



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes: OLC; MNDC; RR; FF; O

Introduction

This is the Tenant's application for an Order that the Landlord comply with the Act; a Monetary Order for compensation for damage or loss; for a reduction in rent for repairs, services or facilities agreed upon but not provided; and to recover the cost of the filing fee from the Landlord.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me. Neither party provided any documentary evidence.

Issue(s) to be Decided

- Is the Tenant entitled to an Order that the Landlord comply with Section 28 of the Act and provide the Tenant with quiet enjoyment, including rights to freedom from unreasonable disturbance?
- Is the Tenant entitled to a Monetary Order in compensation for loss of peaceful enjoyments?
- Is the Tenant entitled to a reduction in rent?

Background and Evidence

The parties agreed on the following facts:

This tenancy began on August 1, 2006. There is a written tenancy agreement. Monthly rent is \$620.00, and includes utilities. At the beginning of the tenancy, parking was not provided, but at some time during the tenancy the Tenant began to pay \$20.00 a month for parking.

The Tenant gave the following testimony:

The Tenant testified that he has a noisy neighbour (the “other tenant”), who plays his stereo loudly after 11:00 p.m. at night. This noise has been disturbing the Tenant for the past 3 months. The Tenant provided the Landlord with written notice of his noise complaints on July 12, 2010, and again on August 19, 2010, but the Landlord has done nothing to provide the Tenant with peaceful enjoyment. The Landlord refuses to answer his door or phone to deal with the noisy tenant.

The Tenant stated that it is like “living in a war zone” and that other tenants in the building have also complained about the noise. He stated that the noise can be heard on the 2nd and 3rd floors as well as on his floor. The Tenant lives on the 1st floor.

The Tenant seeks a Monetary Order in the amount of \$1,700.00 in compensation for loss of peaceful enjoyment.

The Landlord gave the following testimony:

The Tenant provided the Landlord with an incident report on July 12, 2010 and August 19, 2010.

On July 12, 2010, the Landlord spoke with the other tenant, who was surprised that the Tenant had filed a complaint. The other tenant was apologetic and said he was unaware that he was disturbing anyone because no one had approached him about it.

The Landlord spoke to the other tenant again in August, after receiving the second incident report. The other tenant said to have the Tenant knock on his door if his stereo was bothering him and he would turn it down. The other tenant did not believe that he had his stereo on too loud. The Landlord did not witness any undue noise coming from the other tenant's suite.

On September 8, 2010, the Tenant told the Landlord that the other tenant was making too much noise again. At 7:30 p.m., the Landlord went to speak to the other tenant and the Tenant "came from nowhere and swore in the other tenant's face". The Landlord tried to calm the Tenant down and the Tenant called the Landlord stupid and disrespectful.

No other occupants in the building have complained about noise coming from the other tenant's suite.

Analysis

This is the Tenant's application and therefore the onus is on the Tenant to prove his claim. It is important to note that the Tenant stated he had two witnesses to the noise coming from the other tenant's suite.

I called the first witness at the number provided by the Tenant. The witness was very upset at being called and stated that he didn't give the tenant permission to call him to be a witness. Then the witness abruptly hung up.

I attempted to reach the second witness at two different phone numbers. Both of the phone numbers provided by the Tenant went to voice mail when they were called.

The Tenant did not provide any documentary evidence (i.e. written statements from other occupants) to attest to undue noise.

The Tenant has not provided sufficient evidence that the other tenant has caused unreasonable disturbance. Therefore the Tenant's application is dismissed in its entirety.

Conclusion

The Tenant's application is dismissed.

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: October 26, 2010.
