

DECISION

Dispute Codes OLC, PSF, FF

Introduction

This is an application filed by the Tenant for an order for the Landlord to comply with the Act, regulation or tenancy agreement, to provide services or facilities required by law and the recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended the hearing and have acknowledged receiving the notice of hearing and evidence packages submitted, I am satisfied that both have been properly served.

At the beginning of the hearing it was clarified by the Tenant that she only wishes for the Landlord to deal with her noise complaints concerning the Tenant in #215, regarding the use of a juicer.

Issue(s) to be Decided

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

Background, Evidence and Analysis

Both parties agreed that the Tenant notified the Landlord about her concerns regarding the excessive noise of the juicer from the Tenant in unit #215 in the evenings. The Tenant states that since she notified the Landlord that the noises only occur during the day between 9 am and 9 pm. The Landlord confirms in his testimony that the Tenants in unit #215 were notified of the noise and that they promised to not use the juicer in the early morning or late at night. The Tenant states that she is still hearing the excessive noise during the day. The Landlord has stated that this is a 53 unit rental building, approximately 40 years old, wood frame and does not have a lot of insulation between the units. The Tenant confirms and acknowledges this. The Landlord states that he cannot prohibit the other Tenant in unit #215 from the making use of the juicer during the daytime or during meals. The Tenant states that she is still being disturbed.

I find based upon the evidence of both parties that the Tenant has failed to establish her claim for an order for the Landlord to comply with the Act, regulations or tenancy

agreement. Both parties agree that the Landlord has responded to the Tenant's issues and cannot resolve the Tenant's complaint. I find that the Landlord has acted reasonably in response to the Tenant's noise issues and that nothing more can be done. The Landlord cannot restrict the other Tenant's actions by prohibiting the reasonable use of the juicer during reasonable hours. The age and condition of the rental building prohibit any other action by the Landlord. The Tenant's application is dismissed.

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: August 08, 2012.

Residential Tenancy Branch