

IN THE MATTER between **MPM**, Applicant, and **FT**, 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:

MPM

Applicant/Landlord

-and-

FT

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 8, 2017

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: AM, representing the applicant
FT, respondent

Date of Decision: November 8, 2017

REASONS FOR DECISION

An application to a rental officer made by MPM as the applicant/landlord against FT as the respondent/tenant was filed by the Rental Office August 22, 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 respondent by registered mail signed for September 1, 2017.

The applicant alleged the respondent had repeatedly and unreasonably disturbed other tenants' enjoyment and possession of the rental premises and residential complex. An order was sought for termination of the tenancy agreement and eviction.

A hearing was scheduled for November 8, 2017, in Yellowknife. AM appeared representing the applicant. FT appeared as respondent.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them commencing August 10, 2016. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Disturbances

The City of Yellowknife Bylaw Number 3537, commonly referred to as the Noise Bylaw, defines "Quiet Time" as from 11:00 p.m. to 7:00 a.m., and section 4 of that bylaw further sets out the nature of disturbances which are prohibited during the City's Quiet Time.

Paragraph 3.1 of Schedule "A" Rules and Regulations to the written tenancy agreement specify that noise or other nuisance which, in the opinion of the landlord, disturbs the comfort of other tenants shall not be permitted in the residential property.

Subsections 43(1) and 43(2) of the Act specify that a tenant shall not disturb the landlord's or other tenants' possession or enjoyment of the rental premises or residential complex, and that a disturbance caused by a person permitted by a tenant to enter the residential complex or the rental premises of the tenant is deemed to be a disturbance caused by the tenant.

The applicant's representative testified that during the winter of 2016-2017 and into the spring of 2017 the landlord was notified that homeless people were sleeping in the lobby and stairwells, and knocking on the respondent's window and yelling for him. Although there was no evidence that the respondent permitted the homeless people to sleep in the lobby and stairwells, the applicant spoke with the respondent about the people knocking on his window and he agreed to stop encouraging visitors.

A further incident in the spring of 2017 involved the respondent skinning wild meat within the rental premises and discarding organic material from his balcony. The applicant spoke to the respondent about the matter and the respondent stopped discarding organic material from his balcony.

The applicant provided evidence in the form of written complaints from other tenants in the residential complex, primarily from the respondent's immediate neighbour, regarding noise and other disturbances occurring since the respondent moved in. The residential complex is a multi-unit apartment building. The respondent's rental premises is located on the ground floor. The parties acknowledged that the residential complex is an old building and the walls are not terribly thick or sound proofed.

Of the 52 written complaints received between August 1, 2017, and November 7, 2017, one was regarding the respondent engaging in a loud conversation after 11:00 p.m. and five were regarding music being played during the City's Quiet Time. The loud conversation occurred on August 3, 2017; the last music complaint was documented August 26, 2017. The respondent acknowledged that he does often use a radio during the night to provide 'white noise', but he denies that he maintains the volume at a level that could disturb or wake anyone outside of his rental premises under normal circumstances.

Of the remaining 46 complaints, six were regarding loud conversations occurring outside of the City's Quiet Time and the remainder involved persons attending the building in loud and often drunken conditions usually during the City's Quiet Time. Although on many, if not most, occasions those persons were calling for the respondent in a loud and disruptive manner, the respondent at no time permitted those persons to enter the residential complex or the rental premises. The respondent testified that he has been diligent about staying sober and making sure his friends and acquaintances know they cannot be coming around his place during the City's Quiet Time.

While I can certainly appreciate the disruption to a person's sleep pattern and the nervousness that can accompany abrupt disturbances during the night and early morning, in the circumstances that have been presented to me I cannot hold the respondent responsible for the inappropriate and disruptive actions of persons he has not permitted to enter the residential complex or the rental premises. If the respondent begins letting those disruptive persons into the residential complex or rental premises then that is when the respondent could be held accountable for those persons' actions. Until then, the only persons who can and should be held responsible are those persons committing the inappropriate and disruptive actions. It is appropriate to report to the landlord when such disruptive behaviour occurs, but it would also be appropriate to report the disruptive behaviour when it happens to the police.

I am not satisfied the respondent has substantially, repeatedly, or unreasonably failed to comply with his obligation not to cause disturbances or permit disturbances to be caused, and as such I am not satisfied that termination of the tenancy agreement and eviction are justified. The applicant's requests for termination of the tenancy agreement and eviction are denied.

Adelle Guigon
Rental Officer