



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: *MNDC, OLC, FF.*

Introduction

This hearing dealt with an application by the tenant, for a monetary order for compensation and to recover the fee to file this application, pursuant to Sections 67 and 72 of the *Residential Tenancy Act*. The tenant also applied to seek landlord's action to comply with the Act pursuant to Section 62. Both parties attended the hearing and were given full opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence presented at the hearing, a decision has been reached.

Issues to be decided

Is the tenant entitled to a monetary order for compensation in the amount of \$1050.00 for noise disturbances, harassment and lost wages?

Background and Evidence

The tenant testified that the tenancy began on June 02, 2006 and the monthly rent is \$750.00 payable in advance on the first of the month. The tenant stated that since October 18, 2008, the landlord has created noise disturbances which include banging on the wall or floor and yelling at each other. In her written statement she stated that these disturbances occur at all hours of the day including at night. She also stated that since she applied for dispute resolution, the problem has stopped. The tenant also stated that there is a loud pumping sound in the wall that the landlord is holding the tenants responsible for. The male tenant stated that he works night shifts and admitted to using weights for his work outs.

The landlord was represented by her agent. He denied the allegations of banging and yelling and stated that the tenant is responsible for noise disturbances including loud noises when he works out with weights.

He stated that he had to report the matter of being threatened by the tenant, to the local police and did so on October 28, 2008. He also stated that the tenants create a

disturbance when they fight with each other.

The tenant has made a monetary claim for compensation in the following amounts:

1.	Rent for one month	\$750.00
2.	Lost wages	\$300.00
3.	Filing fee	\$50.00
	Total	\$1100.00

The tenants stated that they were significantly disturbed by the noise for approximately three weeks and are seeking compensation in the amount of the rent for one month.

The female tenant stated that she missed work due to not sleeping well at night and lost wages in the amount of \$300.00. During the hearing the tenant amended this amount to \$250.00 and has not provided any evidence to support this claim.

Analysis

The tenant has made a claim for compensation; hence the burden of proving the claim on the balance of probabilities is on her. She has not provided any written or oral evidence to support her claim. The evidence before me is conflicting. Both parties are claiming noise disturbances from the other. Based on the oral and written evidence of both parties, I find that the tenant has not established her claim for compensation. It cannot be said that the applicant on the balance of probabilities has proven that the respondents are not in compliance with the Act or the tenancy agreement. Therefore, the tenant's claim for compensation is dismissed.

Conclusion

The tenant has failed to prove her case, hence her application is dismissed. I make no order with respect to the filing fee.

Dated December 09, 2008.

Dispute Resolution Officer