

IN THE MATTER between **NTHC**, Applicant, **KF**, 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 **Janice Laycock, Rental Officer**,

BETWEEN:

NTHC

Applicant/Landlord

-and-

KF

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: July 14, 2020

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: AB, representing the Applicant
KF, Respondent

Date of Decision: July 15, 2020

REASONS FOR DECISION

An application to a rental officer made by the YHA on behalf of the NTHC as the Applicant/Landlord against KF as the Respondent/Tenant was filed by the Rental Office on June 5, 2020. 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 personal service on June 18, 2020.

The Applicant claimed the Respondent had disrupted other tenants' possession and quiet enjoyment of the rental premises or residential complex. An order was sought for termination of the tenancy agreement and eviction.

A hearing was held on July 14, 2020, by three-way teleconference. Appearing at the hearing were: Janice Laycock, Rental Officer; AB, representing the Applicant; and KF, as the Respondent. I reserved my decision at the hearing in order to review the evidence and consider the testimony of both parties.

Tenancy agreement

The Applicant testified and evidence was provided establishing a residential tenancy agreement between the parties for subsidized public housing beginning on June 1, 2015, and continuing month to month. I am satisfied that a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Previous order

There is a previous Rental Officer Order #15622 ordering the Respondent to pay for a replacement FOB. Neither the order, nor the reasons for decision, deal with the issues raised in the current application.

Disturbances

According to the testimony and evidence provided by the Applicant, the Respondent or persons that the Respondent has allowed into the residential complex have repeatedly disturbed other Tenants' possession or enjoyment of the rental premises or residential complex contrary to subsection 43(1) of the Act. Previous correspondence or evidence of complaints included:

- a November 13, 2018, letter to the Respondent from the Applicant notifying the Respondent that complaints had been received that on a regular basis "you and/or visitors disturbed other residents by knocking on doors asking for smokes or to use computers".
- a March 28, 2019, letter to the Respondent from the Applicant notifying the Respondent that complaints had been received that on a regular basis "you and/or visitors have disturbed other residents - loud yelling, partying and report of smoking of cannabis".

- a February 24, 2020, last chance agreement entered into by the Respondent agreeing not to disturb the quiet of enjoyment of other Tenants, in addition to paying arrears and reporting income.
- an April 28, 2020, letter to the Respondent from the Applicant issuing the Respondent a final warning regarding constant complaints that had been received about letting people into building and causing lots of noise in the hallways. This notice also warned the Respondent about COVID-19 restrictions relating to guests and that if the Respondent continued to endanger the health and safety of her neighbours the Applicant would be forced to file an application for termination and eviction (my summary relating to disturbances only):
 - ▶ April 2nd - constant traffic coming and going from apartment
 - ▶ April 15th - people coming and going at all hours, bothering tenants
 - ▶ April 17th - constantly bringing people into #10, visitors to the unit bothering other tenants by banging on their door and being loud and unruly in the hallways, Respondent standing outside and shouting up to unit and bothering tenants by asking for phone.
 - ▶ April 24 - people in and out of apartment and a lot of noise in hallway, continuing to bring people into apartment daily.
- Notes on file about complaints from other Tenants mostly about people coming and going in violation of the COVID-19 public health orders, but also because of partying and disruptions from the Respondent's unit. Also, information about an encounter with a neighbour where the Respondent allegedly yelled at the neighbour and banged on her door and adjoining walls.

The Respondent testified that although she has allowed people to visit her on occasion during the COVID-19 restrictions, there is a lot of activity in the building and there is no buzzer system so people do call up to apartments. The Respondent's apartment is next to the stairs near the door, so it may sound as if the noise of the door slamming is coming from her unit. She categorically denied the allegations of partying in the building or that she yelled at her neighbour.

In reviewing the testimony and evidence I have the following observations:

The majority of the complaints are about the Respondent allowing people into the building. Although allowing people into the building even daily or "randomly" may be a breach of the COVID-19 public health orders it is not a breach of subsection 43(1) of the Act. In some of the complaints it is reported that the people being allowed in are making noise as they come in and are creating a disturbance. The Respondent pointed out that there is a lot of activity in the building and it is not clear that all of the disturbances in the hallway are by the Respondent's guests.

Some of the complaints are about people including the Respondent calling up from the street. From the testimony of the Respondent, the lack of a buzzer system at the building means that calling up to the apartment from the street is a common practice in the building. Not all visitors have a phone and not all people calling up are looking for entry to Unit #10.

In addition to direct observations, the complaints also include a number of allegations against the Respondent such as drug dealing, operating a crack/flop house, disturbing other Tenants, bothering the senior across the hall, etcetera. These are not substantiated and in and of themselves are not relevant to a potential breach of subsection 43(1). I am concerned that these speculative comments lend weight to the complaints when they shouldn't.

The complaints include a few specific and more serious observations, such as that the Respondent yelled at her neighbour, beat on the door and the adjoining walls, and that the Respondent had a loud party throughout the night. The Respondent testified strongly that these things did not happen.

Putting aside complaints relating to having visitors (which is not a breach under the Act), the unfounded allegations in the complaints, and considering the Respondent's testimony, I am not convinced that termination and eviction are justified. However, based on the complaints that there have been disturbances caused by people that the Respondent has permitted to enter the rental premises, I believe the Respondent could make greater efforts to comply with her obligations under the Act.

Order

An Order will be issued requiring the Respondent to comply with her obligation not to disturb other Tenants' enjoyment of the rental premises or residential complex and not to breach that obligation again (p. 43(3)(a), p. 43(3)(b)).

Janice Laycock
Rental Officer