



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for an order to the landlord to comply with the Act, or regulation, or tenancy agreement, and to recover the filing fee for this application.

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

Should an order be made to the landlord to comply with the Act?

Background and Evidence

The tenancy began on July 28, 2011. Rent in the amount of \$745.00 was payable on the first of each month. A security deposit of \$372.50 and a pet deposit of \$100.00 were paid by the tenant.

The tenant testified on May 28, 2012, she was sitting out on her deck, when the occupant in the unit below hers was making wooden flower boxes and the noise disturbed her quiet enjoyment. The tenant stated she called the landlord and notified her of the disturbance.

On May 28, 2012, the tenant filed an Application for Dispute resolution in the details of the dispute the tenant writes "The conduct of the resident who lives directly below me has become very difficult, he continues to disturb the peace and quiet of my outside balcony by sawing, banging and running an air compressor" [reproduced as written]

Analysis

After considering all of the written and oral submissions submitted at this hearing, I find that the tenant has not proven the landlord has failed to comply with the Act.

The evidence of the tenant was the occupant below her unit was making wooden flower boxes on his deck and this disturbed her quiet enjoyment.

There was no evidence that the noise of the occupant below her was unreasonable and ongoing noise. Temporary discomfort or inconvenience does not constitute a basis for breach of the covenant of quiet enjoyment.

Also, the tenant did not give the landlord a reasonable amount of time to take steps to investigate the complaint and determine if a problem exists. The landlord is not responsible for the action of other tenants unless notified that a problem exists and fails to take reasonable steps to correct it. I do not find building a wooden flower box would suggest a problem exists.

I find the tenant's application has no merit. Therefore, the tenant's application is dismissed the tenant is not entitled to recover the cost of filing the application from the landlord.

The tenant is cautioned that smearing peanut butter on other occupant's mail boxes and throwing hot water on to other occupant's balcony to cause injury if verified by the landlord may be ground to end tenancy in the future. A copy of this decision may be produced in evidence in any further hearing.

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: June 19, 2012.

Residential Tenancy Branch