

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

**JA**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** May 30, 2018

**Place of the Hearing:** Tuktoyaktuk, Northwest Territories

**Appearances at Hearing:** LP, representing the applicant

**Date of Decision:** May 30, 2018

**REASONS FOR DECISION**

An application to a rental officer made by THA on behalf of the NTHC as the applicant/landlord against JA as the respondent/tenant was filed by the Rental Office February 9, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Tuktoyaktuk, Northwest Territories. The filed application was personally served on the respondent March 7, 2018.

The applicant alleged the respondent had failed to comply with their obligation not to permit smoking in the rental premises, and had caused a fire in the rental premises resulting in damage to the rental premises. An order was sought for the respondent to comply with their obligation not to smoke or permit smoking in the rental premises, for the respondent not to breach that obligation again, and for termination of the tenancy agreement.

A hearing was scheduled for May 30, 2018, in Tuktoyaktuk. The Rental Officer appeared by telephone. LP appeared representing the applicant. JA was personally served notice of the hearing March 7, 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 July 23, 2014. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

*Additional obligation*

Subsection 45(1) of the Act sets out the tenant's obligation to comply with additional obligations included in a written tenancy agreement and with any written rules that are reasonable in all circumstances.

Paragraph 19 of the written tenancy agreement specifies that the tenant agrees to comply with all house rules established in writing by the landlord.

Paragraph 21 of Schedule C to the written tenancy agreement, entitled "House Rules", establishes that there is no smoking or alcohol permitted in the rental premises.

The applicant testified and provided evidence of complaints received in January 2016 of the respondent smoking in the rental premises, in September 2016 of the respondent drinking in the rental premises, and in December 2017 of the respondent smoking in the rental premises. The latest complaint was further substantiated by an incident report dated January 3, 2018, describing a small fire that occurred while the respondent was briefly out of the apartment. Further inquiries and conversation with the respondent revealed that the respondent had permitted a guest to smoke in the rental premises. When the respondent and his guest left the premises to run an errand, the guest unwittingly emptied the ash tray into the garbage without the respondent's knowledge. By the time the respondent returned to the rental premises, approximately an hour later, the garbage can had ignited. The caretaker and a neighbouring tenant noticed the smoke and entered the premises to find the fire, just as the respondent was returning. The fire was put out without incident. The fire caused damage localized to the wall and floor immediately behind and beneath the garbage can.

The applicant's representative testified that she had stopped by the respondent's premises on May 28, 2018, and in their conversation the respondent said that he had quit smoking and drinking, and that he was clean. The applicant's representative confirmed that she did not notice any smell of smoke during the visit.

I am satisfied the respondent has occasionally smoked or permitted smoking in the rental premises, and as such I find the respondent has failed to comply with the obligation not to smoke or permit smoking in the rental premises.

*Termination of the tenancy agreement*

Given the nature of the circumstances and the limited number of breaches, despite the damages resulting from the most recent breach, I am not satisfied that termination of the tenancy agreement is justified.

*Order*

An order will issue requiring the respondent to comply with his obligation not to smoke or permit smoking in the rental premises, and the respondent must not breach that obligation again.

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Adelle Guigon  
Rental Officer