



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation – Section 67;
2. An Order that the Landlord comply with the Act; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Is the Tenant entitled to an order that the Landlord comply with the Act?

Background and Evidence

The tenancy began on March 1, 2005. The current monthly rent is \$965.00.

Renovations to a unit above the Tenant's unit started on April 2, 2012, with demolition taking place for a few days, followed by renovation work. The Tenant states that the noise of the demolition was such that the Tenants could not sleep during the day and as both Tenant worked evening and night shifts their sleep was disturbed causing headaches and lack of focus for work. The Tenants state that initially the noise started between 7:30 and 8:00 am, each morning and lasted at times until 8:00 p.m. The Tenant states that this past week the noise has stopped by 5 p.m. The Tenant states that the Landlord was spoke with and the Parties agree that the Landlord became angry with the Tenant and nothing was done to resolve the Tenant's complaints.

The Landlord states that the contractor started work at 9:00 am each day and would finish by 5 or 6:00 pm. The Landlord states that after the demolition was completed, there was minimal noise and that the renovations were completed on April 13, 2012. Since that time the Landlord has been carrying out painting tasks only. The Tenants claim half the month's rent as compensation.

Analysis

Section 28 of the Act provides that a Tenant is entitled to quiet enjoyment, including freedom from unreasonable disturbance. Given the undisputed evidence of the Parties, I find that the Tenants were subjected to loud noises associated with demolition work for a period of 4 days. Accepting that his noise unreasonably disturbed the Tenant, but accepting that the noise was reduced for a period of time until April 13, 2012, I find that the Tenant have substantiated a lesser amount than claimed but are entitled to reasonable compensation in the amount of **\$241.00** for the 4 days of loud noises and **\$120.00** for the reduced noise until April 13, 2012. As the Tenants have been successful with their application, I find that the Tenants are entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$411.00**. I order the Tenants to reduce May or June 2012 rent by this amount.

Conclusion

I order the Tenants to reduce May or June rent by \$411.00. 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: April 25, 2012.

Residential Tenancy Branch