

IN THE MATTER between **HAY RIVER MOBILE HOME PARK LTD.**, Applicant,
and **CLAYTON NEMIRSKY**, 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 **HAY RIVER, NT.**

BETWEEN:

HAY RIVER MOBILE HOME PARK LTD.

Applicant/Landlord

- and -

CLAYTON NEMIRSKY

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 his obligation to not disturb other tenants and shall not create any disturbances in the future.

DATED at the City of Yellowknife, in the Northwest Territories this 30th day of
September, 2009.

Hal Logsdon
Rental Officer

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HAY RIVER MOBILE HOME PARK LTD.

Applicant/Landlord

-and-

CLAYTON NEMIRSKY

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: September 23, 2009

Place of the Hearing: Hay River, NT via teleconference

Appearances at Hearing: Michelle Schaub, representing the applicant
Clayton Nemirsky, respondent

Date of Decision: September 23, 2009

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. The premises consist of a lot in a mobile home park.

The applicant alleged that activity in the respondent's mobile home was creating an excessive amount of traffic in the mobile home park at all hours of the day and night. An unsworn statement by two other occupants of the mobile home park stated that they observed 180 vehicles attending the premises during a ten day period in July. The applicant's representative, who lives in the mobile home park, testified that she had observed many vehicles in the vicinity of the rental premises. She noted that the activity had been reported to the police who indicated they had no authority to enter the premises.

The respondent stated that he felt the allegations were exaggerated. He stated that he and another occupant of the premises both had children who lived in town and visited frequently. He also stated that the other occupant of the premises was driven to and from work and returned to the premises for lunch. The respondent stated that he lived on a cul-de-sac and that some of the traffic could simply be turning around in his driveway.

A tenant certainly has some control over the number of persons entering the premises but considerably less control over the number of vehicles in the mobile home park. The coming and

going of persons in and out of rental premises at all hours of the day and night is, in my opinion, a disturbance, even in a mobile home park. Weighing the evidence put before me, I am satisfied that some disturbance has occurred but not convinced that it was severe enough to warrant the termination of the tenancy agreement. I must consider that the statement by the adjoining tenants was unsworn and that they were not available as witnesses to be questioned. I must also consider that although the applicant's representative lives in the mobile home park and has some direct knowledge of the issue, she does not live next to the respondent and can not accurately determine the details of the traffic.

The request for an order terminating the tenancy agreement is denied but an order shall issue requiring the respondent to comply with his obligation to not disturb other tenants in the mobile home park and to not create any disturbance in the future.

Hal Logsdon
Rental Officer