# Dispute Resolution Services



Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Belmont Properties Ltd.
and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes RP, RR, OLC, MNDCT, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for an Order for repairs to the unit or property, having contacted the landlord in writing to make repairs, but they had not been completed; for an Order to reduce the rent by $1,523.06 for repairs, services or facilities agreed upon but not provided; for an Order for the Landlord to Comply with the Act or tenancy agreement; for a Monetary Order for damage or compensation of $1,523.06 under the Act; and to recover the $100.00 cost of their Application filing fee.

Given that there is only an hour scheduled for a hearing, I severed all but two of the Tenants' claims pursuant to Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules") 2.3. I asked the Tenants to select the two most important claims in their Application to be heard in this proceeding. The Tenants chose to focus on their claim for reduced rent and for monetary compensation for the unreasonable disturbance they said they endured.

The Tenants, M.S. and D.L. and an agent for the Landlord, B.M. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenants and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the RTB Rules; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute

Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Tenants provided the Parties' email addresses in the Application and the Parties confirmed these addresses in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary submissions to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

Issue(s) to be Decided

- Should the rent be reduced for repairs, services and/or facilities agreed upon, but not provided, and if so, by how much?
- Are the Tenants entitled to a Monetary Order, and if so, in what amount?
- Are the Tenants entitled to Recovery of their $100.00 Application filing fee?

Background and Evidence

The Parties agreed that the fixed-term tenancy began on May 14, 2010, ran to May 31, 2011, and then operated on a month-to-month basis. They agreed that the Tenants pay the Landlord a monthly rent of $1,978.00, due on the first day of each month. They agreed that the Tenants paid the Landlord a security deposit of $825.00, and no pet damage deposit.

In the hearing the Tenants said:

> We believe that the Landlord in not carrying out repairs is not complying with section 32 of the Act and section 5 of Victoria Maintenance and Repair Bylaw.

> We have suffered the loss of quiet enjoyment and services for an 8-month period.

**#1 REDUCE RENT FOR REPAIRS/SERVICES NOT PROVIDED → $1,523.06**

The Tenants said:

> From October 9, 2020 until June 24, 2021, we had limited use of our bedroom and *en suite* because of a broken faucet. The level of noise is equivalent to running a vacuum cleaner. If you open the door at bit, the person sleeping next to you will be disturbed.
>
> We couldn't use bedroom to sleep, work, or relax. We had to wear earplugs, we used a draft stopper, white noise…. No matter what we did, we were still confronted with fluid noise. [The Landlord] heard it themselves when inspecting the faucet in October 2020 and November 2020. They spoke to a neighbour who could hear the noise outside of our apartment.
>
> We never heard a single noise from adjoining apartments. They don't dispute it was loud - that we lost the use of our apartment. Their evidence on page five is proof that we requested this repair.

Page five of the Landlord's evidence is a form entitled: "Tenant Request for Suite Repairs", which describes the requested repairs, as follows: "Repair closet wall, ceiling and floor, <u>follow up water leak</u>." [emphasis added] This form was dated October 23, 2020.

The Tenants said that the Landlord told them that they could use the other bathroom; however, the Tenants said: "But we paid for the use of this one, too. There has been significant emotional and psychological impacts that we had no power to resolve."

In answer to my question about what caused the situation, the Tenants said:

> We had a similar issue in the other bathroom in early August 2020 - two months before we submitted this repair request. That was the exact same repair that took under five minutes to repair. The Landlord attended – five minutes – a worn out washer in the faucet component was replaced, but the building water had to be turned off.

> We've lived here for over 11 years and they have not carried out any maintenance for the faucet.

The Agent did not dispute that the Tenants' tap had been leaking or running since October 9, 2020, and that it was not fixed until June 24, 2021.

This is supported by an email the Tenants wrote to the Landlord dated May 14, 2021, which lays out the situation from the Tenants' perspective after seven months of the problem at that point.

> Good afternoon [T],
>
> I'm writing today because it has now been more than 7 months since we reported the leak in our en suite bathtub faucet.
>
> You will see below the original email I sent to [B.] on October 9, 2020, with repair request form attached.
>
> Subsequently, on October 23, 2020, we received an email from you indicating that you were the contact for us going ahead with regards to our tenancy in the unit. Attached to that email from you was a copy of a new request to repair the faucet in our en suite, dated October 23, 2020.
>
> In the email exchange that followed, you stated on November 1, 2020 that this leak would be fixed at the same time as the repairs and cleaning that were scheduled subsequent to the separate issue with the leak inside the wall behind our hall closet.
>
> On November 3, 2021, we were assured via email from you that: 'The faucet is on the list of things to do the next time the building's water is shut down.' Unfortunately, although the water has been turned off on several occasions since then, the repair has still not been completed.
>
> Based on notices put up around the building around December 2020 or January 2021, it was our understanding that only emergency repairs were being undertaken as covid numbers were increasing, and on that basis, we opted not to pursue the matter over the first few months of the new year, despite the degree to which this issue was affecting us.

Finally, on March 24, we provided an additional reminder to you via email that the issue had yet to be rectified:

> We're glad you checked in. We're still experiencing the significant plumbing issue we first reported in October 2020, and we're very interested in getting that resolved.

We have since learned from the Residential Tenancy Branch that [the Landlord's] decision to not make repairs during Covid is unlawful. On April 1, 2021 an RTB Information Officer confirmed to us in writing that the covid pandemic has no effect on the landlord's duty to repair and maintain the suite. They confirmed that in accordance with section 32 of the RTA a landlord must maintain and repair the rental property in accordance with health, safety and housing standards required by law, and make it suitable for occupancy by a tenant. They also advised us that if the landlord is not compliant with this section of the Act, a tenant can submit an application for dispute resolution.

Furthermore, we believe that the repair is also required by the City of Victoria Rental Property Standards of Maintenance bylaw. ("All plumbing, including plumbing fixtures, drains, vents, water pipes, toilets and toilet tanks, and connecting lines to the water and sewer system, in the residential property **shall be maintained in good order**.") The noise is loud enough that, given that we're talking about the bathroom that adjoins our main bedroom, [M.] and I both need to wear earplugs to sleep. We have measured the level of the noise at 68 decibels (roughly equivalent to a conversation, or a vacuum cleaner). This is a significant negative effect on our right to quiet enjoyment.

**. . .**

We were also recently approached by our neighbours in unit 901, who told us that the noise is loud enough that it is also affecting them. They told us that they can hear a constant sound of running water in their bedroom and are being disturbed at night by the noise. They indicated their intent to bring this forward to you, but we are uncertain as to whether they have done so yet or not. .

In addition to the noise, the running water is creating a significant humidity/damp issue in our en suite --- towels and bathmats are wet in spite of the fact that we have not used the tub or shower for the last four months.

Our desire is simply to have our faucet repaired.

> Given the number of times we've requested this repair and been told it would occur, I'm at a loss as to why it is not being addressed. I would appreciate a reply with a firm commitment that this repair will be completed and a date on which you plan to enter the suite to do so.
>
> Alternatively, my next steps will to be to contact the Residential Tenancy Branch for dispute resolution, and contact a City of Victoria Bylaw Officer. I look forward to hearing about the amicable resolution of this issue by end of day Friday, May 21.
>
> Sincerely,
> [D.L.]
>
> [emphasis in original]

In the hearing the Agent said:

> Just using the Tenants' evidence of it being a harmful noise level, page 2 of 3 of theirs. She was referring to it as being as loud as a vacuum cleaner. Digital evidence of the tap itself shows it wasn't that loud. It is considered an average home noise, not like a vacuum cleaner.
>
> We had repairs closed down, because of Covid, except in the event of emergencies. Nothing would be done, unless it was a major emergency. I had a conversation with [another agent] – this was not an emergency. It didn't affect their use of the bathroom, the shower, toilet. I have not seen any evidence that they weren't allowed to turn on and off the shower. We have had this . . . it just will not fully shut off. It leaves some water running into the bathtub, so it's not damaging any property.

The Tenants' evidence was that they had the same thing happen in the other bathroom in August 2020, which was during Covid, but that problem was repaired. I asked the Agent why the second leak could not be repaired, if the first one was during Covid. The Agent said:

> Our head office sent out a directive to residents about our Covid practices across the properties; we had to maintain social distancing. See 2b of our evidence for social distancing practices.

The Landlord's evidence at page 2b is a one-page, undated letter addressed to

residents of the Landlords' properties. It states:

> Dear Residents,
> As we continue to navigate this current Covid-19 Health Crisis, we will take all precautionary steps needed to keep our residents and buildings safe. Therefore, until further notice maintenance will not be entering units unless it is for a safety, fire, or URGENT water issue.
>
> . . .
>
> [Landlord]
> [A.G.]
> [Managing Director]

The Agent continued:

> Maintenance was shut down – they disinfected properties daily, too. If a fridge was not working, they were still capable of using the unit. Even [the Tenant] said that she did not agree that this was an emergency at this time either.

The Tenant said:

> I'm not sure that the point is relevant – the issue of whether the repair was an emergency or not has no basis in the law. We agree that it wasn't an emergency in the meaning of the Act, but that's not a material point.

The Agent did not advise me of the reason the Landlord's organization took these strict measures during 2021.

I asked the Tenants how they came to the amount they are claiming for this matter, and they said:

> The contravention of the Act and the Landlord not following the law, how we quantify the total that this was …. We measured the noise in the space with two decibel meters and three videos with sound to experience the noise. There's a still photo and a video – items 7 and 8 that show the volume of water running from the tap.
>
> Also, the other video shows the taps being closed, but still running. The decibel meter – first from bathroom – see item 9 [which shows a decibel of 63.6]; then

> from bedroom – item 10 [which shows a decibel of 42.8]. A scientific decibel meter – video 19 – results were practically identical [which shows a decibel of 65.4 in the bathroom at the tap].
>
> We reviewed past RTB decisions re calculating amounts, and this showed considering the total area affected by the loss – the proportion of the total square footage by monthly rental …. Based on a floor plan provided by the Landlord, the main bedroom and bathroom are 22% of the square footage. And this went on for seven months at the time of our Application; rent is $1,978.00, so seven months cost us $13,846.00, and 22% is $3,046.12. Half is applied to our restricted use, and half to the loss of quiet enjoyment.

The Tenants submitted a document from HealthLinkBC entitled: “Harmful Noise Levels”. This document states:

> The effects of noise on hearing vary among people. Some people's ears are more sensitive to loud sounds, especially at certain frequencies. (Frequency means how low or high a tone is.) But any sound that is loud enough and lasts long enough can damage hearing and lead to hearing loss.
>
> A sound's loudness is measured in decibels (dB). Normal conversation is about 60 dB, a lawn mower is about 90 dB, and a loud rock concert is about 120 dB. In general, sounds above 85 are harmful, depending on how long and how often you are exposed to them and whether you wear hearing protection, such as earplugs or earmuffs.
>
> Following is a table of the decibel level of a number of sounds.

The table that followed this explanation stated that a decibel level of 40 equates to average home noise. It said that 60 decibels equates to normal conversation or background music. The table also states that sounds above 85 decibels are harmful to hearing. It equated 80 to 89 decibels to “heavy traffic, window air conditioner, noisy restaurant, power lawn mower.”

The Agent said:

> If we took into account – there’s no proof of loss of use of anything, other than the bathtub. They were still able to use the bedroom and the bathroom – that does not equate to 22%, if no access to the tub. We’re not going into the other

part of their claim with noise disturbance – just for loss of use.

Also, the plumber who did the repair was not our maintenance guy; we had an outside plumber, independent of the property. There was no damage to the unit or loud noise caused by this leak. They only provide a decibel reading at the tap. They did submit one reading, but not digitally showing the door opening and closing showing the reading. So, we only feel them testing it at the decibel levels. So, the only one that we're accepting would be the digital reading.

We don't know how these were taken or where they were taken, or that a professional did the job. We just have a picture of the decibel reading. There's no proof showing anything, other than directly at the tap.

The Tenants said:

We have comments on two things.

[D.L.] was here when the plumber attended. The Landlord is relying on a statement that there would be no loud noises from such a leak.

As [M.] said, it didn't take long to fix, but the only way to do it was turn off the tower water, so we couldn't have managed that ourselves. The plumber came in, and because the water needed to be shut off, the water wasn't running in the building when he came in. 'Oh, it's not leaking now' he said. Of course, it didn't click right away that it had been turned off.

The repair was done after we had submitted for arbitration. The plumber put on the invoice that he had no direct experience with whether or not there was a noise.

On the other hand, two other representatives of [the Landlord] did witness it on five separate occasions between October 29th and November 5th – they attended our suite when we were not home. [T.'s] evidence of witnessing this is missing from their evidence.

The maintenance contractor also inspected the faucet – that person's evidence is also missing from the Landlord 's evidence package.

Also, regarding the decibel meter readings - I don't know how to prove any more

clearly than what we've presented – and under oath today. It's a smart phone app we took photos of ourselves making that measurement, and – not sure what the Landlord expects – lengthy videos can't be uploaded.

And to add one more thing re the use of the tap, [M.] touched on this earlier. We spoke to a professional, and the only way to fix it is to turn off the water. He said the right way to go forward would be to stop using the tap – it would make it leak more and more, so our best way forward was to tighten it as much as we could physically, and to stop using it completely.

**#2 MONETARY COMPENSATION – LOSS OF QUIET ENJOYMENT → $1,523.06**

This claim is different than the first in that the first claim is for loss of use of parts of the rental unit. This claim is for compensation for loss of quiet enjoyment of the rental unit, pursuant to section 28 of the Act.

In the hearing, the Tenants said:

Again, a loss is a substantial interference in our entitlement to quiet enjoyment…. We lived for 8½ months with that tap running so much that the Landlord accused us of turning on the tap. The video demonstrates that I closed the tap tightly.

The noise you an hear in theses videos is the high-pitched squealing and the water running down the drain 24/7. Also, there's a noise every 24 seconds, as it clugs down the drain.

This was not a small drip. It caused a considerable noise in the bathroom and bedroom – see our videos. [A Landlord's representative] came and saw and heard the noise October 9, 2020, and another contractor saw this and heard it in early November. They didn't do anything, though.

It's so loud, it could be heard next door in a steel and concrete building. Our neighbour heard [D.] open the door, and came over – they were aware of the constant sound of running water in the apartment. The neighbours said they were kept awake by it. They asked, 'Would be okay to tell the Landlord about the noise?' The Landlord actually corroborates this – they spoke to this neighbour and confirmed that the neighbour was able to hear this noise outside our apartment. We used to have neighbours get in fights with each other – we could

> hear that, but we haven't heard anything else, but we can't comprehend not having this repaired; it's incomprehensible.

The Agent said:

> They were referring to [T.'s] comments, another contractor, the neighbour, another plumber, yet they have not submitted this into their evidence package or how loud it was. The neighbour said it sounded like a running toilet, not this loud noise they were referring to.
>
> As for the plumber – it would have to be checked prior to the repair. I wasn't there, but I work with [C.] Plumbing all the time. He has to go into each unit, see what is causing the issue to see what to repair. If he shuts down the water and then goes into apartment…. He also puts in his notes what is wrong, then shuts down the repair and turns the water back on to see if the repair works

[D.L.] interjected: "I was here. He took both taps off. The hot water tap off - that wasn't the problem - then the cold tap off, and he repaired it."

"How many times did he enter?" The Agent asked.

"Just once, I think," the Tenant said.

"He did just say 'he thinks', said the Agent. She continued:

> We reached out to [C.] plumbing, but [R.] isn't employed there anymore. [B.] had no forwarding address for him, so he's relying on the report that someone else prepared.

I offered the Parties the opportunity to make last statements at the end of the hearing. As the Tenants have the burden of proof in this matter, I started with them. The Tenants said:

> We just want to make sure we are directing you to all of package of elements. We submitted as evidence our written repair requests, from October 9, 2020, and several emails that show they were aware of repair that they didn't do anything. Our requests were dated:
>
> October 9, 2020
>
> October 23, 2020
>
> November 1, 2020

March 24, 2021 and
May 15, 2021

They responded in writing that they knew about our concerns on the following dates (our others were ignored):

October 23, 2020
November 1, 2020
November 3, 2020

They submitted evidence – 4a in their evidence – an email on November 3rd, where they scheduled for the repair and said that they need to shut the water down and would give us notice of entry. Then an internal company policy that they weren't doing repairs, because of Covid. As the Arbitrator pointed out – it was clear that the Landlord was carrying out repairs – we had a similar leak on August 10, 2020, and they entered our apartment on four other occasions, so why was this repair not carried out for over eight months? No routine maintenance have ever been carried out on this faucet.

We did to try to limit the impact. The noise in our bedroom was unbearable. We tried diverting it through the showerhead, not the faucet, we had the bedroom door closed, the bathroom door closed. We researched ways of dampening the sound – a white noise app, a blocker under the door, ear plugs every night. The level of noise was like being next to people having a conversation. This made us miserable, angry, and resentful. We wondered if we were being targeted, as they repeatedly promised to take action, but did nothing. It was conditional on the water needing to be shut off. But it was shut off at least a half dozen times for other repairs in the building.

We had a very stressful conversation with the Landlord once – they had unlocked the door and walked directly into the apartment, while I was there. They said it was an emergency. In the course of the conversation, they threatened to evict us; it was very charged and very threatening … maybe they were punishing us for that one difficult interaction in 2020. We did everything we could to impact the noise on our quiet enjoyment, . . . and prevent any further damage. We were relieved to discover that they weren't targeting us – as others were being neglected in the building, too.

The Agent said:

They bring up again the point of the quiet enjoyment and loss of use. In her statements she said it was a vacuum cleaner sound, but the decibels readings show this is a normal conversation background. If the door is closed on the bathroom, it could have brought it down to normal leaves whispering softly. There was no loss of use of bedroom if had all these things are done.
As for everything they said about the hearing with maintenance and [B.], there is no evidence of this going on and I hope that this is not in the record. And that we neglect our clients.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

The Tenants' claim is two part: first, they claim that their ability to use the *en suite* bathroom and master bedroom was negatively affected during the eight months that the water was leaking. Second, they claim to have had their quiet enjoyment of their rental unit unreasonably disturbed by this constant noise.

**#1 REDUCE RENT FOR REPAIRS/SERVICES NOT PROVIDED → $1,523.06**

Section 65 of the Act states that if the Director finds that a landlord or tenant has not complied with the Act, the regulation or a tenancy agreement, the Director may order that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of the tenancy.

Section 65 of the Act authorizes the Director to allow a tenant to deduct from rent an amount awarded for costs incurred by the Tenant in terms of maintenance or repairs, when a landlord has been found to not comply with the Act, regulation or tenancy agreement.

Section 32 of the Act requires that a landlord maintain the rental unit in a state of decoration and repair that complies with the health, safety, and housing standards required by law, and having regard to the age, character, and location of the rental unit, which make it suitable for occupation by the tenant. Section 65 (1) (f) of the Act allows me to reduce the past or future rent by an amount equivalent to the reduction in value of the tenancy.

I accept the Tenants' evidence that the *en suite* bathtub faucet leaked a significant

amount of water constantly for over eight and a half months (by the time the leak was repaired). I find from the evidence that the Tenants were reluctant to use the bathtub, because they were advised by a professional that if they opened the water flow more for a bath or shower, it might leak an even larger amount of water thereafter. Further, if one of them used it at night, when they opened the bathroom door, the noise would increase and, therefore, could wake the other person.

The Tenants said that they could not use the bedroom for sleep, work, or to relax in. They said they tried wearing earplugs, and they used a draft stopper and white noise to block out the sound of the water running They said, “No matter what we did, we were still confronted with fluid noise.”

The Tenants did say that they slept in the bedroom, but that their sleep was disturbed by the noise from the *en suite* and that they had to wear ear plugs to sleep.

The Agent questioned the Tenants’ claim that they could not use these rooms, because of the noise. She said that they could still use the bedroom and bathroom, except for the tub and that this does not equate to 22% of the square footage of the rental unit.

Based on the testimony and documentary evidence before me, I find that the Tenants’ use of the bedroom and the *en suite* was compromised for eight and a half months by the constant sound of running water from the bathtub faucet. The Landlord did not provide any evidence to the contrary, such as a statement from someone who had heard the water flow in the rental unit and disputed the Tenants’ claims. Rather, I find that the Landlord did not dispute the Tenants’ assertion that at least two of the Landlord’s representatives attended the rental unit on five separate occasions between October 29th and November 5th, 2020. This raises questions in my mind about why the Landlord would not submit a statement from one of these people, which contradicted the Tenants’ claims. As a result, I make an adverse inference about this, and accordingly, I reduce the weight I give to the Landlord’s evidence before me.

The Agent said they would only accept the digital decibel reading that the Tenants provided; however, she did not provide evidence to support why I should not rely on both types of readings provided by the Tenants. I find this is an unreasonable position, given the Tenants’ evidence that the measurements were consistent with each other. Further, the Tenants provided third party evidence from the HealthLinkBC that was useful for interpreting the decibel readings submitted.

I find a balance of probabilities that the Tenants provided sufficient evidence to establish

that their use of the rental unit was greatly affected by the constant presence of the running water noise. I find the Landlord's failure to repair this issue for so long is astounding, given that water is included in the rent. The Agent said that there was no property damage in this scenario; however, the Landlord is responsible for paying for all of this water going down the drain.

I find that the Landlord is also responsible for compensating the Tenants for their reduced use of the bedroom and *en suite* for eight and a half months. I, therefore, award the Tenants with a **$1,523.06** rent reduction pursuant to sections 65 (1) (f) and 67 of the Act for the Landlord's failure to make a simple, five-minute replacement of a washer in the bath tub faucet, which would have resolved this issue.

**#2 MONETARY COMPENSATION – LOSS OF QUIET ENJOYMENT → $1,523.06**

Section 28 of the Act sets out a tenant's right to quiet enjoyment of the rental unit, and states that tenants are entitled to "reasonable privacy, freedom from unreasonable disturbance, exclusive possession of the rental unit, subject only the landlord's right to enter the rental unit in accordance with section 29,. . .." [emphasis added]

Policy Guideline #6 ("PG #6") states:

> 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 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 entitlement to 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.
>
> In determining whether a breach of quiet enjoyment has occurred, it is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises.
>
> . . . .
>
> [emphasis added]

**Compensation for Damage or Loss**

A breach of the entitlement to quiet enjoyment may form the basis for a claim for compensation for damage or loss under section 67 of the RTA and section 60 of the MHPTA (see Policy Guideline 16). In determining the amount by which the value of the tenancy has been reduced, the arbitrator will take into consideration the seriousness of the situation or the degree to which the tenant has been unable to use or has been deprived of the right to quiet enjoyment of the premises, and the length of time over which the situation has existed.

A tenant may be entitled to compensation for loss of use of a portion of the property that constitutes loss of quiet enjoyment even if the landlord has made reasonable efforts to minimize disruption to the tenant in making repairs or completing renovations.

As it states above, "A landlord is obligated to ensure that the tenant's entitlement to quiet enjoyment is protected." I find that the Landlord was aware of the faucet leak from October 9, 2020, as there is evidence that the Landlord responded to the Tenants' request for this repair. Two of the Landlord's representatives attended the rental unit on five visits during Covid, and they would have heard the noise, but nothing was done by the Landlord until June 24, 2021.

I find from the Tenants' evidence from HealthLinkBC that the level of noise in the rental unit from the running water was not high enough to damage the Tenants' hearing. However, I find that the Tenant's evidence of the decibel level created by the running faucet did not equate to the sound of "leaves whispering softly", as the Agent suggested it could (if multiple doors were closed). Rather, I find that the Tenants had to go to great lengths to adapt their lifestyles in an attempt to drown out the noise. I find that the noise was not as loud as a vacuum cleaner; however, even the Agent agreed that based on the decibel readings, the noise in the bedroom was as loud as a normal conversation. The Tenants said that they had to wear ear plugs every night. They also tried to dampen the noise with a white noise application and a blocker under the door.

I find that having had an unnecessary noise coming from the *en suite* that was as loud as a normal conversation in the bedroom is a breach of the Tenants' entitlement to quiet enjoyment. I find that this forms the basis for a claim for compensation for damage or loss under section 67 of the Act. The Tenants said: "It's incomprehensible" that it wasn't repaired for so long, and I agree with them. The Agent has provided no evidence supporting the Landlord's policy of not doing any repairs other than emergencies in

rental units during Covid. Had they called the RTB, they would have learned that this was an unreasonable policy not based in law.

I find that the Tenants' claim for compensation of $1,523.06 is reasonable and rather low, in all the circumstances. I, therefore, award the Tenants with **$1,523.06** from the Landlord pursuant to sections 28 and 67 of the Act for an unreasonable and unnecessary loss of quiet enjoyment of the rental unit for over eight months.
Had the Tenants applied for aggravated damages, I would have granted this award, given the excessive length of time that it took the Landlord to repair the faucet. But I cannot award aggravated damages, unless the applicant applies for them.

However, the Landlord is cautioned to improve their maintenance practises or risk being liable for monetary orders against them for aggravated damage from tenants in their buildings. This is in addition to the possibility of administrative penalties from the Compliance and Enforcement Unit of the RTB.

Summary

The Tenants are successful in their Application, and therefore, I also award them recovery of the **$100.00** Application filing fee from the Landlord, pursuant to section 72 of the Act.

I grant the Tenants a Monetary Order of **$3,146.12** for the Landlord's failure to comply with the requirements of the Act for maintaining the rental unit in a state of repair that makes it suitable for occupation by the Tenants. The award also recognizes the Landlord having ignored the Tenants' right to quiet enjoyment of the rental unit and freedom from unreasonable disturbance.

The Tenants are authorized to deduct $3,146.12 from their future rent payments in complete satisfaction of this Monetary Order.

Conclusion

The Tenants are successful in their Application, as they provided sufficient evidence to support their claims and their burden of proof on a balance of probabilities.

The Tenants are awarded **$3,146.12** from the Landlords as compensation for the Landlord's failure to comply with the Act as set out above. The Tenants are authorized to deduct the amount of the award from future rent payments in complete satisfaction of the award.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: October 18, 2021

Residential Tenancy Branch