

IN THE MATTER between **NIHJAA PROPERTIES LTD.**, Applicant, and  
**FLORENCE VANELTSI**, 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 **INUVIK, NT.**

BETWEEN:

**NIHJAA PROPERTIES LTD.**

Applicant/Landlord

- and -

**FLORENCE VANELTSI**

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 in the residential complex and shall not create any disturbance in the future.

DATED at the City of Yellowknife, in the Northwest Territories this 1st day of  
November, 2007.

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Hal Logsdon  
Rental Officer

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**FLORENCE VANELTSI**, Respondent.

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R-5 (the "Act");

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

BETWEEN:

**NIHJAA PROPERTIES LTD.**

Applicant/Landlord

-and-

**FLORENCE VANELTSI**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** October 25, 2007

**Place of the Hearing:** Inuvik, NT

**Appearances at Hearing:** Dorathy Wright, representing the applicant  
Florence Vaneltsi, respondent

**Date of Decision:** October 25, 2007

**REASONS FOR DECISION**

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

The applicant provided two notices outlining alleged disturbances. The first notice, dated July 9, 2007 indicated that the landlord had received complaints of noise from the respondent's apartment in the early morning of July 7, 2007. No further details of the alleged incident are contained in the notice. The second notice, dated August 1, 2007 alleged that another person was occupying the apartment without the landlord's consent. The notice goes on to state that the landlord has "already had two complaints since you resided at #112-42 Boot Lake Road due to persons permitted on the premises by you."

The applicant stated that one of the incidents involved persons yelling from outside the building to the respondent's apartment. The applicant did not provide any further detail except to say that some disturbance occurred inside the respondent's apartment.

The respondent acknowledged that on one occasion, persons had been yelling to her from the street, asking for assistance. She stated that she did not permit them in the building or in the premises. The respondent also stated that on one occasion, another tenant in the building, who was intoxicated, asked to enter her apartment and she let him enter. The respondent stated that

when he became loud, she asked him to leave and he left the premises. The respondent also stated that another person was staying with her. She stated that she required live-in help due to her disability and provided a doctor's letter confirming her condition.

Section 43 of the *Residential Tenancies Act* obligates a tenant to not disturb other tenants or the landlord.

- 43.(1) A tenant shall not disturb the landlord's or other tenants' possession or enjoyment of the rental premises or residential complex.**
- (2) 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.**

I can not find the respondent responsible for the disturbance created outside of the residential complex. There is no evidence to suggest the disturbing parties were permitted in the building by the respondent or were in the building at all. However, when the respondent permitted the noisy tenant to enter her apartment, she became responsible for his disturbance. The evidence suggests, however, that the disturbance inside the respondent's apartment was short lived. The applicant stated that there had not been any further complaints since the last notice was served on the respondent.

In my opinion, the respondent has created some disturbance but the one brief incident does not warrant the termination of the tenancy agreement. 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 future.

In the matter of the "unauthorized occupant" I note the following provision in the tenancy agreement between the parties.

**OTHER OCCUPANTS:** The Tenant is responsible to inform the Landlord of any and all occupants that will cohabit (sic) with the Tenant. In addition to the Tenant, only the following other person(s) may occupy the premises \_\_\_\_\_ . At no time should the occupancy of the premises exceed 4 people. The Tenant shall not sublet the premises without the Landlord's prior written permission.

Section 45(3) of the *Residential Tenancies Act* sets out restrictions on overcrowding.

**45.(3) A tenant shall not permit such number of persons to occupy the rental premises on a continuing basis that results in the contravention of health, safety or housing standards required by law or in a breach of the tenancy agreement.**

Section 45(3) permits a landlord to set out, in a tenancy agreement, a limit on the number of persons that may occupy rental premises. In that regard, the "other occupants" provision in the tenancy agreement is consistent with the Act. However, in my opinion, it is not reasonable for a landlord to approve *who* may live with the tenant. In this case, the tenant requires a caregiver. Does the landlord have the right to approve who that caregiver may be? I think not. In my opinion that element is not effective and I can not find the tenant in breach of that obligation. I would suggest, for safety reasons, that the respondent make the landlord aware of any other persons living with her on an ongoing basis.

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Hal Logsdon  
Rental Officer