



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FFT OLC PSF RR

### Introduction

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

- Authorization to recover the filing fee from the landlord pursuant to section 72;
- An order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62;
- An order that the landlord provide services or facilities pursuant to section 65; and
- Authorization to reduce the rent for services and facilities not provided pursuant to section 65.

Both parties were represented at the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant was represented by their agent (the "tenant"). The landlord attended and was represented by their agent (the "landlord").

As both parties were present service of documents was confirmed. The parties each confirmed receipt of the respective materials. Based on the evidence I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

Is the tenant entitled to any of the relief sought?

### Background and Evidence

The rental unit is a suite in a detached home. The other portion of the rental building is occupied by another tenant. The current monthly rent is \$1,040.00 payable on the first of each month.

The tenant submits that they have been without hot water in the rental unit for approximately a year. The tenant attributes the lack of hot water to the other occupants of the rental building using it all, going so far as to keeping the taps on throughout the day when hot water is not required, in an attempt to deny them access.

The tenant also complains of noises emanating from the other rental unit which has been consistent and noticeable. The tenant describes the noises as that of a fan. The tenant believes that the other occupants are utilizing their bathroom fan and the sound is audible in their suite.

The tenant submits that they have raised these issues with the landlord who has failed to take action. The tenant seeks a reduction in their monetary rent for the loss of quiet enjoyment and inability to utilize hot water in their suite. The tenant seeks an order that the landlord take action against the other occupants and provide these services.

The landlord submits that they have made inquiries with the other occupant who have responded that they are not using excessive hot water. The landlord testified that they have investigated in the rental unit and have found that hot water is available for the tenant. The landlord said that the noise complaints by the tenant appears to arise from the other occupants' use of their bathroom fan but the sound is the normal level expected from its usage.

### Analysis

In accordance with Residential Tenancy Rule of Procedure 6.6 the onus is on the applicant to prove their claim on a balance of probabilities.

In the matter at hand I find that the applicant has failed to establish any of their claims on a balance of probabilities. The tenant's submissions consist of complaints, conjecture and suppositions. The scant evidence submitted by the tenant are random

photographs which do not establish that there has been any violation on the part of the landlord or denial of services or facilities. I do not find the tenant's submission that they are denied the use of hot water by a neighbor who keeps all of their taps on throughout the day to be believable or convincing. I find the photographs of buckets to be of no assistance in demonstrating that the tenants have been denied hot water.

Similarly, I do not find that the tenants have shown that there is excessive noise beyond that which would be expected in a multi-unit building such that it would give rise to an order. I find the audio file submitted by the tenant to be of no assistance as it does not demonstrate that the noise is to a level or frequency that is not reasonable. I find the tenant's testimony to simply be a subjective complaint rather than evidence of negligence on the landlord's part requiring an order of compliance.

I find that both individually and cumulatively the tenant has failed to meet their evidentiary burden by showing on a balance of probabilities that there is a basis for any portion of their claim. Accordingly, I dismiss the tenant's application in its entirety without leave to reapply.

### Conclusion

The tenant's 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: September 13, 2019

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Residential Tenancy Branch