



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OLC, MNDC

### Introduction

An extensive amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties and their witness the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

### Issues(s) to be Decided

This is a request for a monetary order for \$871.72, and a request that the respondent's comply with the Residential Tenancy Act, and deal with issues the applicant has with the other tenants at the rental property.

At the beginning of the hearing the applicant stated that he had also meant to apply to dispute the Notice to End Tenancy, and wished to deal with that at the hearing as well however it is my finding that he has not applied to dispute the Notice to End Tenancy, and I am not willing to deal with his request to have the notice cancelled.

## Background and Evidence

The applicant testified that:

- He has had to suffer with ongoing problems caused by the tenants in the upper suite.
- He has to put up with ongoing noise, both day and night caused by the upstairs tenants and their children, and he and his daughter are suffering sleep deprivation as a result.
- The upstairs tenants have also been leaving doors open so that the furnace runs constantly and it gets so uncomfortable that they are unable to bear the heat.
- The upstairs tenants also fail to clean up the dog feces in the shared yard and the children have dug holes making it dangerous, and in fact his mother a bad fall as a result.
- He has filed numerous complaints with the landlord; however the landlord has failed to take any significant action to resolve the issues.

The applicants therefore want an order for the landlord to comply with the Residential Tenancy Act, and wants to be compensated two months' rent for loss of use and enjoyment.

The applicant is also requesting \$5.50 for the cost of having to purchase a money order to pay the rent, because the landlord has banned him from entering the landlord's place of business.

The landlords testified that:

- They have had numerous complaints from the applicant and have investigated numerous times however they have not been able to substantiate any of the applicant's claims.

- They have also had numerous complaints about the applicant from the other tenants in the rental property and it is very difficult for them to tell who the real problem is.
- Even the RCMP have informed them that the complaints appear to be unfounded.
- The applicant has had difficulty getting along with virtually all the tenants who lived in the upper suite, and they have lost three tenants as a result of the applicant's actions.
- As a result of the constant complaining and problems from this tenant they have now served him with a Notice to End Tenancy and this tenancy will end at the end of September 2010.

The respondents therefore believe that this claim is totally unjustified and should be dismissed.

In response the landlord's testimony the applicant testified that:

- It is the other tenants that are the problem not him in the landlord does not deal with them.
- The other tenants did not move out because of his actions, they all had other reasons for vacating.
- He has had no complaints of noise from the upstairs tenants.

The tenants witness testified that:

- There is a large hole in the gate area to the yard and as a result she had a bad fall and injured herself.
- She filed a complaint with the landlords about this hole however nothing is been done.

In response to the witness testimony the landlords testified that:

- They did go and investigate after they received a complaint about the hole in the yard however they were in unable to find any such hole.

## Analysis

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

In this case it is my decision that the applicant has not met the burden of proving that the landlord has not taken reasonable steps to deal with issues that have arisen at the rental property.

The landlord in this case is in the unenviable position of being stuck in the middle between two complaining tenants, with each tenant claiming that the other is the problem.

The landlord has stated that they believe that the applicant is not suitable for living in he shared property as he appears to have little tolerance for other tenants. It is my decision, based on the balance of probabilities, that this is likely the case, and even the applicants own evidence supplied for the hearing supports the landlord's belief.

The applicant has sent in pages and pages of documentation's of virtually every sound he hears coming from the other tenants suite. When people live in the shared accommodation and especially when they are in the lower suite they have to expect to hear sounds from the suite above and is not reasonable to expect that the tenants in the suite above should have to walk on pins and needles, especially when they have children.



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It is also my finding that the landlord has taken reasonable steps to try and deal with the issues as they arise, and it would not be reasonable for the landlord to evict the upstairs tenants simply on the word of the downstairs tenant.

The tenant himself admitted that he did swear during a conversation with the landlord, and therefore I find it understandable that the landlords would not want the tenant in their office.

I am not willing to issue any orders against the landlords.

## Conclusion

This application is dismissed in full 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: September 15, 2010.

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Dispute Resolution Officer