



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for an order that the landlords comply with the Act, regulations or tenancy agreement pursuant to section 62.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

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

At the outset of the hearing the tenant requested to add a new claim to reduce rent for services or facilities not provided. As the landlords have not been served with a notice of a new claim in accordance with Residential Tenancy Rule of Procedure 4.6 and adding a new head of claim without proper notice would be prejudicial I decline to allow the tenant to amend their application.

Issue(s) to be Decided

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Background and Evidence

The rental unit is a basement suite in a detached home with the landlords occupying the main floor. The tenant complains about noise caused by the landlords and their children describing it as “landlords continually make loud noise, which is ongoing throughout the day & night”. The tenant submits that their right to quiet enjoyment of the rental unit has been infringed.

The landlords submit that they have not engaged in any activities causing excessive noise. The landlords submit that their family includes a 2-year old and (as of the date of the hearing) 14-day old who engage in the regular expected activities of children of that age.

Analysis

The tenant makes a claim that the landlord comply with the portion of the Act that a tenant is entitled to quiet enjoyment of the rental unit. That section provides in part:

28 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;

Residential Tenancy Policy Guideline 6 further discusses quiet enjoyment and provides that:

A landlord is obligated to ensure that the tenant’s entitlement to quiet enjoyment is protected. A breach of the entitlement to quiet enjoyment means a substantial interference with the ordinary and lawful enjoyment of the premises. This includes situations in which the landlord has directly caused the interference, and situations in which the landlord was aware of an interference or unreasonable disturbance, but failed to take reasonable steps to correct these.

Temporary discomfort or inconvenience does not constitute a basis for a breach of the covenant of quiet enjoyment. Frequent and ongoing interference or unreasonable disturbances may form a basis for a claim of a breach of the entitlement to quiet enjoyment.

Based on the submissions of the parties I find little evidence that there has been any breach of the Act, regulations or tenancy agreement on the part of the landlords or a breach of the tenant's right to quiet enjoyment of the rental suite.

I find that there is little evidence that the activities of the landlords or their children have been anything beyond what would be reasonably expected from a family residing in their home. I find it unreasonable to expect that children silence themselves or not occasionally drop objects. I find that the noises complained of by the tenant to simply be the daily sounds that accompany regular activities.

I further find that the other items which the tenant complains about in their written submissions are not supported in the documentary evidence and appear to be simply subjective complaints. I find the tenant's application to consist of grievances and complaints which do not cumulatively or individually comprise a basis for a finding that there has been any breach on the part of the landlords.

I accept the submissions of both parties that this has been a particularly stressful time as both parties have increased their time at home due to Covid restrictions. While I commend the parties for adhering to the public health recommendations and contributing to the overall good health of the community, I would urge them to attempt to resolve any further disputes prior to filing and bringing about additional applications.

Conclusion

The tenant's application is dismissed in its entirety 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: June 18, 2020

Residential Tenancy Branch