



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an application by the tenant for a monetary order. The tenant testified that she served the respondent owner with the application for dispute resolution and notice of hearing by personally serving those documents on August 26 on the building manager, who acted as the landlord's agent during the tenancy. Section 89(1)(b) recognizes this as effective service and I find that the landlord was properly served with the documents.

Issues(s) to be Decided

Is the tenant entitled to a monetary order for loss of quiet enjoyment?

Background and Evidence

The tenant's undisputed testimony is as follows. The rental unit is located in an apartment building. The tenant paid \$600.00 per month in rent. On or about July 20, the landlord began renovating the apartment immediately above the rental unit as well as the apartment immediately beside it. The tenant claimed that the noise continued for 8-10 hours each weekday and occasionally on Saturdays and was extremely disruptive. The tenant claimed that it caused her and her child physical and emotional distress, although no doctor's reports were submitted to corroborate this claim. The tenant seeks the return of all of the rent paid for July and August as well as an additional \$300.00.

Analysis

I accept the undisputed evidence of the tenant and find that the noise created by the renovations was extreme and caused her to lose quiet enjoyment of the rental unit while the work was being carried out. However, the tenant is not entitled to recover any rent paid prior to July 20 as she has not proven any loss of quiet enjoyment prior to that date. Further, I find the claim to be grossly inflated as there is no evidence that the tenant was unable to sleep, cook or use the rental unit for its intended purpose. I find that the tenant is entitled to an award to compensate her for loss of quiet enjoyment for 6 weeks during July and August. The tenant paid approximately \$830.00 in rent during that 6 week period and I find that an award of \$166.00, which represents 20% of the rent paid, will adequately compensate the tenant and I award her that sum.

Conclusion

I grant the tenant a monetary order under section 67 for \$166.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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: December 04, 2009.
