

IN THE MATTER between **NORMAN WELLS HOUSING AUTHORITY**, Applicant,  
and **SARENA KASKAMIN**, 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 **NORMAN WELLS, NT.**

BETWEEN:

**NORMAN WELLS HOUSING AUTHORITY**

Applicant/Landlord

- and -

**SARENA KASKAMIN**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 23rd day of  
November, 2007.

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Hal Logsdon  
Rental Officer

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Applicant/Landlord

-and-

**SARENA KASKAMIN**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** November 20, 2007

**Place of the Hearing:** Yellowknife, NT via teleconference

**Appearances at Hearing:** Robert Closs, representing the applicant  
Kathleen Bjornson, representing the applicant  
Sarena Kaskamin, respondent

**Date of Decision:** November 23, 2007

**REASONS FOR DECISION**

The applicant alleged that the respondent had repeatedly caused disturbances and sought an order terminating the tenancy agreement between the parties.

The applicant testified that the respondent had created disturbances on August 30, 2006, October 12, 2006 and December 6, 2006. On each of those occasions, the respondent was served with a notice outlining the disturbance and warning her that after three disturbances, any further disturbance would result in a termination notice. The applicant referred to the Board's policy and the house rule in that regard. The applicant stated that a further disturbance occurred on September 10, 2007. The application, seeking an order terminating the tenancy agreement was filed on October 16, 2007.

The applicant provided copies of the written complaints received from other persons and indicated that none of the complainants were tenants of the Norman Wells Housing Authority.

The respondent stated that she was out of town on December 6, 2006 and her sister was looking after the house and her children. The applicant also stated that September 10, 2007 incident was caused by two intoxicated men who were attending a party at her house. The applicant stated that she asked them to leave and after doing so became involved in a fight outside the house. On questioning by the applicant, the respondent denied that the RCMP had repeatedly attended her house.

Section 43 of the *Residential Tenancies Act* obligates a tenant to not disturb the landlord or other tenants and deems a disturbance caused by someone permitted in the premises by the tenant to be a disturbance caused by the tenant.

**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.**

The written tenancy agreement between the parties contains a similar obligation of the tenant in article 12c.

**The Tenant promises that he shall conduct himself and require other persons in the premises to conduct themselves in a manner that will not disturb the Landlord's or other Tenants' possession or enjoyment of the premises or residential complex.**

The premises consist of a three bedroom house. While there may be other tenants of the landlord living in the vicinity, the evidence does not indicate that any of them or the landlord were disturbed by the respondent's conduct. Therefore I can not find a breach of the tenancy agreement or section 43 of the Act.

The *Residential Tenancies Act* makes a distinction between rights and obligations contained in a written tenancy agreement and rules established by the landlord. Section 12 of the Act sets out this distinction.

**12.(1) In addition to the rights and obligations contained in the residential tenancy agreement set out in the Schedule, a landlord and tenant may provide in a written tenancy agreement for other rights and obligations**

**that are not inconsistent with this Act.**

- (2) Where an additional obligation concerns the tenant's use, occupancy or maintenance of the rental premises or residential complex, the obligation cannot be enforced unless it is reasonable in all circumstances.**
- (3) A landlord shall not establish, modify or enforce rules concerning the tenant's use, occupancy or maintenance of the rental premises or residential complex, unless the rules are reasonable in all circumstances, in writing and made known to the tenant.**
- (4) A landlord or tenant may apply to a rental officer to determine whether an obligation or rule is reasonable.**
- (5) A rental officer who receives an application under subsection (4) may determine whether an obligation or rule is reasonable and order the landlord or tenant to comply.**

Obligations and rights are always contained in a written tenancy agreement or the Act and are agreed to by both parties. They form the contract between landlord and tenant. Rules may be established or modified solely by the landlord as long as they are written, made known to the tenant and are reasonable. Rules deal with areas such as hours which common facilities may be used, minimum call-out charges to unlock doors, use of holiday decorations, reporting of maintenance issues etc.

There is no provision in the Act for a rental officer to issue an order terminating the tenancy agreement because a tenant breached a rule. The rental officer may only order the tenant to comply with the rule.

The applicant has established written rules and the respondent has acknowledged reading them

by her signature dated September 28, 2007. I note that this acknowledgement occurred after the alleged September 10, 2007 incident, however, the rule was previously made known to the respondent in previous notices sent to her. Among the house rules is one dealing with disturbance.

#### **5. DISTURBANCES**

No Tenant or Tenant's family members, or Tenant's guest shall disturb the peace, quietness or enjoyment of others. Any Tenant causing a disturbance that results in a formal complaint, whether verbal or in writing will receive written warnings with the third warning resulting in eviction.

The rule is not consistent with the obligations concerning disturbance contained in either the tenancy agreement or the Act. The rule significantly expands those obligations and, in my opinion, expands them unreasonably. The rule could be applied if a tenant caused a disturbance at the grocery store, bar or other place apart from the rental premises. In my opinion, rule 5 is not enforceable and the obligations concerning disturbance contained in the Act and the tenancy agreement have not been breached. The application must therefore be dismissed.

I do not wish to imply that the respondent's past conduct is acceptable. The landlord may well elect to not renew the tenancy agreement when it expires. That is their right and their decision and they do not need an order to do so.

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Hal Logsdon  
Rental Officer