

IN THE MATTER between **NTHC**, Applicant, and **GL**, 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 **Adelle Guigon**, Rental Officer,

BETWEEN:

NTHC

Applicant/Landlord

-and-

GL

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: September 13, September 18, and September 22, 2017

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: AB, representing the applicant
BL, witness for the applicant
CO, witness for the applicant
PV, witness for the applicant

GL, respondent
GC, representing the respondent
EL, witness for the respondent

MG, French interpreter for the respondent
JCF, French interpreter for the respondent

Date of Decision: November 7, 2017

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of the NTHC as the applicant/landlord against GL as the respondent/tenant was filed by the Rental Office July 6, 2017. The application was made regarding a subsidized public housing residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was personally served on the respondent July 18, 2017.

The applicant alleged the respondent had repeatedly refused entry to the rental premises by the landlord's agents and the respondent had been racially abusive towards the landlord's maintenance staff. An order was sought for termination of the tenancy agreement and eviction.

A hearing was scheduled for September 13, 2017, in Yellowknife, and subsequently adjourned for continuance to September 18 and September 22. AB appeared on all dates representing the applicant. GL appeared on all dates as respondent with GC appearing to represent him.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing December 21, 2015. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Issues

A substantial amount of evidence was presented at the hearing regarding this matter which I will not elaborate on in these reasons for decision. My reasons for decision will summarize what I heard and how I made by determinations.

There are effectively two issues to this application:

- whether or not the respondent disturbed the landlord's enjoyment and possession of the rental premises and residential complex; and
- whether or not the respondent unreasonably refused entry to the rental premises by the landlord's agents.

The residential complex in question is centrally located in Yellowknife and is known to have cause to be visited by the RCMP, usually due to disturbances inside and outside the building. The respondent is not alleged to have been one of the tenants causing those disturbances.

The respondent's rental premises is located on the ground floor of the residential complex, near to the front door. The respondent often witnesses the incidents occurring outside the building for which the RCMP attend. Concern for his own personal safety and well-being is not unreasonable.

The respondent's tenancy agreement is with YHA acting as agent for the NTHC. The rental premises is commercially rented by NTHC from NAREIT for the purposes of renting it to YHA clients for residential purposes. The residential complex is owned and operated by NAREIT.

Disturbance

On May 9, 2017, the respondent was provided with notice of NAREIT's intention to enter the rental premises with Fire Prevention on May 11, 2017, to inspect the fire extinguisher and the sprinkler system. NAREIT's employee PV testified that he attended the rental premises with a representative from Fire Prevention. The respondent demanded employee identification, to which PV provided his driver's licence. The respondent refused to accept the driver's licence, claiming it wasn't adequate identification to assure him that PV was an employee of NAREIT;

the respondent refused to permit entry. During this discussion the Fire Prevention employee moved on to a different rental premises. The respondent was verbally aggressive to PV, and as he walked away he heard the respondent say something to the effect of "Go back to your country. You don't belong here." The altercation made PV very angry, as he had never been spoken to in such a racially charged manner before. To avoid escalating the situation, PV left the building and went for lunch. He did not mention the altercation to his supervisor until he was told about a similar situation his supervisor experienced some time later.

The respondent did not deny refusing entry to PV on May 11, 2017, because he was not satisfied with the identification provided by PV. The respondent did not recall making the racially abusive statement, and testified that it would be out of character for him to make such a statement. Without admitting to making the statement, the respondent apologized at hearing to PV for any offence he might have made. The respondent admitted to being hyper-vigilant about verifying the identification of persons requesting access to both the residential complex and his rental premises in particular, and that his manner can be very persistent in that regard.

PV's testimony was clear and credible. He appeared to recall the incident quite clearly, and to recall how the respondent's statement made him feel. I have no reason to disbelieve his testimony.

I have no reason to disbelieve the respondent's claim that making a racially abusive statement would be out of character for him. However, no independent evidence was provided to substantiate the respondent's claim regarding his own character. By his own admission he does not recall whether or not he made the racially charged statement, he just does not believe that he would have.

Given the evidence before me, I am satisfied that it is more likely than not that the respondent did make the statement alleged towards PV. In doing so, the respondent breached his obligation not to disturb the landlord's enjoyment or possession of the rental premises or residential complex.

Entry

In early June, NAREIT had received a complaint from a ground floor tenant of a sewer waste odour in her apartment. NAREIT began an investigation to try and determine the source of the odour, suspecting a break in the sewer lines under the building. Access to the crawlspace is through hatches located in the ground floor apartments.

On June 7, 2017, NAREIT gave each tenant on the ground floor, including the respondent, notice of their intent to enter the rental premises the afternoon of June 9th in order to access the crawlspace. When the chief boiler engineer for NAREIT, JA, attended the respondent's rental premises, the respondent refused to grant him access. JA called the maintenance supervisor for NAREIT, JG, to assist him with gaining access to the rental premises. JA and JG together attended the rental premises and were refused entry after being asked for employee identification and being told by the respondent there was no access hatch in the rental premises. Receiving no cooperation from the respondent, JA and JG left the building and reported what happened to NAREIT's Regional Property Manager, BL.

On Tuesday, June 13th, BL and JA attended the rental premises to again attempt to gain access to the crawl space hatch. BL introduced himself to the respondent, who demanded identification proving he was an employee of NAREIT. BL told the respondent he did not have employee identification, but did provide his driver's licence, his corporate Visa card, and his business card. The respondent retorted that the driver's licence meant nothing, again denied that there was any access hatch in his apartment, laughed off the seriousness of the required sewer line inspection, and closed the door on them.

BL notified YHA that the respondent was being verbally abusive towards NAREIT staff and refusing access to the rental premises. He requested a representative from YHA attend the rental premises with NAREIT staff. Arrangements were made for YHA's maintenance manager, CO, to attend the rental premises on Wednesday, June 14th, with representatives from NAREIT and the RCMP.

On June 14th, JA, GS, CO, and Cst. Broadis attended the rental premises. Cst. Broadis was in full duty uniform. At first the respondent did not answer the door after repeated knocking. When the respondent did open the door, he left the door chain secured. CO identified himself and the purpose of their visit, requesting entry. The respondent refused. Cst. Broadis spoke to the respondent and demanded entry. The respondent refused. Before the landlord could cut the door chain, the respondent released the door chain and opened the door. The respondent demanded identification, but refused to accept CO's driver's licence and business card as acceptable. JG attended in the meantime with required plumbing supplies and requested entry to the rental premises. The respondent demanded identification. JG felt harassed, gave the supplies to CO, and avoided further confrontation by leaving.

After discussion with Cst. Broadis about identification, and only due to the constable's presence, the respondent eventually permitted JA and GS to enter the premises, maintaining there was no access hatch in his apartment. Items were removed from a storage area where the access hatch was found. JA and GS entered the crawlspace and did find the sewer main broken. CO and Cst. Broadis remained in the hallway for the duration of the repair work.

The respondent argued that all service providers should have employee identification from which occupants such as himself can be satisfied that the person requesting access to the premises is who they say they are. He argued this was necessary to ensure his personal safety and security. He referred to a Government of the Northwest Territories (GNWT) guidelines and procedures document on employee identification cards. The respondent argued that a driver's

licence did not prove who the individual was employed by. The respondent admitted he did not try to call either YHA or NAREIT to verify whether or not the persons attending his premises were their employees. He denied having received any contact information for either the YHA or for NAREIT.

Employee Identification

The GNWT employee identification cards guidelines and procedures apply to all GNWT employees, except those employed by the NWT Power Corporation, but state at paragraph 5 that they are only issued when necessary. YHA staff and NAREIT staff are not GNWT employees, and therefore are not bound by the GNWT employee identification cards guidelines and procedures. While there are certainly recommendations and arguments for why and when a business should invest in employee identification cards, there is no law requiring it.

Contact Information

Section 36 of the Act requires the landlord to give notice to its tenants of the name, address, and telephone number of the landlord and any agent of the landlord having authority in respect of the residential complex, and requires the landlord of a multi-unit residential complex to post that contact information in a conspicuous place in the residential complex.

The written residential tenancy agreement clearly identifies on its face both the daytime and after-hours emergency numbers for YHA. The notices of intent to enter the rental premises provided by NAREIT were on company letterhead clearly indicating their office's daytime number on the bottom of the page.

No evidence was provided confirming whether or not the tenant had received notice of the relevant contact information required under subsection 36(1) of the Act and whether or not the relevant contact information was posted in a conspicuous place as required under subsection 36(2) of the Act. Despite the respondent having the necessary telephone numbers through other means, I cannot be satisfied that the landlord technically complied with their obligations under subsections 36(1) and 36(2) of the Act.

A driver's licence is government-issued photo identification. It is recognized nationally, if not internationally, as a suitable form of personal identification. Even travel within Canada can be achieved with nothing more than a driver's licence for identification. When the respondent was provided with the driver's licences of those individuals requesting entry to the rental premises, he had in his hands a means of verifying that the person was who he said he was. With that information, and the contact numbers he possessed from the tenancy agreement and the notices of entry, the respondent had the ability to contact the relevant employer and verify whether or not the person standing at his door was one of their employees.

Most people do not find it necessary to excessively vet someone's credentials when they attend for a service call that is expected, but I do appreciate the respondent's concerns for his own personal safety and security. I understand his desire to be certain that whomever is seeking entry is who they say they are. However, the respondent in this case knew there would be people attending his rental premises and why, and he had means and opportunity to take the extra steps he felt necessary to satisfy himself that the people who attended were the ones authorized to do so. By failing to take those steps and by refusing entry to authorized persons, the respondent failed to comply with his obligation to permit the landlord entry into the rental premises.

Termination and eviction

The applicant requested termination of the tenancy agreement and eviction as a consequence of the respondent's actions, behaviours, and manner. In effect, I have found the respondent to have breached his obligation not to disturb the landlord's possession or enjoyment of the rental premises and to have breached his obligation to permit the landlord entry into the rental premises twice, although the second time occurred over the course of several days. At hearing, the respondent indicated his desire to retain his tenancy and his willingness to comply with any findings regarding satisfactory employee identification procedures I might make. I am not satisfied that termination of the tenancy agreement and eviction are either necessary or reasonable under the circumstances.

Orders

An order will issue:

- requiring the respondent not to breach his obligation to permit the landlord to enter the rental premises in accordance with sections 26 and 27 of the Act again;
- requiring the respondent to comply with his obligation not to disturb the landlord's possession or enjoyment of the rental premises or residential complex; and
- requiring the applicant to provide the respondent with the contact information required under subsection 36(1) of the Act for the landlord, the landlord's agent, and the owner of the residential complex, and to ensure that contact information is posted in a conspicuous place within the residential complex.

Adelle Guigon
Rental Officer