

IN THE MATTER between **NTHC**, Applicant, and **TF and SY**, Respondents.

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:

NTHC

Applicant/Landlord

-and-

TF and SY

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: March 9, 2017

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: AB, representing the applicant
BB, representing the applicant
EN, on behalf of the applicant
TF, respondent
SY, respondent

Date of Decision: March 14, 2017

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of the NTHC as the applicant/landlord against TF and SY as the respondents/tenants was filed by the Rental Office November 25, 2016. The application was made regarding a subsidized public housing residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The applicant personally served the respondents with the filed application on December 5, 2016, and with an addendum to the application on February 21, 2017.

The applicant alleged the respondents had caused disturbances at the residential complex, had threatened the applicant's employees, had permitted a pet into the rental premises, had repeatedly failed to pay rent, and had accumulated rental arrears. An order was sought for the respondents to comply with obligation not to cause disturbances, to comply with their obligation not to permit pets into the rental premises, to pay costs associated with pulling a fire alarm, to pay rental arrears, and to pay future rent on time.

A hearing was scheduled for March 9, 2017, in Yellowknife, Northwest Territories. AB and BB appeared representing the applicant, with EN appearing as a witness for the applicant. TF and SY appeared as respondents.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing commencing April 1, 2012. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Disturbances - uttering threats

The incident initiating this application to a rental officer occurred September 28, 2016. There is no dispute between the parties as to what occurred, which can be summarized as follows: The applicant's employee attended the residential complex to remove an intoxicated person. In doing so the door alarm was triggered. The intoxicated respondents came out of their apartment in response to the alarms, yelling and cursing to turn them off. When the employee told them to return to their premises, TF continued to be verbally abusive towards the employee and made threatening gestures. When the employee threatened to call the police, TF threaten to retrieve a knife to stab the employee. SY took TF back to their apartment and the police were not called.

Although the respondents admit to having addictions issues, the above described behaviour is not habitual. Without offering it as an excuse for their behaviour, the respondents indicated they have had an emotionally difficult year experiencing multiple deaths in their immediate families. They understand the applicant's primary purpose in filing an application to a rental officer against them is in direct response to the level of abuse that was directed to their employee in this instance and the zero tolerance policy practised by the applicant with respect to unacceptable behaviours.

I am satisfied the described incident caused a significant disturbance. I find the respondents have failed to comply with their obligation not to disturb the landlord's enjoyment or possession of the residential complex.

Disturbances - pulling the fire alarm

In March 2016 TF was captured on the applicant's security video pulling the fire alarm in the stairwell when there was no fire or emergency. EN testified to having personally observed the video. She describes the incident as the respondent staggering down the stairs, opening the door for another person to enter, losing balance as he turned to go back up the stairs, and catching himself on the fire alarm.

EN interpreted TF's behaviour as exhibiting significant signs of intoxication, which would not have been unusual. Initially the respondents accepted responsibility pulling the fire alarm and agreed to pay the associated costs. However, the respondents are now questioning their liability since TF was diagnosed with having seizures. The respondent submits he may have actually been having a seizure at the time that the fire alarm was pulled. He testified that he was unaware that he was having seizures as he was undiagnosed until some time after this particular incident. A note from the respondent's doctor provided subsequent to the hearing does confirm that TF suffers from seizures, but it does not elaborate on when the seizures were diagnosed and whether or not he was suffering from a seizure at the time of pulling the fire alarm.

At any rate, it is clear that TF did pull the fire alarm, regardless of whether he was under the influence of alcohol or drugs or having a seizure. The consequence of having pulled the fire alarm was the appropriate response of the local fire department to the residential complex, albeit due to a false alarm. Unfortunately, the false alarm response resulted in a charge to the applicant in the amount of \$1,155. While I can certainly appreciate that the pulling of the fire alarm was an accident and accidents do happen, responsibility for costs associated with such accidents lie with the offending party unless it can be proven that the accident occurred due to someone else's negligence. There is no proof before me that the respondent's actions surrounding the pulling of the fire alarm had anything to do with any negligent act on the part of the applicant.

I am satisfied that TF pulled the fire alarm. I find that by pulling the fire alarm the respondent caused a disturbance to the landlord's and other tenants' enjoyment or possession of the rental premises and residential complex. I further find the respondents liable for the costs associated with the false alarm emergency call-out in the amount of \$1,155. Since the incident the respondents have made payments against the costs, reducing the current balance owing to \$811.

Rental arrears

The receivables register entered into evidence represents the landlord's accounting of monthly assessed rents and payments received against the respondents' rent account. All rents have been assessed subsidies based on reported household income. The rent is currently assessed at \$80 per month. The last two payments received against the respondents' rent account were recorded February 7, 2017, in the amount of \$80 and January 17, 2017, in the amount of \$180. The respondents have successfully resolved their rental arrears since filing of this application and currently are only behind by one month. The respondents did not dispute the accuracy of the applicant's accounting.

I am satisfied the receivables register accurately reflects the current status of the respondents' rent account. I find the respondents have been repeatedly late paying rent and have accumulated rental arrears in the amount of \$80.

Pets

Schedule B to the respondents' written tenancy agreement specifically states "No Pets Allowed". When the respondents were discovered keeping a dog in May 2014 the applicant reminded the respondents that they were not permitted to keep a pet in the rental premises and directed them to give the dog away. The respondents agreed to give their dog to a relative. On at least three separate occasions since then employees observed what appeared to be the same dog within the rental premises; the most recent observance occurred when the applicant's representative attended the residence to serve the amendment to the application on February 21, 2017.

The respondents claimed the dog was given to a family member, but the family member would bring the dog with them when they came to visit and just happened to be there when the applicant's employees observed the dog in the premises. This explanation seems unlikely, but it was reinforced at the hearing that when a tenancy agreement says no pets are allowed then no pets are allowed within the rental premises at any time, even just for a visit. Because the rental premises in question is within an apartment complex owned by a different, private landlord, it was also clarified that the tenants of the private landlord may not be prohibited from owning pets which could explain why the respondents may have seen or believed that pets were permitted in the building. The respondents seemed to understand the distinction and that they are not permitted to have a pet within their rental premises.

I find the respondents have failed to comply with their obligation not to have pets within their rental premises.

Orders

An order will issue: requiring the respondents to pay rental arrears in the amount of \$80; requiring the respondents to pay their future rent on time; requiring the respondents to comply with their obligation not to cause disturbances and not to breach that obligation again; requiring the respondents to pay the applicant for losses suffered as a direct result of pulling the fire alarm in the remaining amount of \$811; and requiring the respondents to comply with their obligation not to permit pets within the rental premises and not to breach that obligation again.

Adelle Guigon
Rental Officer