

**MY NEIGHBOUR MAKES NOISE MORNING, NOON AND NIGHT**

You are a tenant in an apartment building. Your neighbour makes noise constantly which prevents you from the normal enjoyment of your apartment. Can you get a reduction in your rent?

THE FACTS

In March 2001, a tenant (tenant A) complained on several occasions to her landlord that her neighbour (tenant B) was making noise constantly. Because nothing changed, she wrote a letter to the latter and, on April 17, 2001, filed a complaint seeking a reduction of rent of \$50 a month with the Régie du logement. The landlord then filed eviction proceedings against tenant B and asked that he be ordered to repay the owner any amount of money that the owner would be required to pay to tenant A in reduction of rent. At the Régie du logement, tenant A was granted a 20 % reduction in rent (which represents a reduction of \$167.80 per month) as of December 13, 2000. The board member ordered tenant B to repay the landlord the amount that the owner had to pay to tenant A. He refused to evict tenant B but ordered him to change his conduct so as to not disturb the peaceful enjoyment of the other tenants. Dissatisfied with the judgement, tenant B appealed the case to the Court of Québec.

THE ISSUE

Could the tenant obtain a reduction in rent?

THE DECISION

The court sitting in appeal reduced the reduction in rent granted by the Régie du logement to \$50 a month, commencing May 1, 2001, and not December 2000. It upheld the ruling to the effect that tenant B had to reimburse that amount to the owner.

THE GROUNDS

The tenant sought a reduction in rent of

\$50. The Régie du logement could not grant him \$167.80 a month, namely more than she had asked for in the beginning. In the court's view, given the extent and frequency of the disturbance, it was appropriate to fix the reduction of rent at \$50 per month. The court was also of the view that the board member committed an error in commencing the period of rent reduction at a date prior to the date the problem was reported to the landlord. The right to reduction was therefore fixed at May 1, 2001, namely the month following the application to the Régie du logement.

The court upheld the board member's decision to dismiss the landlord's application to evict the wrongful tenant and instead to order the tenant to cease making noise and to reimburse the landlord for all amounts the latter had to pay tenant A.

References

Carson v. 5500 Macdonald inc., Court of Québec – Civil Division (C.Q.) Montréal 500-80-000987-033, Judge: André Renaud (J.E. 2004-291; available on the Web at the following address: www.jugements.qc.ca)

Civil Code of Québec, (S.Q. 1991, chapter 64), sections 1860 and 1861.

The judgement discussed in this article was rendered based on the evidence submitted to the court.

Each situation is unique. If in doubt, we suggest you consult a legal aid lawyer.

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