



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Brown Bros  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

MNDC; FF; O

### **Introduction**

This Hearing was convened to consider the Tenant's Application for Dispute Resolution seeking compensation for damage or loss under the Act; to recover the cost of the filing fee from the Landlord; and for "other" orders.

The parties gave affirmed testimony at the Hearing.

It was determined that the Tenant served the Landlord with the Notice of Hearing documents and copies of her documentary evidence by registered mail, sent October 13, 2015. The Landlord did not submit any documentary evidence.

### **Preliminary Matter**

The Tenant's Application for Dispute Resolution indicates that she is seeking "other" relief; however, she did not provide sufficient details in her Application with respect to what other relief she is seeking. When a party seeks "other" relief, the Application for Dispute Resolution requires the Applicant to provide details in the "Details of Dispute Resolution" section. I find that insufficient details were provided. Therefore this portion of the Tenant's application is dismissed.

### **Issues to be Decided**

1. Is the Tenant entitled to compensation for loss of quiet enjoyment of the rental unit?

### **Background and Evidence**

This tenancy started approximately 12 years ago. The rental property is a 12 unit wood frame building which was built in the 1970's. The Tenant lives on the first floor of the building in a 2 bedroom suite. The Tenant stated that the occupants who live directly above her are disturbing her sleep by yelling, slamming doors and making loud banging noises late into the night. The Tenant stated that there were no issues with noise with any of the previous occupants in the upstairs suite and that it began in 2013, when the current occupants moved in. The Tenant testified that she has made the Landlord aware of this noise, but that it continues.

The Landlord's agent stated that one of the upstairs occupants does shift work and that she comes home late. She testified that she has spoken with the upstairs occupant and asked her to be mindful of the Tenant downstairs. The Landlord's agent stated that the upstairs occupant submitted that noises heard by the Tenant are "day to day living" noises. The Landlord's agent noted that there is no live-in building manager at the rental property and therefore it is difficult to determine the validity of the Tenant's claim.

The parties agreed that the Landlord would provide the Tenant with a recording device and instructions for its use within one week of the Hearing date. The Landlord stated that she would attempt to find a recording device that would record noises for an 8 hour period so that the Tenant could turn it on at night before she goes to sleep. The Landlord stated that the occupants in the rental property are expected to be quiet after 10:00 p.m. on Sunday to Thursday nights and after 11:00 p.m. on Fridays and Saturdays.

### **Analysis**

Section 28 of the Act provides that the Landlord has a duty to provide the Tenant with quiet enjoyment of the rental unit. The parties have agreed that the Landlord will provide the Tenant with a recording device as set out above, which will assist the Landlord in determining the extent of the noise and its causes.

The Tenant's Application indicates that she is seeking compensation, but she did not identify the amount of compensation she is seeking. I hereby dismiss the Tenant's Application for compensation, with leave to reapply.

### **Conclusion**

The Tenants' Application for compensation is **dismissed with leave to reapply**.

The Landlord is hereby ordered to investigate the Tenant's complaints with respect to noise. The parties agreed that the Landlord would provide the Tenant with a recording device and instructions for its use within one week of the Hearing date, and that the Tenant would use the recording device at night in order to assist the Landlord in determining the validity of her noise complaint.

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: December 24, 2015

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Residential Tenancy Branch

