



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF, OLC

Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy, a request for the landlord to comply with the Residential Tenancy Act, and a request for recovery of the filing fee.

Background and Evidence

The landlord testified that:

- I manage the rental property in which the tenants live and I live in the unit right above theirs.
- The tenants have made numerous allegations of excessive noise coming from my apartment.
- The tenants even filed for dispute resolution requesting an order for \$5,000.00 compensation for loss of quiet enjoyment due to their claim of excessive noise.

- The tenants lost that claim and it was found that there was not excessive noise coming from my apartment.
- After the hearing the tenants wrote another letter of complaint to the owner making allegations that I had obsessive-compulsive disorder and suggested that the owner should contact my ex-wife, and I feels this is an unreasonable intrusion into my privacy.

The landlord therefore requests that the Notice to End Tenancy be upheld and this tenancy ends.

The tenant testified that:

- They have lodged numerous complaints about the amount of noise coming from the unit above theirs, in which the manager lives.
- They honestly believed that the noise coming from the managers unit was excessive and that is why they applied for dispute resolution.
- The hearing was held on July 28, 2011, and they did write a letter to the owner on July 29, 2011 prior to receiving the Dispute Resolution Officer's decision.
- They did not make any allegations of obsessive-compulsive disorder, they only asked if this could be a possibility and they did ask if the owner had ever contacted the manager's ex-wife however they did not suggest that he do so.
- After receiving the Dispute Resolution Officer's decision they have filed no further complaints to either the owner or the manager.
- They do not believe they should be evicted just because they applied for dispute resolution or stood up for what they believed were there rights.

The tenants therefore requested this Notice to End Tenancy be cancelled.

Analysis

It is my finding that the landlords have not established that the tenants have significantly interfered with or unreasonably disturbed another occupant or the landlord.

I accept that the tenants honestly believed that the amount of noise coming from the unit above them was unreasonable and that their letters of complaint and their application for dispute resolution was justified.

Further although the manager may have taken offense to some of the statements in the tenants letter of July 29, 2011, it is my finding that the tenants did not make any allegations, but were in fact requesting information.

I can understand that the manager may have found the numerous complaints and the dispute resolution application to be somewhat disruptive, however it is not unreasonable for the tenant to file complaints with the landlord or manager if they feel the complaints are justified and they certainly have the right to apply for dispute resolution.

Therefore it is my decision that the landlord does not have grounds to end this tenancy.

Conclusion

I hereby order that the one month Notice to End Tenancy dated July 25, 2011 is hereby cancelled and this tenancy continues. I further order that the respondent/landlords bear the cost of the filing fee and therefore the tenants may make a onetime \$50.00 deduction from future rent payable to the landlord.

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: August 26, 2011.

Residential Tenancy Branch