



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC; OLC; FF

Introduction

This is the Tenants' application for compensation for damage or loss under the Act, Regulation or tenancy agreement; for an Order that the Landlords comply with the Act, Regulation or tenancy agreement; and to recover the cost of the filing fee from the Landlords.

The parties gave affirmed testimony at the Hearing.

It was determined that the Tenants served the Landlords agent with the Notice of Hearing documents and copies of their documentary evidence by handing the documents to the Landlord on December 30, 2013.

Issues to be Decided

- Are the Tenants entitled to compensation for loss of peaceful enjoyment of the rental unit?
- Should the Landlords be ordered to comply with Section 28 of the Act?

Background and Evidence

This tenancy began on November 1, 2013. The tenancy agreement is a one year lease. Monthly rent is \$1,250.00, due on the first day of each month. The Tenants paid a security deposit in the amount of \$625.00 at the beginning of the tenancy.

The Tenants gave the following testimony:

The Tenants testified that they have been disturbed by loud noises coming from another suite in the building. They stated that they sent the Landlords an e-mail on November 6, 2013, alerting them to the problem, and again on November 8, 2013. Both times, the Landlords responded on the same day. Copies of the e-mails were provided in evidence.

On November 1, 2013, the Tenants began documenting the noises and the times that they occurred. The Tenants sent the list to the Landlords on November 15, 2013, and asked that something be done immediately because they were being woken early every morning and late at night by "singing" and yelling. A copy of that e-mail was also provided in evidence.

The Tenants testified that although the Landlords involved the strata counsel, there has been little to no reduction in noise. They stated that they discovered that the noises were being made by a child with disabilities and that the father of the child was not a renter. He is an owner.

The Tenants stated that the strata counsel set up a meeting with a mediator on January 7, 2014. During the mediation, the parties agreed that when undue noise happens, the Tenants would send a text to the Dad, who would try to get the boy to be quiet. In addition, the strata counsel agreed to cover the cost of installing sound insulation between the suites.

The Tenants seek compensation in the equivalent of 1/3 of their rent for the months of November and December, 2013, for a total of \$900.00.

The Landlord gave the following testimony:

The Landlord testified that she sympathized with the Tenants, but that the previous tenants had no issues with noise. She stated that the boy's mother moved out and his dad moved in. Since the dad moved in, he has had trouble keeping the boy calm.

The Landlord stated that she spoke to the dad and to the Property Manager as soon as she became aware of the problem. She stated that she sent a third party to listen to the noises and forwarded the Tenant's November 15th e-mail to the Property Manager and asked that a formal request be made. She stated that she sent the Tenants copies of all of the correspondence.

The Landlord stated that 2 or 3 members of the strata counsel listened to the noises on November 23, 2013 and a special meeting was called on November 27, 2013. She stated that the strata counsel wished to try mediation because they were concerned about the child's disabilities. The Landlord also spoke to someone at BC Human Rights.

The Landlord testified that she instructed her lawyer to write a letter to the strata counsel, which cost her \$750.00.

Analysis

Section 67 of the Act provides that if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find that there is insufficient evidence that the Landlord did not comply with the Act, regulations or tenancy agreement.

In this case, I find that the Landlord has taken reasonable steps to provide the Tenants with peaceful enjoyment of the rental unit. I explained to the Tenants that the Landlord has no authority over the Tenants' neighbour, who is an owner. The strata corporation, (which has authority to levy fines, etc. against owners) is not an agent of the Landlord. The Landlord has advised the strata corporation about the Tenants' concerns. The Landlord has instigated dialogue between the strata corporation and the owner.

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: March 06, 2014

Residential Tenancy Branch

