



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Langley Lion Senior Citizen Housing Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OLC, PSF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67;
2. An Order for the Landlord’s compliance - Section 62; and
3. An Order for the Landlord to provide services or facilities – Section 65.

The Landlords and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amount claimed?

Is the Tenant entitled to an order that the Landlord comply or provide services or facilities?

Background and Evidence

The tenancy started on December 15, 2012. Rent of \$474.00 is payable monthly.

The Tenant states that since February 2013 the tenant living in the unit directly below the Tenant has been emitting loud base noise from the unit. The Tenant states that it would start at 3:30 a.m. and last throughout the day, with intermittent periods of quiet and very loud noise, until 10:00 pm. The Tenant states that he complained 5 times to the Landlord but the Landlord did nothing. The Tenant states that although the noise

never went away the Tenant was not going to continually complain to a landlord that did nothing. It is noted from the Tenant's submissions that on occasion the Tenant called the police. The Tenant states that it did not complain again to the Landlord and simply went straight to making the application. The Tenant states that as soon as the Landlord was given the application, the noise in the unit below stopped. The Tenant has no other complaints left to resolve other than wanting the Landlord to act when the Tenant complains.

The Landlord states that it investigated the Tenant's noise complaints in 2013 and determined that the complaints had no validity. The Landlord states that the lower tenant's television was not set on a high volume and that the tenants below and beside this tenant had no complaints. The Landlord states that the Tenant was then provided a letter telling the Tenant to call the Landlord at the time the noise is being made so that they can attend the unit then. The Landlord states that no complaints have since come from the Tenant and that although they were shocked to learn that the Tenant was not happy, the Landlord did not see any point as there was nothing to resolve in 2013.

Analysis

Section 28 of the Act provides that a tenant is entitled to quiet enjoyment including, but not limited to freedom from unreasonable disturbance. Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results.

I found the Landlord's oral response to the Tenant's application to be quite dismissive and oddly arrogant. It was as though the Landlord owed nothing to the Tenant, ever. I do accept that the Landlord did make some effort in 2013 however, the Landlord's unresponsiveness to the current application tends to support the Tenant's evidence that the Landlord failed to act sufficiently in 2013. The Tenant's believable evidence that the noise stopped after the application raises questions about the reliability of the Landlord's evidence that nothing could be done as nothing was a problem.

The Landlord's lack of response to the application lends significant credibility to the Tenant's position that all the complaints in the world after August 2013 would not get a response from the Landlord however this does not relieve the Tenant from its obligation to inform the Landlord of problems if the Tenant wants the Landlord to respond and correct the problems. As distasteful as it may have been for the Tenant to deal with such a dismissive Landlord, as the Tenant did not continue to pursue its right in relation to the noise, beyond 2013 I find that the Tenant has only substantiated nominal compensation of **\$100.00** for the loss of quiet enjoyment in 2013.

As the Landlord's actions in responding to noise complaints has been found to be less than adequate, I find that the Tenant has substantiated an order for the Landlord's compliance. I therefore order the Landlord to provide written responses to any noise complaint the Tenant may have in the future. I further order that those responses set out the steps taken by the Landlord to investigate and resolve the complaint.

As the Tenant was not seeking any order for the provision of services or facilities, I dismiss this claim. The Tenant may reduce future rent payable by the total entitlement of **\$100.00** in full satisfaction of the claim.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court. 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: September 18, 2015

Residential Tenancy Branch

