

IN THE MATTER between **THL**, Applicant, and **ML**, 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:

THL

Applicant/Landlord

-and-

ML

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: April 18, 2018

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: TP, representing the applicant
ML, respondent

Date of Decision: April 18, 2018

REASONS FOR DECISION

An application to a rental officer made by THL as the applicant/landlord against ML as the respondent/tenant was filed by the Rental Office December 6, 2017. The application was made regarding a residential tenancy agreement for a rental premises located in Fort Smith, Northwest Territories. The filed application was personally served on the respondent March 1, 2018.

The applicant alleged the respondent had repeatedly failed to pay the full amount of rent when due and had repeatedly caused disturbances. An order was sought for termination of the tenancy agreement and eviction.

A hearing was scheduled for April 18, 2018, by three-way teleconference. TP appeared representing the applicant. ML appeared as respondent.

Tenancy agreement

The parties agreed that a written tenancy agreement had been entered into between them commencing in October 2015. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Payment of rent

The parties agreed that the current monthly rent is \$1,050. The parties agreed that the rent is due on or before the first day of each month. The parties agreed and evidence was presented establishing that the respondent has repeatedly and consistently failed to pay the rent when due, often by two to three weeks. The parties agreed that when the respondent had left town in July and August she failed to pay the rents for those months until she returned.

By written notice dated September 7, 2017, the applicant reminded the respondent of her obligation to pay her rent in full on or before the first of each month, and also offered a three-day grace period such that the applicant would be satisfied if the rent were paid by the third of each month. After receiving that notice, the respondent's efforts to pay her rent on time improved, although they often are still as late as the seventh day of the month.

I find the respondent has repeatedly failed to pay the full amount of her rent when due.

Disturbances

The applicant testified that he had received complaints from a neighbouring tenant of repeated disturbances coming from the respondent's rental premises throughout the respondent's tenancy. The disturbances were described as primarily being in the nature of loud music, loud talking, and karaoke occurring after 11:00 p.m. One incident was reported as occurring in June 2017 which involved partying, fighting, and RCMP attendance. The applicant testified that he gave the respondent at least three verbal warnings and successfully hand-delivered one written warning. The applicant supplied an unsigned written statement from the neighbouring tenant regarding the disturbances he and his roommates have experienced. Being unsigned, I can give limited weight to the neighbouring tenant's statement, however, it does corroborate the applicant's testimony regarding the complaints he has received. The applicant confirmed that although there have still been the occasional disturbance reported, there has been an improvement since September 2017.

The respondent did not dispute that she and her teenage children, and occasionally her visitors, can be loud, but argued that she did not believe it to be at a level to disturb anyone else's peace. She indicated an expectation to be able to enjoy her music and her guests in her own home. The respondent disputed having received more than one verbal warning and she disputed receiving any written warnings. She argued that perhaps if she had received more warnings or notices then she would have been aware that the behaviour needed to be addressed. With respect to the incident in June, the respondent testified that she had first-time guests from the South who had never experienced the Midnight sun, and they were enjoying themselves on the deck when the RCMP attended. The group was not intoxicated, and they moved indoors without incident after having a conversation with the RCMP.

The testimonies from the parties contradict each other somewhat. However, on a balance of probabilities I believe it is more likely than not that there have been repetitive disturbances originating from the respondent's rental premises throughout the tenancy. To clarify, I cannot be satisfied that the nature of the disturbances has been excessive, but I am satisfied that the disturbances which have occurred have been repetitive throughout the tenancy and interfered with the neighbouring tenant's enjoyment and possession of his rental premises. I am also satisfied that the number of occurrences since September 2017 have noticeably decreased.

Termination of the tenancy agreement and eviction

In light of the respondent's repeated failure to pay her rent when due considered in conjunction with the repeated disturbances, I am satisfied termination of the tenancy agreement and eviction are justified. However, in consideration of the respondent's improved behaviour on both counts since September 2017, and her relatively new understanding of her obligations in regards to both paying rent and not causing disturbances, I find justification for the termination and eviction to be conditional on the respondent paying her future rent on time and not causing any further disturbances.

Orders

An order will issue:

- requiring the respondent to pay her future rent on time;
- requiring the respondent to comply with her obligation not to disturb the landlord's or other tenants' enjoyment or possession of the rental premises or residential complex, and not to breach that obligation again;
- terminating the tenancy agreement July 31, 2018, unless the rents for May, June, and July are paid on time and no further disturbances verified as caused by the respondent or persons permitted on the rental premises by the respondent are reported to the applicant; and
- evicting the respondent from the rental premises August 1, 2018, if the termination of the tenancy agreement becomes effective.

Adelle Guigon
Rental Officer