



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METRO PROPERTY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, FFT

Introduction

This hearing dealt with the Tenant's application filed under the Residential Tenancy Act (the "Act") requesting an Order for the Landlord to comply with the Act, and the return of their filing fee. The matter was set for a conference call.

An Agent for the Landlord (the "Landlord") and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. Both parties were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Should the Landlord be ordered to comply with the Act?
- Is the Tenant entitled to the return of his filing fee?

Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Tenant testified that over the past five years, the renter living above them had been very loud, causing a loss of quiet enjoyment. The Tenant testified that they had made a complaint about the noise to the Landlord but that the complaint was not handled properly.

The Tenant testified that as of the date for these proceedings, the renter had moved out and that there were no current ongoing noise issues in their rental unit.

The Arbitrator asked the Tenant, what they wanted the Landlord to be ordered to comply with, the Tenant responded, that they want the Landlord order to be more human.

The Tenant was advised, during the proceedings, that there was no section under the *Act* that an order to be “more human” could be issued under.

The Tenant testified that since the upstairs renter had moved out, they no longer required an order for the Landlord to comply with the *Act*.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant’s claim for an order for the Landlord to comply with the *Act* was based on a noise complaint that the Tenant made to the Landlord, that the Tenant believed was not dealt with properly.

As the Tenant has confirmed that the offending noise has stopped as of the date of these proceedings, I find that there is no reason to issue the requested order to comply with the *Act*. Therefore, I dismiss the Tenant’s claim for an order for the Landlord to comply with the *Act*.

Section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenant has not been successful in their application, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the Tenant's application.

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 14, 2021

Residential Tenancy Branch