

IN THE MATTER between **G.M.**, Applicant/Respondent, and **NTHC**,
Respondent/Applicant.

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 **Adelle Guigon**, Rental Officer,

BETWEEN:

G.M.

Applicant/Respondent/Tenant

-and-

NTHC

Respondent/Applicant/Landlord

REASONS FOR DECISION

Date of the Hearing: June 17, 2016

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: G.M., tenant
E.N., representing the landlord
C.O., representing the landlord

Date of Decision: File #10-15146 on July 28, 2016; File #15200 on June 17, 2016

REASONS FOR DECISION

An application to a rental officer made by G.M. as the applicant/tenant against Yellowknife Housing Authority as the respondent/landlord was filed by the Rental Office March 31, 2016. The application was made regarding a subsidized public housing residential tenancy agreement for a premises located in Yellowknife, Northwest Territories. The tenant personally served a copy of the filed application on the landlord March 31, 2016.

An application to a rental officer made by YHA on behalf of the NTHC as the applicant/landlord against G.M. as the respondent/tenant was filed by the Rental Office May 16, 2016. The application was made regarding a subsidized public housing residential tenancy agreement for a premises located in Yellowknife, Northwest Territories. The landlord personally served a copy of the filed application on the tenant May 19, 2016.

The tenant alleged the landlord had failed to take adequate efforts to eradicate a cockroach infestation and as a consequence has disturbed the tenant's enjoyment and possession of the rental premises. An order was sought for the landlord to eradicate the cockroach infestation.

The landlord alleged the tenant had refused entry to the rental premises by the landlord's staff after notice of entry was given in accordance with the *Residential Tenancies Act* (the Act). An order was sought requiring the tenant to comply with his obligation to permit entry to the landlord's staff and pay compensation for any additional costs that may have been incurred due to the tenant's denial of entry.

The two application files were heard together on June 17, 2016, in Yellowknife, Northwest Territories. Mr. G.M. appeared as the tenant. Ms. E.N. and Mr. C.O. appeared representing the landlord.

Tenancy agreement

The parties agreed and evidence was presented establishing a tenancy agreement between them for subsidized public housing commencing June 1, 2015. The tenant had in fact been occupying the rental premises since 2011 under a tenancy agreement with the building owner. His occupancy of the rental premises continued after the landlord entered into a commercial tenancy agreement with the building owner and entered into the subsidized public housing tenancy agreement with the tenant. I am satisfied that the residential tenancy agreement between the landlord and tenant for subsidized public housing is valid and made in accordance with the Act.

Cockroach infestation

The cockroach infestation at the tenant's rental premises has been an ongoing issue in the residential complex throughout the tenant's occupancy. The building owners have been making efforts to eradicate the infestation for several years and have continued those efforts to date, although the efforts until recently have been limited to a single method. The tenant argues that the efforts have been inadequate and ineffectual, and that the building owner should be required to attempt alternate methods so as to achieve the desired result of eradication. The preparation requirements for each treatment involve substantial effort on the part of the tenant to move and protect their property. While the preparation work is recognized as necessary, as is the cooperation of the tenant, to facilitate successful treatments, the necessity to repeatedly prepare for treatments that have been ineffectual is a substantial inconvenience to the tenant. The tenant has identified the continued infestation and the building owner's ineffectual efforts as having compromised his enjoyment and possession of the rental premises and residential complex.

The tenant knows the landlord is now ultimately responsible to the tenant for the condition of the rental premises and has filed complaints with them as well as with the building owner. He acknowledges that although the landlord is responsible to him under his tenancy agreement, it is the building owner who is responsible to the landlord for the care and maintenance of the residential complex under their commercial tenancy agreement. He does not lay blame for the situation on the landlord's shoulders but understands that it is the landlord who must answer for it under the Act.

The landlord's representatives also acknowledge the cockroach infestation issue and have been reporting the complaints they have received to the building owner to address. The landlord is in a position where they are limited in what actual efforts they can make in this situation, but they too acknowledge their ultimate responsibility to the tenant under the Act for the condition of the premises. They are aware of the method being used by the building owner to treat the cockroach infestation and they are aware of how long the infestation has been an unresolved problem in the residential complex.

Under the Act I can only consider issues between residential landlords and tenants. Which means in this case, although the issue of effecting the treatment and eradication is the building owner's responsibility under their agreement with the landlord, I must hold the landlord accountable to the tenant for the ongoing problem.

I am satisfied there is an ongoing cockroach infestation in the tenant's rental premises. I am satisfied that, while the landlord has responded to the tenant's complaints regarding the infestation, they have not resolved the situation. I am satisfied that the ongoing and continuous presence of the cockroaches creates a less-than-desirable living environment, and that the repeated ineffectual treatment methods interfere with the tenant's enjoyment and possession of the rental premises. I find the landlord has failed to comply with their obligations to maintain the rental premises in a state fit for habitation and not to disturb the tenant's enjoyment or possession of the rental premises.

I reserved my decision on this matter in an effort to consider whether or not I have the authority to do more than just order the landlord to comply. Unfortunately, I am not satisfied that I have any authority to necessarily tell the landlord how specifically to complete this particular job, especially in this case where it would not be the landlord who would actually perform it but the building owner. More effective treatments are clearly required to eradicate the cockroach infestation in the rental premises and residential complex than what have been used to date. However, an expert exterminator did not testify to what that more effective treatment might be, nor am I in a position to issue an order against the building owner in this case. I can only trust that an order against the landlord to comply with their obligation to keep the rental premises in a state fit for habitation using the most effective and efficient means available to eradicate the cockroach infestation will be enough for them to pursue that action from the building owners under their commercial tenancy agreement.

Permitting entry

Where a tenant has been given at least 24 hours written notice of the landlord intent to enter the premises in accordance with the Act, that tenant must not prohibit entry. The tenant was given written notice of the building owner's intent to enter the premises on May 5, 2016, to perform a cockroach treatment. The tenant refused to permit entry. There is no dispute between the parties in this regard. The tenant acknowledges his denial was inappropriate and is remorseful. The landlord is only seeking an order that the tenant comply with his obligation to permit entry when given proper notice. I am satisfied the tenant did refuse entry to the landlord to conduct necessary maintenance and I find the tenant has breached his obligation to permit entry to the rental premises by the landlord.

No evidence was presented to support any monetary losses to the landlord as a consequence of the tenant's actions.

Orders

An order will issue requiring the tenant to comply with his obligation to permit the landlord's entry into the rental premises and not to breach that obligation again.

An order will issue requiring the landlord to comply with their obligation to maintain the rental premises in a state fit for habitation by ensuring all available methods to treat and/or eradicate the cockroach infestation at the rental premises are exercised in a timely manner.

Adelle Guigon
Rental Officer