

IN THE MATTER between **809656 ALBERTA LTD.**, Applicant, and **SHERRY BOULET**, 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:

809656 ALBERTA LTD.

Applicant/Landlord

- and -

SHERRY BOULET

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 43(3)(a) and 43(3)(b) of the *Residential Tenancies Act*, the respondent shall comply with her obligation to not disturb other tenants and not create any disturbance in the residential complex again.

DATED at the City of Yellowknife, in the Northwest Territories this 16th day of May, 2005.

Hal Logsdon
Rental Officer

IN THE MATTER between **809656 ALBERTA LTD.**, Applicant, and **SHERRY BOULET**, 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:

809656 ALBERTA LTD.

Applicant/Landlord

-and-

SHERRY BOULET

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: May 13, 2005

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Dave Beckwith, representing the applicant

Date of Decision: May 16, 2005

REASONS FOR DECISION

The respondent was served with a Notice of Attendance sent by registered mail to the rental premises. The applicant testified that the respondent was still in possession of the premises and received mail there. The respondent failed to appear at the hearing and the hearing was held in her absence.

The applicant alleged that the respondent had repeatedly disturbed other tenants in the residential complex and sought an order terminating the tenancy agreement. The application was filed on April 21, 2005 and was served on the respondent in person. The application did not contain any supporting documents but alleged that the tenant's guests were smoking in the hallways and loitering in the building and that there was loud music.

At the hearing, the applicant provided a list of 15 alleged incidents from October 21, 2004 to April 8, 2005. There was no indication that this document had been previously given to the tenant and it provided only the time and date and a very brief comment for each incident.

The applicant also provided one detailed incident report outlining an incident on March 4, 2005. The report describes a person trying to enter the residential complex after 2:00AM by buzzing apartments and throwing snowballs at the respondent's window. The report states that the person was escorted to the respondent's apartment and the respondent indicated that he was her guest.

The applicant also provided four notices to the respondent regarding complaints. Two of the notices outlined that her guest had been roaming the hallways of the building late at night and apparently had keys to the building. The notices refer to the tenancy agreement between the parties which limits the use of the premises as a residence for one family. Two other notices are quite recent and complain of noise and fighting in the apartment.

All of the documents presented at the hearing with the exception of the two most recent notices, outline incidents which allegedly occurred prior to the filing of the application. They could have been filed as part of the application. A respondent must know the case made against them. While I presume that the four notices were served on the respondent after the alleged incidents, I have no evidence to conclude that the respondent has seen any of the other documents presented at the hearing except the tenancy agreement. Therefore, my determination of this matter is based solely on the contents of the application, the testimony of the applicant, the tenancy agreement and the four notices provided to the respondent.

The applicant testified that there was considerable traffic to and from the apartment which he associated with the drug trade. The applicant also stated that six or seven persons commonly stay at the premises. The applicant stated that other tenants had complained about the traffic and persons staying at the respondent's apartment roaming the halls late at night. He did not give details except for the alleged May 13th incident where there was fighting in the apartment between the tenant and her son. He stated that the fight occurred about 2:45AM and that two tenants called to complain.

The evidence suggests that there have been two recent incidents of fighting and noise. The testimony of the applicant, who provides security services for the landlord, provides evidence of disturbance associated with a large number of guests and their late night activities, albeit general in nature. I am convinced by the evidence that disturbances have occurred but, in my opinion, the evidence does not support the termination of the tenancy agreement.

I find the respondent in breach of her obligation to not disturb other tenants. An order shall issue requiring the respondent to comply with her obligation to not disturb other tenants and to not create any disturbances in the residential complex again. Should any future disturbance occur, the landlord may file an application seeking termination.

Hal Logsdon
Rental Officer