



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

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

- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide affirmed testimony, to present evidence and to make submissions. No issues were raised with respect to the service of the application and evidence submissions on file.

Issue(s)

Is the tenant entitled to compensation in the form of a rent reduction for loss of quiet enjoyment?

Should the landlord be ordered to make repairs and ordered to comply with the Act?

Background and Evidence

The rental unit is an apartment in a multi-unit complex. The tenancy began on September 1, 2012.

The tenant is seeking an order for the landlord to replace the fridge in the unit as well as compensation for loss of quiet enjoyment and stress related to ongoing excessive fan noise from a neighboring apartment.

The tenant claims the fridge is old, dysfunctional and beyond its lifespan. The tenant submitted videos of the fridge making loud noise and allegedly causing fresh lettuce to become wilted.

The tenant also submitted a short video of noise coming from a bathroom vent or fan. The tenant claims the landlord has not done enough to investigate the cause of the loud noise. The tenant is seeking compensation of \$150/month rent reduction dating back to November 2022. For February 2023 the tenant is seeking rent reduction for the entire month due to various health problems she suffered as a result of trying to have the landlord deal with the issue. The tenant also claims the negative energy in the unit has caused some of her plants not to grow.

The landlord submits that they received no complaints from the tenant in regards to the fridge or fan noise prior to February 2023. They received a letter from the tenant on February 21, 2023 in regards to the fan and fridge noise. They immediately investigated setting up an inspection on February 24, 2023. They found no issues with her fridge. They investigated the neighboring suites as well and found no issues with excessive fan noise. The landlord points to the tenant's own evidence submission in which she acknowledges that the neighboring tenant did not have his fan on, but she still was hearing loud fan noises in her suite and she refers to the noise potentially being from ghosts of past tenants. The landlord submits the tenant began knocking on neighboring tenants' doors harassing them about finding the cause of the noise. The landlord submits they have not received any other complaints from other tenants in regard to excessive fan noise. The landlord submits the neighboring tenant has been in his unit for 3 years and there were no issues reported previously with excessive fan use or noise. The landlord even replaced the neighboring tenants' fan in a hope that would appease the tenant even though that fan was not excessively noisy.

In regard to the fridge, the landlord submits they even had a professional repair person do a follow-up inspection. The repair person found the fridge to be in good working condition and the noise level to be normal operating noise. An invoice of the technician visit and report of findings was submitted as evidence.

The landlord submits the tenant is extremely sensitive to noise and that at her request they also previously disconnect the oven timer on the stove. The landlord submits they replaced the stove for the tenant last year which shows they have no issues replacing appliances if there is a reason to do so.

In reply, the tenant submits that while the landlord did an inspection of her fan and neighboring fans, the landlord did not do a cross-check to see the issue in her unit while neighboring fans are tested.

Analysis

Subsection 32(1) of the Act requires a landlord to maintain residential property 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, makes it suitable for occupation by the tenant.

Pursuant to section 65(1)(f) of the Act, if the director finds that a landlord has not complied with the Act, the regulations or the tenancy agreement, the director may issue an order to reduce past or future rent by an amount equivalent to a reduction in the value of a tenancy agreement.

Although, the video supplied by the tenant does seem to reflect abnormal fridge noise, the video was taken with the fridge doors open and while the fridge was running. The recording device being placed up close could also make the fridge sound a lot louder than it is. I accept the evidence of the landlord that the fridge was professionally inspected, and no issues were found and the fridge was found to be operating normally. The tenant's application seeking an order for the landlord to replace the fridge is dismissed without leave to reapply.

The tenant's application for compensation relating to the fan noise is also dismissed without leave to reapply. The tenant provided no evidence of the landlord being informed of the fan issue prior to February 21, 2023, yet the tenant is seeking compensation dating back to November 2022. I also find that once the landlord was notified, the landlord took reasonable steps to investigate the matter including inspecting the tenant's fan as well as neighboring fans. The landlord even replaced a neighboring fan out of caution. The tenant provided no medical evidence in support of the various health issues she allegedly suffered as a result of this issue. The tenant's application for monetary compensation is dismissed without leave to reapply.

In regard to the fan noise, the video submitted by the tenant does seem to be abnormal noise coming from the fan while it is turned off. Again, there is not much context to this video as far as how close the recording device is or the decibel level of this noise. Therefore, I make no orders for the landlord to do repairs at this time. However, I find

further investigation into this fan noise is warranted, specifically cross-checking the fan noise in the tenant's unit while neighboring fans are tested.

The landlord is ordered to re-inspect the fan noise issue in the tenant's unit while simultaneously taking turns to run any fans in directly neighboring units.

The tenant's application in regard to fan noise is dismissed with leave to reapply pending the outcome of further investigation by the landlord.

Conclusion

The tenant's application seeking an order to replace the fridge and any compensation relating to fan noise is dismissed without leave to reapply.

The tenant's application seeking an order for the landlord to rectify the bathroom fan noise is dismissed with 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 26, 2023

Residential Tenancy Branch