



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNC, FF

### Introduction

Some 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 and the witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witness.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is a request to cancel a Notice to End Tenancy that was given for cause and a request for recovery of the filing fee.

### Background and Evidence

The landlords testified that:

- They have had numerous noise complaints from the tenant living below the applicants.
- They spoke to the applicant's daughter and requested that the applicants attempt to be quieter in the rental unit however the complaints from the tenant below have continued.

- The resident manager went into that suite below and he personally heard the TV quite clearly and believes it was on too loud.
- Noise that disturbs another tenant is a breach of the tenancy agreement and therefore they have given a Notice to End Tenancy to the tenant since the tenant did not rectify the breach after getting written notice to do so.
- The section of the Notice to End Tenancy that states there is an illegal activity was checked off inadvertently and they are not alleging any illegal activity by the applicants.

Witness for the landlord stated:

- She lives below the applicants and has had to endure ongoing noise from above.
- She has lived there for two years and had no complaints before these tenants moved in.
- She has to listen to loud footsteps, doors being closed loudly, and things being dropped on the floor frequently.
- The applicants also have their granddaughter over and she can hear the granddaughter jumping and running.
- She has asked the applicants to be quiet and has complained to the landlords, but the noise continues.

The applicant's daughter testified that:

- Her parents are not noisy people and in fact have health conditions that make it so they do not move quickly.
- Her parents do not stomp around upstairs they just walk in a normal fashion and when her daughter visits her daughter does not jump and run around. There was one occasion where her daughter had to go to the bathroom quite badly and she ran quickly to the bathroom but that was a onetime occurrence.
- Her daughter is in kindergarten for most of the day and does not even go to her grandparent's house every day.

- They do not play their television loud and in fact they can hear other people's televisions and believe that the tenant below has possibly been hearing those other televisions.
- This is a wood frame building and the sounds travel quite easily.
- She has provided a written statement from the neighbour beside her parents that clearly states that her parents are not noisy people.
- She believes that the tenant below is just extra sensitive to sound and should not be living in a wood frame building where sound travels so easily.

### Analysis

It is my finding that the landlords have not met the burden of proving that the sounds emanating from the applicant suite are anything more than normal household sounds.

The tenant below has been complaining when the applicants walk across their floor or when they close their doors and I find it unreasonable that the applicants should be put in the position of not even being able to walk across the floor or close the door in the rental unit without having a complaint that they are making too much noise.

When people live in a wood frame building where sound travels people have to expect to hear some sounds from the adjoining units, however when they do so it does not mean that this is unreasonable noise.

I can understand the landlords wanting to have a harmonious atmosphere in the rental units, however I do not find the complaints from the tenant below to be reasonable grounds for ending the tenancy of the applicants.

Conclusion

The Notice to End Tenancy dated December 30, 2011 is hereby cancelled and this tenancy continues.

I further Order that the landlord bear the cost of the filing fee paid for this hearing. The applicants may therefore deduct \$50.00 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: January 17, 2012.

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Residential Tenancy Branch