbursement of the Application filing fee.

The matter proceeded by way of a conference call hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on September 25, 2023. In the conference call hearing I explained the process and provided the participants the opportunity to ask questions.

### Issue(s) to be Decided

Is the Landlord obligated to provide services/facilities to the Tenant, as required by the tenancy agreement/*Act*?

Is the Tenant entitled to a reduction in rent for services/facilities agreed upon but not provided, pursuant to s. 65 of the *Act*?

Is the Tenant eligible for reimbursement of the Application filing fee?

## Background and Evidence

The Tenant provided a copy of the tenancy agreement the parties have had in place since March 25, 2022. The tenancy started on April 1, 2022, for \$1,800 per month. The agreement shows that “parking for 1 vehicle” is included in the rent amount.

The Tenant drew attention to page 1 of the tenancy agreement, where “Residential property means . . . the parcel or parcels on which the building, related group of buildings or common areas are located. . .”

- provision of services/facilities

On the Tenant’s Application, they provided as follows:

A parking spot for 1 vehicle is included with the rent, as per the agreement, yet the landlords have always told me that I have to park on the street. Their driveway is 100 feet long and I’ve seen 5 vehicles on it at one point. I have to carry heavy work equipment as a tradesman, and I am asking that the landlords choose a spot on the driveway for my vehicle, going forward.

The Tenant provided a text message that they clarified in the hearing was from approximately one month after the tenancy started. This was the Landlord stating to the Tenant “ . . . the use of our driveway is for our use only. Please park on the street.”

The Tenant queried:

But you said that if I had groceries or something big to unload, I could pull in closer. Are you now rescinding that offer?

In response to this, the Landlord stated two more times: “. . . [P]lease park on the street.”

In the hearing, the Tenant maintained their position that “parking for 1 vehicle”, as provided for in the agreement, means ‘a parking spot for the tenants on the driveway.’ However, the Landlord then stated through their messaging to the Tenant: ‘no you can’t put your car there.’

The Landlord presented that the Tenant was aware of the parking that was offered to them at the start of the tenancy. This specific area is a large gravel pad on the street in front of the rental unit property. The Landlord presented that the Tenant parked there for 13 consecutive months with no issue, prior to making this Application. The

Landlord's position is that they did not ever deny the Tenant any parking space. Reciprocally, the Landlord never uses that gravel-space parking area themselves for any reason.

The Landlord provided written accounts from prior tenants that had the same arrangement for parking. In their written account, the Landlord described an incident from June 2023, involving parking, that prompted a call to their insurer and the police.

The Tenant referred to prior Residential Tenancy Branch decisions where an arbitrator permitted a deduction for rent for the reason of denied parking. The Landlord distinguished that ruling as applicable to a scenario with a number of rental units on a single property.

- *rent reduction for services/facilities not provided*

On the Application, the Tenant provided as follows:

I have to carry heavy work equipment as a tradesman, and I am asking for \$200/month in rent reduction for the agreed-upon parking

The Tenant stated they were aware of the onus on them to justify some rent reduction. Their claim for \$200 per month of rent reduction applies for the past to the start of the tenancy agreement, as well as the future.

The Landlord clearly stated their position in their written account: that where the Tenant understood and agreed to what was being offered in the agreement, yet now expecting compensation, is "offensive and completely unwarranted."

### Analysis

- *provision of services/facilities*

The Act s. 1 defines "service or facility" by including "parking spaces and related facilities".

The Act s. 27 provides that a landlord must not terminate or restrict a service or facility if it is "essential to the tenant's use of the rental unit as living accommodation", or its' provision is a material term of the tenancy agreement.

The *Act* s. 62(3) provides that an arbitrator

may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies

I find the tenancy agreement provides for a parking space for one vehicle. The Landlord made that available to the Tenant at all times. This is the space immediately adjacent to and forming part of the street in front of the rental unit property. I find as fact that the parties agreed to the Tenant's use of that space at the start of the tenancy agreement. Incidental allowances from the Landlord for the Tenant unloading their vehicle do not constitute their tacit approval for the Tenant to use any part of the driveway for parking their vehicle.

As well, the Tenant is parsing what the relevant term is in the tenancy agreement. I find clarification on the correct parking space was not lacking from the Landlord, and that was in place since the start of the tenancy.

I find the Landlord did not terminate or restrict the facility. At no time was parking not made available to the Tenant, and the required space was stated clearly by the Landlord at the start of the tenancy. I find further clarification was in place with the Landlord's direct message to the Tenant in May 2022, one month after the start of the tenancy: "Please park on the street."

For these reasons, I dismiss this part of the Tenant's Application, without leave to reapply.

- *rent reduction for services/facilities not provided*

The *Act* s. 65 provides authority for the following:

... if the director finds that a landlord or tenant has not complied with the Act, the regulations or the tenancy agreement, the director may make any of the following orders:

(b) that a tenant must deduct an amount from rent to be expended on maintenance or repair, or on a service or facility, as ordered by the director

...

(f) that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement

The Tenant here claims for a rent reduction for services/facilities agreed to, but not provided, by the Landlord. Above, I find there was no denial or disruption to the Tenant's ability to park in the agreed-upon area.

I find there was no violation of any terms of the tenancy agreement by the Landlord; therefore, I make no order for a reduction in rent. I dismiss this piece of the Tenant's Application, without leave to reapply.

### Conclusion

For the reasons set out above, I dismiss the Tenant's Application in its entirety, without leave to reapply. The Tenant was not successful in this Application; therefore, I grant no reimbursement of the Application filing fee.

I made this decision on the authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: September 26, 2023

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Residential Tenancy Branch