



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, PSF, RR, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for compensation or loss, to order the landlord to provide services, to allow the tenant to reduce rent for repairs, services or facilities and recovery of the filing fee. Both parties participated in the conference call hearing.

Issues to be Decided

Is the tenant entitled to any of the above under the Act.

Summary of Background and Evidence

This fixed term tenancy started April 18, 2010 with monthly rent of \$1395.00.

The tenants testified that the issues regarding the heat in the unit and compensation for space heaters have been resolved and no longer need to be discussed in this hearing; this portion of the tenant's application is dismissed.

The tenants stated that since the start of their tenancy they have had issues with noise from the upstairs unit that the landlord occupies. The tenants can hear the landlord and his family talking, vacuuming etc. and that the landlord's front door, which is beside a door to the tenant's small bedroom is especially noisy. In the past the tenants would discuss the noise issue with the landlord but in mid November their relationship became less friendly and the communication stopped. The communication between the parties changed after the tenants requested 2 space heaters and the landlord told the tenants to go buy their own space heaters and an incident with the tenant's dog.

The tenants have since provided the landlord with notice to vacate and will do so at the end of the fixed term tenancy which is December 31, 2010.

The landlord testified that he has taken steps to mitigate the noise and replaced the small bedroom door with a more solid door. The landlord also stated that much of his suite is carpeted and that the areas with wood floors had, had sound proofing material put down as part of the installation. The landlord also stated that all of their furniture had

felt pads on the feet so that it would minimize any noise transference to the downstairs suite.

The landlord stated that he had been in the downstairs unit with someone upstairs talking and walking around to hear for himself how loud it was in the tenant's suite and he did not think the noise from upstairs was disruptive.

Analysis

Residential tenancy Act – 28 Protection of tenant's right to quiet enjoyment

A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [*landlord's right to enter rental unit restricted*];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Based on the documentary evidence and testimony I find that the tenants may have on occasion had issues with noise from the landlord's suite but that the tenant's have not met the burden of proof in establishing their claim for a rent reduction for repairs, services or facilities not provided.

I hereby dismiss the tenant's application.

The tenants are not entitled to recovery of the \$50.00 filing fee.

Conclusion

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 13, 2010

Dispute Resolution Officer