

DECISION

Dispute Codes RP, FF

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution for an order to have the landlord complete repairs.

The hearing was conducted via teleconference and was attended by the tenants and two agents for the landlord.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order to have the landlord complete repairs and to recover the filing fee from the tenants for the cost of the Application for Dispute Resolution, pursuant to sections 32, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began in April 2010 as a 6 month fixed term tenancy in April 2010 for a monthly rent of \$1,365.00 due on the 1st of the month and a security deposit of \$685.00 was paid.

The tenants testified that they had looked at another penthouse in one tower and although they liked it but there was a loud noise that was disturbing so they asked, despite having paid the security deposit, to be let out of the fixed term tenancy agreement.

The landlord instead offered the tenants an alternate penthouse in this other tower. The tenants accepted as there was no noise. Within a week the tenants indicate there was a noise that was not bad at first but is no extremely loud and inhibits their ability to sleep.

The landlord's agent testified the tenants actually wanted out of the tenancy agreement and return of their security deposit when they complained about the noise in the first unit and that they indicated at that time they had another place lined up. The tenant testified that she could not recall what she told the landlord at that time.

The landlord testified that they have investigated the issues identified by the tenants but have failed to find any problems other than normal noises such as the elevator in the building. The landlord also noted the building is 22 years old and they have never had this type of complaint and in fact they have asked current tenants in both towers and have received no complaints.

The tenants stated the landlord had not informed them that they were looking into the matter or not and felt that they were not being taken seriously.

Analysis

Based on the testimony provided, I accept the landlord has investigated the complaints of the tenant and have determined there is no underlying cause or explanation for any noise issue. I also find the tenants have failed to establish through their evidence or testimony that there is a problem that requires any repair.

Conclusion

As a result of the above noted findings, I dismiss the tenant's application, in its entirety, without leave to reapply.

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: July 09, 2010.

Dispute Resolution Officer