

IN THE MATTER between **809656 ALBERTA LTD.**, Applicant, and **REAL LABELLE**, 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 -

REAL LABELLE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 43(3)(d) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Apartment 107, 42 Con Road, Yellowknife, NT shall be terminated on May 31, 2005 and the respondent shall vacate the premises on that date.

DATED at the City of Yellowknife, in the Northwest Territories this 17th day of May, 2005.

Hal Logsdon
Rental Officer

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

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BETWEEN:

809656 ALBERTA LTD.

Applicant/Landlord

-and-

REAL LABELLE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: May 13, 2005

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: David Beckwith, representing the applicant
Real Labelle, respondent
Erica Maher, witness for the respondent

Date of Decision: May 17, 2005

REASONS FOR DECISION

The applicant alleged that the respondent had repeatedly disturbed other tenants in the residential complex and sought an order terminating the tenancy agreement between the parties.

The applicant did not file any supporting documents with the application which was filed on April 21, 2005 and did not seek the remedy of termination. The applicant filed a notice with the rental officer on May 10, 2005 indicating that they would be seeking the termination of the tenancy agreement at the hearing. The applicant testified that they had served the notice on the respondent and the respondent acknowledged receiving it.

At the hearing, the applicant presented a number of documents pertaining to alleged incidents of disturbance and a copy of the tenancy agreement. Only two of these documents related to alleged incidents after the date of the application and could have been filed with the application. The respondent sought time to review the material and asked for an adjournment until later that day. The matter was adjourned to 3:30PM.

The applicant testified that they initially sought only an order requiring the respondent to comply with his obligation to not disturb other tenants. The applicant testified that the application was amended after another tenant reported that the respondent uttered a threat against the property manager following the service of the application on the respondent. The applicant testified that the property manager and other tenant had filed complaints with the police and the respondent

had been charged.

The applicant provided two notices to the respondent in evidence. One alleged that the respondent had been smoking in common areas of the building and the other, dated May 10, 2005 outlined a disturbance caused by the tenant and a roommate fighting.

The applicant also provided four incident reports outlining alleged disturbances between August 27, 2004 and April 22, 2005. While I am not certain that all four of these reports describe disturbance as defined in the Act, at least two appear to be disturbances.

The respondent denied playing loud music but did not dispute the allegations of disturbance. The respondent was critical of the security services provided to the building and accused the landlord of always blaming him while other disturbances in the building went unnoticed. He stated that he didn't want to live in the building anymore and asked that he be given two weeks to vacate. The respondent's witness acknowledged many of the alleged incidents.

In the matter of the alleged threat, I note that the handwritten statement by the other tenant is not sworn nor was anyone present at the hearing who had direct knowledge of the alleged threat. I have weighed that evidence accordingly and have not considered it important in this determination.

What is important is a previous order (File #10-7385, filed on May 20, 2003) which ordered the

respondent to not disturb other tenants again. The respondent was previously found to have disturbed other tenants by fighting in the hallway on several occasions. The evidence before me suggests that the respondent continues, despite the previous order, to conduct himself in the same manner. Having issued one order in this regard, I do not see how I can now reasonably deny the landlord the remedy they request.

I find the respondent in breach of his obligation to not disturb other tenants. An order shall issue terminating the tenancy agreement between the parties on May 31, 2005 and requiring the respondent to vacate the premises on that date.

Hal Logsdon
Rental Officer