



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FFT, PSF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to provide services or facilities required by law pursuant to section 65; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The parties acknowledged receipt of evidence submitted by the other.

Issue(s) to be Decided

Is the tenant entitled to an order compelling the landlord to comply with the *Act*, regulation or tenancy agreement?

Is the tenant entitled to an order to compel the landlord to provide services or facilities required by law?

Is the tenant entitled to the recovery of the filing fee for this application?

Background and Evidence

The tenant gave the following testimony. The tenant testified that she moved in on June 1, 2013. The tenant testified that she pays \$1088.00 per month for rent. The tenant testified that since January 2018 the upstairs tenants have disturbed her on a regular

and ongoing basis. The tenant testified that the loud “banging, crashing and yelling happens five to ten times per day, every day”. The tenant testified that she has informed the landlord of these issues and he has either ignored her completely or treated her disrespectfully. The tenant testified that the landlord has taken away her parking spot without proper notice or explanation. The tenant seeks to have her spot returned and that the landlord addresses her concerns and complaints respectfully.

The landlord gave the following testimony. The landlord testified that he has a parking spot available to provide to the tenant as of April 1, 2018 at the usual monthly rate and is happy to provide that to her. The landlord testified that the complaints actually go back to over a year ago. The landlord testified that the subject tenant has complained about the previous tenants in the unit above her along with the current tenants. The landlord testified that she complains about people walking, flushing toilets and have conversations in a normal and reasonable level. The landlord testified that he has in fact investigated her numerous complaints and find them to be without merit. The landlord testified that the tenant makes frivolous claims and accusations and that she is in fact the party disrupting the building on a regular basis. The landlord testified that the tenant is simply overly sensitive to noise of any kind.

Analysis

I first address the parking issue which the tenant claims is a service or facility promised, but not provided to her. The landlord and tenant agreed that she is welcome to rent the parking spot that is available for April 1, 2018. Both parties agreed to those terms, so I no longer need to make a finding or decision in regards to that issue.

As for the tenants request to have an order compelling the landlord to comply with the Act, regulation or tenancy agreement to ensure her ability to have quiet enjoyment; I have reviewed the documentation submitted by the parties and considered their testimony. I find that the landlord has responded in a reasonable and timely fashion when the tenant has complained. In addition, the tenant has not provided sufficient evidence to show that the “noises” are beyond a reasonable level and that they are as frequent as claimed. I accept that the tenant may be more sensitive to noise than most, however, that is not sufficient grounds to support her claim. Based on the insufficient evidence before me, I dismiss this portion of her application.

As the tenant was only partially successful in this application, she must bear the cost of the filing fee.

Conclusion

The parties agree that the tenant is entitled to rent a parking spot as of April 1, 2018. The remainder to the tenants' application is dismissed without 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: March 08, 2018

Residential Tenancy Branch