

IN THE MATTER between **NCSC**, Applicant, and **TH and TC**, Respondents.

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:

NCSC

Applicant/Landlord

-and-

TH and TC

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: December 11, 2018

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: GL, representing the Applicant
TC, Respondent

Date of Decision: December 11, 2018

REASONS FOR DECISION

An application to a rental officer made by NCSC as the Applicant/Landlord against TH and TC as the Respondents/Tenants was filed by the Rental Office October 11, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was personally served on the Respondents October 25, 2018.

The Applicant alleged the Respondents had repeatedly and unreasonably disturbed the landlord's and other tenants' possession of the rental premises or residential complex. An order was sought for termination of the tenancy agreement and eviction.

A hearing was scheduled for December 11, 2018, in Yellowknife. GL appeared representing the Applicant. TC appeared as Respondent. TH was personally served notice of the hearing October 25, 2018, by serving the notice on TC at the rental premises. The Applicant's representative was not aware at the time that TH had been convicted of a domestic abuse offence and sentenced into custody for 4.5 months on October 23, 2018, nor did TC inform the Applicant of that occurrence. TC was unable to inform TH of the application and hearing because TH is prohibited from communicating with TC by court order. TC indicated that TH will be on a probation order when released from custody which also prohibits him from communicating with her. Despite TH's current custodial circumstances, he remains a joint tenant on the tenancy agreement and TC indicated that he does normally reside with her. It was decided to proceed with the hearing in TH's absence and it could be determined after hearing the issues under the application whether or not it was necessary to hear from him.

Tenancy agreement

The parties agreed and evidence was presented establishing a joint tenancy agreement for subsidized housing commencing April 1, 2015. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Disturbances

The Applicant's representative testified and presented evidence establishing that between June 2016 and October 2018 no less than 14 complaints of disturbances were documented as being caused by the Respondents or persons permitted on the premises by the Respondents. The nature of the disturbances involved loud music, loud talking, yelling, banging, fighting, arguing, excessive smoking, and domestic violence. RCMP were involved in some of the incidents, including two occurrences at which the RCMP told the Applicant's security officer that TH was not supposed to be in contact with TC.

On October 20, 2018, TC reported TH's presence at the rental premises to the RCMP, and the Applicant's security officer observed the RCMP remove TH from the residential complex. About an hour later, the security officer observed TH return to the residential complex using a key. The security officer called the RCMP, who attended within minutes. As the RCMP arrived, a neighbouring tenant called security to report a disturbance coming from the Respondents' premises. TH was found assaulting TC. He was arrested both for breaching a court order to have no contact with TC and for assault. The key to the residential complex was confiscated from TH by the RCMP and returned to the Applicant's security officer. The Applicant was not aware that TH remained in police custody from this day forward.

Since October 21st, while TC has been the sole occupant of the rental premises, at least seven reports of disturbances have been reported. The nature of the disturbances have been less disruptive than those occurring when TH was there, but still included partying, and loud talking and laughing. On each reported instance the noises stopped immediately upon the security officer's attendance at the rental premises.

TC did not dispute the Applicant's claims, acknowledging the reported disturbances and accepting responsibility for them. She seemed to understand the seriousness of the issues, and that disturbances of any nature – whether TH was there or not – could not continue. She also seemed to understand that when TH is released from custody

he will not be permitted to return to the rental premises, despite being a joint tenant, because of the probation order prohibiting him from having contact with TC. The Tenant's responsibility for the actions of persons she lets into the premises was emphasized, and TC seemed to understand. She apologized for the disturbances and promised not to let them happen again.

I am satisfied that repeated and unreasonable disturbances have occurred for which the Respondents are responsible. TC was informed of her options under section 54.1 of the Act respecting termination of the tenancy agreement due to domestic violence.

Termination of the tenancy agreement and eviction

In light of the repeated and unreasonable disturbances which have occurred, I am satisfied termination of the tenancy agreement and eviction are justified. However, in an effort to give TC an opportunity to prove she can comply with her obligation not to cause disturbances, and perhaps lead to the Applicant and TC entering into a sole tenancy agreement, it was agreed to issue the termination and eviction orders conditional on no further verified disturbances being reported to the Landlord between now and the end of March 2019.

Orders

An order will issue:

- requiring the Respondents to comply with their 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 (p. 43(3)(a), p. 43(3)(b));
- terminating the tenancy agreement March 31, 2019, unless no further disturbances verified as being caused by the Respondents or persons permitted on the premises by the Respondents were reported to the Applicant (p. 43(3)(d), ss. 83(2)); and
- evicting the Respondents from the rental premises April 1, 2019, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

Adelle Guigon
Rental Officer