



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, O

### Introduction

The tenant applies for an order that the landlord comply with the law or the tenancy agreement in regard to disturbances coming from a rental unit above the applicant tenant's rental unit. His application states that he seeks "other" relief, but that claim was not defined, particularized or pursued at hearing.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

### Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that a compliance order is warranted?

### Background and Evidence

The rental unit is a two bedroom suite, the lower of two suites on one side of a duplex building.

The tenancy started in September 2013. The monthly rent is \$575.00, due on the first of each month. The tenant paid \$287.50 security deposit but the parties agree that it had been applied, by consent, to rent due last March and that now the landlord does not hold any deposit money.

In or about April 2015, the landlord rented out the upper suite to the tenant's friend V..

The tenant testifies that V. has been subletting the premises to drug addicts. He says that V. left a month ago but the drug addicts are still there. He says there is drug

trafficking being conducted from the upstairs and undesirable people are coming and going.

The tenant says there is considerable noise coming from the upstairs. He did not provide dates or times of the noise nor particulars of the type of noise.

Since this application was made the tenant has called the police because of the people upstairs

The tenant lives with and is responsible for the care of his six year old granddaughter. He is concerned for her safety.

The tenant says he has told the landlord about the problems. He says he calls the landlord but often no one answers. He says he has called the RCMP "constantly."

The landlord says V. is leaving at the end of December and that the other occupants will become the new tenants.

He says the noise is just the people upstairs talking loudly.

He says the RCMP have phoned him about the upstairs people but he thinks they are nice people and that the tenant should follow the rule "live and let live."

There has been a problem with the upper people crossing the backyard, which I understand is for the applicant tenant's use. The landlord says he has told them not to cross it. The tenant says they continue to do so.

### Analysis

It is important to note that the tenant seeks a compliance order. He does not request any monetary amount for the alleged disturbance being caused, nor a rent reduction on that basis.

The question then is not whether the tenant is being disturbed or interfered with, entitling him to compensation. Rather, the question is whether or not the landlord is carrying out his duty. If not, then a compliance order would issue.

In this case, the evidence is too vague for me to ascertain whether or not the landlord is carrying out his duty. The dates of any incident, the type of incident, the tenant's effort to contact the landlord about the incident; are all missing from the evidence.

Nevertheless, and as stated at the hearing, the landlord has certain obligations that the law requires him to follow, whether or not an arbitrator issues a compliance order.

The landlord is not entitled to require his tenants to take a “live and let live” attitude about the goings on at this property.

Upon receiving a complaint of a disturbance from a tenant about another tenant of the same landlord, a landlord is obliged to investigate the complaint. If there are good grounds for the complaint the landlord is required to take appropriate steps to deal with it. Those steps may include requiring a tenant to repair something, or to desist from certain conduct or, in some cases, the issuing an eviction notice.

A landlord who fails to take such steps in the face of a *bona fide* complaint may find himself subject to a monetary order or receipt of a lowered rent.

As well, a landlord should be accessible to receive complaints and communicates from a tenant in a timely manner. In this day and age, not answering a phone, or at least having an answering system to record messages is questionable business practice.

### Conclusion

The tenant’s application is dismissed. The landlord’s obligation regarding complaints has been set out above. No compliance order is needed.

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 06, 2015

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Residential Tenancy Branch

