



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 by the tenant seeking to have the landlord comply with the Act, regulation or tenancy agreement and to recover the filing fee. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to any of the above under the Act, regulations or tenancy agreement?

Background and Evidence

The tenancy began on or about sometime in 2006. Rent in the amount of \$960.00 is payable in advance on the first day of each month.

The tenant gave the following testimony:

The tenant stated that the neighbour adjacent to his unit has prevented him from having quiet enjoyment at least 20 times in the past year. The tenant stated that the neighbour gets extremely drunk and entertains his friends at all hours of the night and morning. The tenant stated that he has called the landlord to complain about this at least 8 times and has sent the landlord two written complaint letters. The tenant stated that he wants the landlord to exercise his authority and address this issue.

The landlord gave the following testimony:

The landlord stated that the tenant has called to complain about this neighbour but not as many times as stated; "maybe two or three times". The landlord stated that they have spoken to the neighbour who adamantly denies making any noise. The landlord stated

that they canvassed all of the surrounding neighbours to find that none of them had ever been disturbed. The landlord stated that they are willing to assist the subject tenant and address his concerns but it is a difficult situation since he is the only person that has complained and they do not have any proof that the neighbour has disturbed the subject tenant or any other tenant.

Analysis

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the tenant must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. The tenant has not provided sufficient evidence to support the allegations. Based on the disputing testimony of the parties and on the balance of probabilities, I dismiss the tenants' application.

The tenant has not been successful in his application and must bear the cost of the filing fee.

Conclusion

The tenants' 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: May 13, 2014

Residential Tenancy Branch

