



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF

### Introduction

This was a hearing with respect to the tenant's application concerning interference with his use and occupancy of the rental unit. The hearing was conducted by conference call. The tenant called in and participated in the hearing. The landlord did not attend although he was served with the application and Notice of Hearing sent by courier on July 7, 2016. The landlord acknowledged receipt of the documents and I find that he was properly served.

### Issue(s) to be Decided

Is the tenant entitled to a remedy with respect to his complaints of disturbance due to Noise, smoking and drug use by another occupant of the rental unit?

### Background and Evidence

The rental unit is a third floor apartment in a three storey wood frame apartment building in North Vancouver. The tenant testified that the occupants of the second floor unit below the rental unit frequently disturb him and interfere with his quiet enjoyment of the rental unit. The tenant has complained to the landlord about the occupant's frequent drunken and noisy parties and of the cigarette and marijuana smoke that permeates the rental unit.

The landlord has not taken any steps to address the problem and the tenant applied to the Residential Tenancy Branch seeking "other relief". In his application the tenant originally requested the return of his filing fee; he later amended his application to include a claim for other relief. At the hearing the tenant requested an order requiring the landlord to evict the downstairs occupants.

### Analysis

In the absence of an appearance by the landlord I am unable to make the order requested by the tenant. I am not able to direct the landlord to evict another occupant of the rental property. The tenant's remedy will be to reapply and to seek a remedy from the landlord; this may include an order directing the landlord to abate the disturbance, a claim for monetary compensation for loss of quiet enjoyment or a claim for a continuing rent reduction until the disturbance is ended.

The landlord is cautioned that he has a contractual obligation to provide the tenant with quiet enjoyment of the rental unit and in order to fulfill that obligation he may be required to take steps to deal with disruptive occupants including the eviction of a problem tenant.

### Conclusion

The tenant's application is dismissed with leave to reapply.

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 16, 2016

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Residential Tenancy Branch