

IN THE MATTER between **NPR LIMITED PARTNERSHIP**, Applicant, and
ROBERTA SIMMONDS, Respondent;

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

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer,
regarding the rental premises at **YELLOWKNIFE, NT**.

BETWEEN:

NPR LIMITED PARTNERSHIP

Applicant/Landlord

- and -

ROBERTA SIMMONDS

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 unreasonably disturb the landlord and to not create any disturbances in the future.

DATED at the City of Yellowknife, in the Northwest Territories this 30th day of
November, 2012.

Hal Logsdon
Rental Officer

IN THE MATTER between **NPR LIMITED PARTNERSHIP**, Applicant, and
ROBERTA SIMMONDS, 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:

NPR LIMITED PARTNERSHIP

Applicant/Landlord

-and-

ROBERTA SIMMONDS

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 29, 2012

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Maigan Lefrancois, representing the applicant
Kenneth Balsille, witness for the applicant
Gordon Stewart, witness for the applicant
Roberta Simmonds, respondent
Jeannette Savoie, representing the respondent

Date of Decision: November 30, 2012

REASONS FOR DECISION

The applicant alleged that the respondent had breached the *Residential Tenancies Act* by repeatedly and unreasonably disturbing the landlord. The applicant sought an order terminating the tenancy agreement and evicting the respondent.

The applicant provided three signed but unsworn statements from employees of the landlord outlining incidents that they found to be disturbing to them. Generally the reported incidents outline repeated demands to be transferred to another apartment, repeated requests for urgent repairs of fictitious problems, threats of legal action and general rudeness.

The applicant also provided a letter addressed to the respondent dated August 26, 2011 regarding accusations that items were missing from the apartment after maintenance staff responded to a complaint regarding problems with the heat.

Ms Lefrancois also provided a written statement which outlined the respondent's repeated demands to attend to a leak in the bathroom ceiling even after it was repaired and the repair deemed satisfactory by maintenance staff and the Environmental Health Officer. She also noted the respondent's repeated allegations that the landlord was interfering with her phone and threatened to sue. Ms Lefrancois stated that the respondent made numerous insulting comments to her and other staff and on one occasion made a comment that she considered "a death threat".

Mr. Balsille, an maintenance employee of the applicant, stated that he received a call on November 22, 2012 regarding a key which had broken off in the entry door to the building, preventing entry to the building via that entrance. Mr. Balsille stated that he attended the residential complex, let the respondent into the building and asked her to sign his on-call book before attending to the repair. He stated that she accused him of not intending to do the work and threatened to call the police. The witness stated that he repaired the lock and confirmed that the respondent's key worked properly. The respondent stated that she had to stand in the cold for a long time before the maintenance worker attended the building.

Mr. Stewart, another maintenance employee of the landlord, stated that because a set of pass keys had been stolen, the landlord changed the locks on all of the units in the building in February, 2012 in order to maintain security. Mr. Stewart stated that while changing the lock on Ms Simmond's apartment door, he "messed up" the repair and the door would not open properly. He stated that Ms Simmonds called the police and complained that the landlord had locked her in the unit. Mr. Stewart stated that he waited until the police arrived, disassembled the lock again and resolved the problem. Ms Simmons stated that she was locked in her apartment which was very stressful to her. She stated that she was "pretty sure" that she never received a notice of the landlord's intended entry.

The applicant also played a voicemail message left on the voicemail of Jenni Bruce, the landlord's regional manager by Ms Simmonds on October 25, 2012. The message suggested that she could not be evicted in the winter and that she would not be moving. She also complained

that she had been unable to wash her clothing due to the malfunction of the elevator. She suggested that there were human rights and other legal issues involved and suggested that the landlord "bow down" otherwise she would have no problem contacting Ms Bruce's bosses, making a human rights complaint and having "lots of lawyers involved".

The respondent did not specifically dispute the allegations outlined by the applicant but stated that due to her disability she had no other options for accommodation. She asked for some compassion, given her circumstances. On questioning, the respondent stated that she had never had any complaints from other tenants in the building and the applicant acknowledged that the only complaints came from the landlord's employees. The landlord also acknowledged that there had been some abatement of complaints recently.

I do not place much weight on the signed unsworn statements provided in evidence by the applicant. The respondent was not able to cross examine the originators of those documents. I have relied more on the testimony and statement of Ms Lefrancois, the testimony of the applicant's witnesses and the voicemail recording in making this decision. I find Ms Lefrancois' interpretation of the respondent's remark as a "death threat" somewhat exaggerated.

It is not a breach of the Act for a landlord or tenant to persist with attempts to enforce their rights. A tenant who repeatedly contacts the landlord requesting repairs is no more in breach of the Act than a landlord who serves multiple notices to a tenant demanding rent arrears. One would hope that both parties would behave in a civil and respectful manner but unfortunately this is not

always the case. Rudeness is undesirable and not particularly effective but it is not illegal.

A tenant's behaviour is disturbing to the landlord when it is primarily vexatious. In my opinion, there were no grounds for the respondent's behaviour in both incidents involving the maintenance staff. In both cases the employees were attempting to assist the respondent and her threats to call the police and actually summoning the police could only have been intended as seeking to annoy the applicant. Regardless of Ms. Simmond's level of stress she surely could not have reasonably believed that the maintenance man was intentionally trying to lock her in her apartment.

Continuing to demand repairs when there is no evidence of any fault is also a disturbance of the landlord. Ms Simmond's insistence that the bathroom ceiling leak continued to be a problem after multiple parties, including the Environmental Health Officer and myself, had inspected the area is an annoyance as are her unfounded allegations that her phone had been tampered with by the landlord.

It is apparent that the respondent becomes easily stressed when the landlord does not attend immediately to her requests. Section 30 of the *Residential Tenancies Act* gives a landlord ten days to remedy any breach of the landlord's obligation to repair or maintain. The respondent must make any defect known to the landlord and should refrain from frivolous requests. Rather than harangue or threaten the landlord until the work is done, the respondent would be well advised to consider requesting a remedy via an *Application to a Rental Officer*.

I was quite disappointed when the applicant refused to consider mediation to resolve this dispute. In my opinion, both parties would have benefited by electing this approach. However, it takes two willing parties to make mediation possible so I am forced to consider an order.

In my opinion the respondent has breached her obligation to not disturb the landlord. Her behaviour has frequently crossed the line between enforcing her right as a tenant, and simply tormenting the landlord. While I am sympathetic to her limited options for suitable housing, that cannot be used as a valid reason to continue to subject the landlord to this behaviour.

I find in the more recent emails between the parties as well as the testimony of Ms Lefrancois, some evidence to believe that the respondent is now taking a more reasoned and measured approach to her relationship with the landlord. This leads me to consider whether the remedy of termination of the tenancy agreement is the most appropriate remedy at this time. Perhaps had mediation occurred, the parties could have agreed on certain protocols to make their interaction less stressful and more productive. Perhaps the parties can still do so.

In my opinion, the most appropriate remedy at this time is an order requiring the respondent to comply with her obligation to not unreasonably disturb the landlord and to not create any disturbances in the future. That order shall issue and the applicant's request for a termination order and eviction order are denied.

Hal Logsdon
Rental Officer