



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act, (the "Act"), for a monetary order for compensation for loss or damage under the Act.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Issue to be Decided

Is the tenant entitled to monetary order for compensation for loss or damage?

Background and Evidence

The tenancy began in 1996. Current rent is \$500.00 per month. The tenant paid a security deposit of \$200.00. The tenant confirmed that the tenancy agreement does not specify designated or exclusive parking rights.

The tenant testified that there has been a dispute with the landlord over parking for 3 years. The tenant stated that the landlord son continues to park in their spot. The tenant stated that they have one vehicle. The tenant stated that the landlords have their own parking area and the landlord's son should be using that area. The tenant seeks to recover \$10.00 per month for 36 months for the total amount of \$360.00.

The landlord testified that the tenant has always had a parking spot. The landlord stated that when they purchased the property the tenant was given a designated spot for their one vehicle and in 2012 their son who lives on the property was also given a designated parking spot. The landlord stated that they recently decided to mark the parking spots with a white line and a parking sign indicating numbers to eliminate any confusion on parking.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, tenant has the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Section 7(2) of the Act states a landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In this case, the tenant did not provide a copy of the tenancy agreement. However, the tenant confirmed that the tenancy agreement does not give them exclusive rights or a designated parking area as the agreement does not address the issue of parking.

The evidence of the tenant was that they are seeking compensation for the loss of parking going back three years. However, the tenant confirmed during the hearing that they have had the benefit of parking for their one vehicle, although not exclusive possession of the parking area, as the area is shared with the landlord son who lives on the property. I find the tenant has failed to prove a violation of the Act or the tenancy agreement by the landlord or an actual loss. Therefore, I dismiss the tenant's application for monetary compensation.

Further, I find the landlord providing designated marked parking for both the tenant and their son is reasonable as there can be no confusion as to each other's designated parking spot.

Conclusion

The tenant's application is dismissed.

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: October 07, 2015

Residential Tenancy Branch

