



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 monetary compensation for loss of quiet enjoyment and an order that the landlord comply with the Act.

The tenant submitted additional evidence after the hearing had concluded. I did not admit or consider that evidence in reaching my decision in this matter.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation for loss of quiet enjoyment?
Should the landlord be ordered to comply with the Act?

Background and Evidence

The tenancy began in August 2008. The tenant pays monthly rent of \$301. The back of the tenant's unit is directly adjacent to the patio of another tenant who has a dog. On two occasions, July 15, 2009 and August 8, 2009, the tenant provided the landlord with written complaints about the dog barking excessively throughout the day.

The evidence of the tenant was that the dog was barking excessively every day, and it disrupted her quiet enjoyment. The landlord did not do anything after receiving the written complaints. The amount of barking was reduced significantly at the end of September 2009, from approximately 200 barks per day to 20 to 30 barks per day. The tenant has applied for monetary compensation of \$12,500 for loss of quiet enjoyment.

The response of the landlord was as follows. The landlord took over management of the property on July 1, 2009. The landlord was dealing with several missing tenant files, and when they received the tenant's written complaints about the dog they were not prepared to act right away. The landlord wrote a warning letter to the dog's owner on September 1, 2009, and informed the tenant that they had done so. The landlord did not hear from the tenant again after that regarding the dog.

Analysis

I accept the evidence of the tenant that her quiet enjoyment was disturbed, and that she took appropriate steps to inform the landlord in writing of the problem. The landlord did not take steps to address the issue until September 1, 2009. A tenant is entitled to quiet enjoyment of their rental unit, including freedom from unreasonable disturbance, and a tenant may be entitled to monetary compensation where the landlord has failed to take steps to protect the tenant's quiet enjoyment. In this case, I find that the landlord was first put on notice of the issue on July 15, 2009, and they took no action to resolve the situation until September 1, 2009. I therefore find that the tenant is entitled to compensation for that time period. However, I do not find the tenant's monetary claim to be a reasonable reflection of the devaluation of her tenancy for the loss of quiet enjoyment. I find that reasonable compensation in these circumstances is an amount representing 10 percent of the tenant's rent for that time period, for a total of \$45.

I do not find it necessary in this case to order that the landlord comply with the Act, as it appears the landlord has addressed the problem. I therefore dismiss that portion of the tenant's application.

As the tenant's application was only minimally successful, I decline to award her the recovery of her filing fee for the cost of the application.

Conclusion

The tenant is entitled to monetary compensation of \$45, which she may deduct from her next month's rent.

Dated October 19, 2009.