

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **HEATHER POITRAS**, 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:

NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Applicant/Landlord

- and -

HEATHER POITRAS

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 shall not create any disturbance in the residential complex again.

DATED at the City of Yellowknife, in the Northwest Territories this 23rd day of June, 2005.

Hal Logsdon
Rental Officer

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **HEATHER POITRAS**, 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:

NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Applicant/Landlord

-and-

HEATHER POITRAS

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: June 14, 2005

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Lucy Gillard, representing the applicant

Date of Decision: June 23, 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. The respondent failed to appear at the hearing and the hearing proceeded 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 between the parties. The applicant served a notice of early termination on the respondent seeking vacant possession on May 18, 2005. The respondent failed to vacate and the application was filed on May 20, 2005.

The applicant outlined two incidents of alleged disturbance. The first occurred on April 11, 2005 when an unidentified person called the landlord in the late afternoon to report that a small child was throwing items off the balcony of the respondent's apartment. The landlord's report indicates that the child had been left unattended.

The second alleged incident occurred on May 11, 2005 when police attended the premises at 1:00AM. According to a written report, which appears to be based on a conversation with the respondent's neighbour, the respondent asked the neighbour to call the police. The police were unable to gain entry and the landlord's agent was summoned to open the door. The reason why the police were called is unclear from the evidence. There is no evidence to suggest that the neighbour was being disturbed, although the police presence and the apparent refusal to permit

them entry may have been disturbing. The applicant provided a police report file number to the Rental Officer who inquired as to the contents of the report. The police report indicates that no arrests were made and a woman was taken to the hospital.

In my opinion, the evidence does not suggest a degree of disturbance which would warrant termination of the tenancy agreement. The possible consequences of leaving a small child unattended on a balcony for even a short period of time is disturbing but, in my opinion, is not sufficient to warrant the termination of the agreement. I am certain the neighbours were disturbed by the police trying to gain entry to the respondents apartment at 1:00AM but the police report does not corroborate the hearsay evidence of the applicant.

I find the respondent breached the tenancy agreement by disturbing other tenants in the residential complex. In my opinion, the tenancy agreement should be permitted to continue provided the respondent does not disturb other tenants again. An order shall issue requiring the respondent to comply with her obligation to not disturb other tenants and not create any disturbance again.

Hal Logsdon
Rental Officer