



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes

OLC

### Introduction

This hearing was convened to address a claim by the tenant for an order compelling the landlord to comply with the *Residential Tenancy Act* and the tenancy agreement. Both parties participated in the conference call hearing.

### Issue to be Decided

Should the landlord be ordered to comply with the Act?

### Background and Evidence

The tenancy in question has been in place for approximately 6 ½ years and the rental unit is located on the ground floor of a multi-story apartment building.

The tenant requested an order compelling the landlord to provide heat to the rental unit throughout the year. The parties agreed that the tenancy agreement provides that heat is included in the rent and that the landlord turns off the heat during the summer in order to save heating costs. The tenant testified that on occasion during the summer, she felt chilled and asked the landlord to turn on the furnace, only to be told that she should put on a sweater. The landlord testified that on one occasion he may have told the tenant to put on a sweater, but that was because the temperature in the building was 14° and it was warm enough for him to keep windows open. He stated that other tenants in the 54 unit building complain of being too hot in the summertime but stated that when the tenant has asked him to turn on the heat, he has complied.

The tenant requested an order that the landlord address noise issues coming from the unit directly above hers as the occupants of that unit have been excessively noisy. The tenant testified that she is frequently awakened at night by the sounds of these occupants partying with friends and that despite having repeatedly complained to the landlord, the problem has continued, with the latest incident occurring approximately 3 weeks prior to the hearing when the occupants disturbed her 4 rights in a row. The tenant acknowledged that the problem abated somewhat from January – April, but by the end of April the occupants were again frequently disturbing her. The landlord testified that he has investigated the tenant's complaints

and that he gave them a 1 month notice to vacate by May 31, but when they promised that they would not play loud music or cause disturbances at night, he permitted their tenancy to continue. The landlord insisted that the tenant should telephone the police rather than contact him and claimed that it was not possible to evict the occupants because of "a complaint."

### Analysis

The landlord has a contractual obligation to provide the tenant with heat, regardless of whether he believes the rental unit is warm enough without heat. I order the landlord to either keep the furnace running continuously so the tenant can have heat on demand or promptly turn the furnace on each time the tenant complains. While I appreciate that the landlord is attempting to reduce heating costs, he has to fulfil his contractual obligation to the tenant and provide her with heat.

The landlord also has an obligation to provide the tenant with quiet enjoyment of her rental unit. The tenant has repeatedly complained that she is unable to sleep due to the loud noises created by the occupants of the upper unit and I find that the landlord has failed to act reasonably and promptly to address those complaints. I find as a fact that the tenant has experienced several months of regular disturbance as a result of the actions of the occupants of the upper unit. The landlord should demand of the occupants of the upper unit that they reduce the noise level, particularly at night. If these occupants fail to comply with the landlord's demands, the landlord should consider issuing a one month notice to end tenancy. I note that if the landlord fails to provide quiet enjoyment of the rental unit, the tenant may file for monetary compensation for that loss.

### Conclusion

The landlord is ordered to provide heating to the tenant and to address noise complaints about occupants of the upper unit.

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: July 14, 2015

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Residential Tenancy Branch

