

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **LENA AUSTIN**, Respondent;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act");

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer,
regarding the rental premises at **YELLOWKNIFE, NT**.

BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

- and -

LENA AUSTIN

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of thirty dollars and twenty three cents (\$30.23).
2. Pursuant to section 43(3)(d) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Apartment #110, 5123 53 Street, Yellowknife, NT shall be terminated on December 31, 2003 and the respondent shall vacate the premises on that date

DATED at the City of Yellowknife, in the Northwest Territories this 11th day of
December, 2003.

Hal Logsdon
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **LENA AUSTIN**, Respondent.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act");

AND IN THE MATTER of a Hearing before **Hal Logsdon**, Rental Officer.

BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

-and-

LENA AUSTIN

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: December 9, 2003

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Mary George, representing the applicant
Darren Pelley, witness for the applicant
Lena Austin, respondent
Georgina Franki, interpreter

Date of Decision: December 11, 2003

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by disturbing other tenants' quiet enjoyment of the premises and sought termination of the tenancy agreement between the parties. The applicant also alleged that the respondent had failed to pay the full amount of rent and sought an order requiring the respondent to pay the alleged arrears.

The applicant alleged that the respondent's son assaulted a female tenant in the building. The applicant stated that the respondent's son was dragging a screaming woman by the hair through the hallway. The applicant also alleged that the same man set off a fire alarm in the building the next day.

There appears to be some confusion as to the date of the alleged assault. The original application contained a notice describing the alleged assault, noting that it took place at 12 AM on Monday, November 10, 2003. A revised copy of the notice was filed by the applicant noting the alleged incident occurred at 12AM, Tuesday, November 11. A written statement by Shane Wasylucha, a representative of the Northern Property REIT, who leases the apartment to the applicant, stated that the incident took place at 12AM on Monday November 10. Prior to the hearing, the rental officer contacted the RCMP officer who attended the complex. He described the same incident but noted that it took place on the night of November 9. There is little doubt that all three parties are describing the same incident, namely a man dragging a screaming woman down the hallway. The date of the incident is unclear.

The RCMP officer could offer no information about how the man gained access to the building. The officer spoke to the respondent who confirmed the man was her son and that he stayed with her on occasion. The officer stated that she told him that she did not want her son around. The officer stated that he found no evidence indicating that the respondent let the man into the building or into her premises that night. The officer did not attend the alleged incident on the following night and the RCMP were unable to confirm that they attended the alleged incident.

The respondent stated that she did not let her son in the building on the nights of the incidents but stated that her son had a key. She also stated that on November 11 she woke up, hearing a "big noise" and saw her son "in the house". She stated that she "pushed him out". The respondent stated that she had asked her son for the key but he "was still looking through his stuff" for it.

The respondent did not dispute the allegations pertaining to rent arrears.

The evidence clearly indicates that there was a serious disturbance created by the respondent's son in the residential complex. The police confirm the man was arrested. Section 43(2) of the *Residential Tenancies Act* deems tenants responsible for disturbances caused by persons they permit in the building.

A disturbance caused by a person permitted by a tenant to enter the residential complex or the rental premises of the tenant shall be deemed to be a disturbance caused by the tenant.

Notwithstanding the confusion about the date of the incident, it is clear from the testimony of the respondent that her son had a key to her apartment. Presumably he was provided with that key by

the respondent, who would have also provided him with a key for the door to the complex. He must have had those keys on November 11, when he entered the respondent's apartment, waking her. In my opinion, the act of providing keys to a person is permission to enter the residential complex and the rental premises at will. The disturbance of the respondents son, is therefore deemed to be a disturbance of the respondent.

A previous order was filed on April 15, 2003 requiring the respondent to not disturb other tenants in the complex again.

I find the respondent breached the tenancy agreement by disturbing other tenants in the residential complex. The building owner, applicant, police and tenants have had several meetings in order to cooperatively solve problems related to security and disturbances in this complex. In my opinion, the respondent has had adequate opportunity to take measures to eliminate disturbances caused by her or her son and has failed to do so. I see no other effective remedy other than termination of the tenancy agreement.

An order shall issue terminating the tenancy agreement on December 31, 2003 and requiring the respondent to pay the outstanding rent of \$30.23.

Hal Logsdon
Rental Officer