



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding South Drive Holdings
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, MNDC

Introduction

The tenant applies for a compliance order that the landlord prevent the tenant's neighbouring tenant from disturbing her and for a monetary award for the breach of her quiet enjoyment of her apartment.

The parties attended the hearing, the landlord represented by the building manager Mr. A.L., 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

Has the landlord failed to carry out its contractual or statutory obligations to this tenant and has the tenant suffered damages as a result?

Background and Evidence

The rental unit is a one bedroom apartment in a 31 unit, three floor apartment building.

The tenancy started in June 2013. The monthly rent is currently \$700.00, due on the first of each month. The landlord holds a \$340.00 security deposit.

The tenant says that for the past two years she has been frequently bothered by the sound of her neighbour, Ms. S.C. talking loudly or screaming through the common wall

they share in the apartment building. She relates loud bursts of anger, yelling, cussing, crying, banging things, excessive loud music, second-hand marijuana smoke and the smoke detector going off as a description of what she is enduring. Often it is related to the neighbouring tenant's relationship with her boyfriend. She has heard the tenant crying uncontrollably because of it.

She says that she has complained to the building manager about the disturbances but they continue. She agrees that there was a lull of about a year and one half until a particular disturbance in late November. During that disturbance she called the police, but not the building manager.

She relates that because of her neighbour's conduct she is "out of whack" and her doctor has put her on medication to calm her nerves.

The building manager Mr. A.L. testifies that he has received many complaints from this tenant about her neighbour and has received many similar complaints from the neighbouring tenant about this tenant screaming and pounding on the wall.

He says that he has attended the tenant's and the neighbour's rental units many times after a complaint in order to verify it but has heard nothing that would confirm the complaint. He's tried to talk to both tenants in order to establish peace between them. He says that prior to the late November incident there had not been any complaints for a long time.

The neighbour Ms. S.C. has resided in her apartment for about sixteen years. She is about 50 years old. The applicant tenant is retired and spends much of her time in her apartment.

Analysis

As stated at the hearing, a landlord is not automatically responsible for the disturbance or inconvenience one tenant of an apartment building causes to another. It should be noted that disputes between tenants are not resolvable through the dispute resolution mechanism of the Residential Tenancy Branch. Rather, it is the landlord's obligation to receive complaints about disturbances and conduct an inquiry into the complaint. If a complaint is reasonably well founded the landlord is responsible to take steps to abate, reduce or otherwise prevent the disturbance from continuing. If it fails to do so in a reasonable manner, it could be responsible for compensation to the disturbed party.

In this case I find that the landlord has taken reasonable steps to receive and investigate the tenant's complaints. Its building manager has attended at the rental unit but has not been successful in confirming or corroborating the tenant's allegations.

It follows that, at this point, the landlord is not responsible for inconvenience or disturbance the tenant testifies to.

Conclusion

The tenant's application must be dismissed.

I would counsel her to report all incidents to the building manager promptly so that he can attend to witness the facts of the complaint while they are occurring.

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: January 23, 2018

Residential Tenancy Branch