

IN THE MATTER between **NPRLP**, Applicant, and **DP and GB**, 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:

NPRLP

Applicant/Landlord

-and-

DP and GB

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: August 16, 2017

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: BL, representing the applicant

Date of Decision: August 16, 2017

REASONS FOR DECISION

An application to a rental officer made by NPRLP as the applicant/landlord against DP and GB as the respondent/tenant was filed by the Rental Office June 13, 2017. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served on the respondents by email deemed received June 23, 2017, pursuant to section 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The applicant alleged the respondents had accumulated rental arrears and had repeatedly disturbed other tenants' enjoyment or possession of the rental premises and residential complex. An order was sought for payment of rental arrears, termination of the tenancy agreement, and eviction.

A hearing was scheduled for August 1, 2017, in Yellowknife. BL appeared representing the applicant. DP and GB were served notice of the hearing by email deemed received June 23, 2017. The respondents did not appear at the hearing, nor did anyone appear on their behalf. The hearing proceeded in the respondents' absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The applicant's representative testified and provided evidence establishing a residential tenancy agreement between the parties commencing December 1, 2016. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

Since filing of the application the respondents have resolved any rental arrears they may have carried. Consequently, the applicant's representative withdrew their request regarding rental arrears.

Disturbances

The applicant's representative testified and provided evidence of complaints of disturbances originating from the respondents' premises. Complaints were received by the applicant's security company on March 24, June 8, 9, 10, 11, July 31, August 9, regarding excessive noise, yelling, crying, banging, and running coming from the respondents' premises at all hours. The activities have disturbed other tenants in the residential complex by waking them from sleep, interrupting their quiet enjoyment, and causing wall hangings to fall from the walls. Many of the claimed disturbances had ceased by the time security personnel responded to the complaints.

All of the written complaints on file were made by one other tenant in the residential complex. That complainant also referred to several complaints which were made prior to March 24th of which the applicant has no record. The complainant provided dates when she made complaints and called the RCMP to respond, providing the following police file numbers: February 10th, 2017167356; February 13th, 2017178911; February 21st, 2017213072; March 3rd, 2017256645; and June 10th, 2017722715. The related occurrence reports were not provided into evidence, therefore I cannot determine whether or not the RCMP observed or confirmed the alleged disturbances, let alone where the disturbances occurred or who caused the disturbances.

The applicant's representative testified to personally making inquiries of other neighbouring tenants as to whether or not they experienced disturbances coming from the respondents' premises. The neighbours confirmed that there had been numerous disturbances as described by the primary complainant. The other tenants admitted they did not report those disturbances. The applicant's representative speculated the other tenants may not have reported the disturbances because they have a higher tolerance threshold than the primary complainant. Regardless of why the other tenants' did not report the disturbances, the applicant's representative was able to establish that the activities and behaviours of the respondents and their family and guests have repeatedly disturbed the quiet enjoyment of more than one other tenant.

The applicant's representative testified to having provided the respondents with one written warning on June 12, 2017, regarding the disturbances. Other than verbal requests by the security personnel at the time of each call out, there have been no other warnings or notices given to the respondents since the application to a rental officer was filed.

Based on the evidence and testimony provided at hearing, while I am satisfied on a balance of probabilities that the respondents have caused disturbances at least four times since March 2017, I cannot be satisfied of the nature or cause of disturbances alleged to have occurred prior to then. I do find the respondents have failed to comply with their obligation not to disturb other tenants' enjoyment or possession of the rental premises and residential complex.

Termination of the tenancy agreement and eviction

Based on the repeated pattern of disturbances I am satisfied that termination of the tenancy agreement and eviction are justified. However, I am not satisfied that the termination and eviction should be unconditional. To my mind it appears that the seriousness of the disturbances and consequences may not have been adequately expressed to the respondents so as to illicit a more positive resolution from them. That being the case, the termination and eviction will be dependent on whether or not any further verified disturbances are reported to the applicant.

Orders

An order will issue:

- requiring the respondents to comply with their obligation not to disturb other tenants' enjoyment or possession of the rental premises and residential complex, and not to breach that obligation again;
- terminating the tenancy agreement October 31, 2017, unless no further complaints of verified disturbances are received by the applicant; and
- evicting the respondents from the rental premises November 1, 2017, if the termination of the tenancy agreement becomes effective.

Adelle Guigon
Rental Officer