

IN THE MATTER between **NTHC**, Applicant, and **WH**, 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-

WH

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: April 12, 2018

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: CS, representing the applicant

Date of Decision: April 12, 2018

REASONS FOR DECISION

An application to a rental officer made by FSHA on behalf of the NTHC as the applicant/landlord against WH as the respondent/tenant was filed by the Rental Office February 2, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Fort Smith, Northwest Territories. The filed application was served on the respondent by registered mail signed for February 22, 2018.

The applicant alleged the respondent had repeatedly and unreasonably disturbed the landlord's and 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 originally scheduled for February 22, 2018, by three-way teleconference. The hearing was adjourned *sine die* upon learning that the respondent was incarcerated and at the time of the hearing I could not be satisfied that the respondent had yet received the filed application and notice of the hearing. The respondent called the Rental Office the next morning, confirmed he had just received the filed application and notice of the hearing the afternoon of February 22nd and provided contact information for notice of the re-scheduled hearing to be served on him by email through his case manager at the correction facility where he was serving a custodial sentence.

The hearing was re-scheduled to March 20, 2018, by three-way teleconference. CS appeared representing the applicant. WH appeared as respondent. The respondent requested a further adjournment in order to have his mother appear as a witness on his behalf. Despite having been served with notice of the hearing on February 27th the respondent had only spoken with his mother on March 19th about appearing on his behalf. She indicated to him that she was not available to appear on March 20th. The parties agreed to post-pone the hearing to the afternoon of March 22nd to accommodate the respondent's request.

On March 22nd, CS again appeared representing the applicant. The respondent did not appear at the hearing, nor did the respondent's mother. Recognizing that the respondent had previously insisted that he wished to participate in the hearing, I contacted the correctional facility and learned that the respondent had been behaving in such a manner that resulted in his being secured in isolation. The expected duration of isolation could not be determined at the time. In the interests of fairness, the applicant's representative and I agreed to adjourn the hearing *sine die* one more time.

The hearing was again finally re-scheduled to April 12, 2018, by three-way teleconference. CS appeared representing the applicant. WH was served notice of the hearing by email through the respondent's case management worker. The email was confirmed as read April 4, 2018. The respondent did not appear at the hearing, nor did anyone appear on the respondent's behalf. The hearing proceeded in the respondent's absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The applicant's representative testified and evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing September 15, 2014. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Disturbances

The applicant's representative testified and evidence was presented establishing numerous disturbances involving intoxication, fighting, yelling, harassment, verbal abuse, uttering threats, partying, and indecent exposure. Such disturbances occurred consistently between April 2017 and August 2017, and resulted in numerous warning notices being issued to the respondent. The disrespectful and abusive behaviour was directed at both neighbouring tenants as well as the landlord's staff.

A notice to terminate the tenancy September 30, 2017, was issued by the applicant to the respondent on August 25th. The respondent successfully appealed the decision to terminate to the Board of Directors after explaining that he was leaving approximately August 30th to attend a six-week treatment program. On September 21st the Board agreed to reverse the termination notice on the condition that the respondent enter into a last chance, zero tolerance agreement to cause no further disturbances. That agreement was entered into November 17, 2017.

The applicant's local offices were closed over the Christmas holidays. Upon returning to the office in the New Year, the applicant reviewed multiple messages reporting the respondent's repeated partying, yelling, and fighting since approximately December 18th. Additional complaints of disturbances continued to be received from neighbouring tenants throughout the month of January 2018.

On January 24, 2018, the Board of Director's directed the termination of the tenancy agreement due to the continued disturbances and failing to comply with the last chance, zero tolerance agreement. The notice to terminate the tenancy agreement February 28th was issued to the respondent January 26th.

Upon receiving the second notice to terminate the tenancy agreement, the respondent became aggressively irate and behaved very disrespectfully when he called the applicant's staff on January 30th. The chairperson of the Board declined to meet with the respondent. The respondent called the applicant's staff again on January 31st and was again irate, disrespectful, and accusatory. On February 1st the applicant's staff received a complaint from a neighbouring tenant that the respondent had uttered death threats against them. That same day the respondent telephoned the applicant's staff in an irate and apparently intoxicated state which appeared threatening to the staff. A voicemail left later the same day was interpreted by staff as sufficiently 'scary' to initiate lock-down procedures at the office.

The respondent was sentenced to custody by the Territorial Court on February 7, 2018. The respondent faxed a letter to the Board of Directors appealing the decision to terminate the tenancy agreement. The Board denied the respondent's appeal on February 22nd.

I am satisfied that the respondent is responsible for repeatedly and unreasonably disturbing both the landlord's and other tenants' enjoyment and possession of the rental premises and residential complex. I find immediate termination of the tenancy agreement and eviction are justified under the circumstances.

Orders

An order will issue terminating the tenancy agreement April 12, 2018, and evicting the respondent from the rental premises April 12, 2018, or as soon thereafter as is practicable.

Adelle Guigon
Rental Officer