



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      OLC

### Introduction

This hearing dealt with an application by the tenant seeking an order that the landlord comply with the *Residential Tenancy Act (Act)*. 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.

### Issue(s) to be Decided

Has the tenant's right to quiet enjoyment been infringed?

Has the landlord stood idly by and not taken reasonable steps to protect the tenant's right to quiet enjoyment?

### Background and Evidence

The tenant is seeking an order that the landlord comply with the *Act* by taking steps to end the tenancy of another occupant. The tenant alleges that this other occupant disturbs him about once a month by banging on his door at 2:30 a.m. The tenant stated that this has been occurring since approximately October 2010.

The tenant stated that he has called the police and the landlord about these problems. The tenant stated that he does not believe that the landlord doing enough to resolve the problem.

The landlord acknowledged the tenant's complaints but submitted that steps are being taken to address the problem. The landlord identified that this housing complex deals with people who have mental health disabilities and work is being done with the available housing and medical support personnel to address the problem and find a reasonable solution. The landlord stated that personnel have already spoken with the tenant and are trying to arrange a meeting with the other occupant. The landlord also stated that if the disturbances continue the tenant should call at the time it is occurring

so that the landlord can personally witness the disturbance when it occurs or investigate it immediately after the fact.

The landlord stated that if their attempts to address the issue are not successful they will take the next step which would be to consider ending the tenancy of the other occupant.

### Analysis

The tenant has sought an order that the landlord comply with the *Act*. The tenant had the burden of establishing that his right to quiet enjoyment was being infringed and to demonstrate that the landlord was standing idly by without taking any reasonable steps to address the problem.

I am satisfied that the tenant is being disturbed occasionally. While it is not ongoing, I do accept that it is very disruptive when he is disturbed in the early morning hours. However, I am not satisfied that the landlord is standing idly by. I find that the landlord is aware of the problem and is taking appropriate and reasonable steps to address the issues between the tenant and the other occupant.

As a result, I do not find that the landlord is in breach of the *Act* or the tenancy agreement and find no grounds on which to order the landlord to comply with the *Act*.

The tenant has also requested that I order the landlord to evict the other occupant. The *Act* does not provide the ability to end the tenancy of another occupant by the request of another tenant. The *Act* only provides that if a landlord fails to reasonably protect a tenant's right to quiet enjoyment, the landlord could be held responsible for compensating the tenant for any loss. Therefore, there is no legislative authority to grant the tenant's request that for an order that the landlord evict the other occupant.

Conclusion

I find that the tenant's application is premature. I am satisfied that the landlord is complying with the *Act* and is taking reasonable measures to address the complaints of the tenant. However, if the problem continues the tenant is at liberty to file a new application.

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: February 08, 2011.

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Residential Tenancy Branch