



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

OLC and FF

Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present relevant oral evidence, to ask relevant questions and to make relevant submissions to me.

Issue(s) to be Decided

This hearing dealt with an application by the Tenant for an order requiring the Landlord to comply with the Act by taking action to stop the occupant of the rental unit above the Tenant from disturbing the Tenant and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on July 01, 2004.

The Landlord and the Tenant agree that the Tenant has been complaining about the occupant who lives above him since September or October of 2008, as the Tenant feels that the occupant was being unreasonably loud. The Tenant stated that the occupant has repeatedly disturbed him by "talking loudly", "walking around", and playing his music loudly "every couple of weeks".

The Landlord stated that he cautioned the occupant on at least two occasions and that he subsequently reached a mutual agreement with the occupant to end the tenancy. He stated that the occupant that is the subject of the Tenant's concern vacated the rental unit at the end of February of 2008.

The Tenant acknowledged that there is no longer a need for an Order requiring the Landlord to comply with the Act, as the problem has been rectified.

Analysis and Conclusion

I find that the dispute between the Landlord and the Tenant has been resolved, as the occupant that has been disturbing the Tenant has vacated his rental unit. Although the Tenant does not feel the Landlord acted quickly, I find there is insufficient evidence to conclude that the Landlord did not comply with the Act. In reaching this conclusion I note that the nature of the disturbances allegedly caused by the occupant living above the Tenant were not particularly significant; that the Landlord discussed the noise complaints with the occupant on at least two occasions; and that he eventually ended the tenancy.

I dismiss the Tenant's application for an Order requiring the Landlord to comply with the Act, as I do not find that an Order is necessary.

I find that the Tenant's Application for Dispute Resolution has been without merit, as the Landlord ended the tenancy with the occupant who has been the subject of the Tenant's complaints in a reasonably timely manner given the circumstances. I therefore dismiss the Tenant's application to recover the cost of filing this Application for Dispute Resolution.

Date of Decision: March 18, 2009
