

IN THE MATTER between **NTHC**, Applicant, **CG**, 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-

CG

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
CG, 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 CG 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 denied entry to the rental premises for the purpose of bed bug treatment and had disrupted other Tenants' possession or enjoyment of the rental premises or residential complex. An order was sought for compensation for the cost of the bed bug treatment, 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 CG, as the Respondent. I reserved my decision at the hearing in order to review the evidence and consider the testimony of both parties.

Preliminary matter

At the hearing the Respondent clarified that her street address is 5023 - 48th Street, not 48th Avenue as provided for in the application. The Tenancy agreement incorrectly identifies the address of the residential complex as 5023 - 48th Avenue, when it is actually located at 48th Street. The parties are aware of this error and are planning to make corrections.

Tenancy agreement

The Applicant testified and evidence was provided establishing a residential tenancy agreement between the parties for subsidized public housing beginning on July 16, 2019, 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).

Denied entry for bed bug treatment

The Applicant testified and provided evidence that the Respondent had refused treatment of their apartment for a bed bug infestation on numerous occasions and was seeking \$173.25 in compensation for the costs. They provided receipts showing a charge back for the denial of treatment from a visit on January 13, 2020, including GST and 10% administration fee.

According to the evidence, notice was provided to all residents of the residential complex on January 16, 2020, for the treatment to take place on January 23rd. Notice was provided to the Respondent on February 3, 2020, for treatment to take place on February 10th. And again notice was provided to the Respondent on February 20, 2020, for treatment to take place on February 27th. According to the Applicant's notes provided as evidence, the Respondent refused treatment on January 6th, January 23rd, February 10th, and February 27th.

At the hearing, the Respondent testified that she was ready when the person doing the bed bug treatment came in January 2020, but that he came late and told her that he would come back the following month. However, this did not explain the denial of entries in February.

Under section 26 of the Act a Landlord has the right to enter a rental premises if they give written notice of at least 24 hours and the entry is between 8:00 a.m. and 8:00 p.m. If the Tenant objects to these days and/or times they need to let the Landlord know and specify alternate days and/or times.

Under paragraphs 28(a) and (b) of the Act, a rental officer can make an order requiring the person who breached the obligation to not breach the obligation again or requiring the person who breached the obligation to compensate the affected part for loss suffered as a direct result of the breach.

The Applicant is claiming costs for denying entry for the bed bug treatment on January 13, 2020, even though none of their information includes a visit on January 13, 2020, and the Respondent has testified that they did not deny the January treatment.

Based on the evidence and the testimony of the parties I am convinced that the Respondent did deny entry for bed bug treatments in February 2020. I find that as the Applicant's claim deals directly with denied entry for a bedbug treatment on January 13, 2020, which I have no evidence for (notice or notes), I have no option but to deny the Applicant's claim for compensation.

Disturbances

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

- an April 28, 2020, letter to the Respondent from the Applicant giving the Respondent a final warning regarding constant complaints about letting people into the building in the evening and causing noise - including April 2, 2020, for constant traffic, April 17, 2020, for constantly letting people in who are not tenants, and April 19, 2020, for people whistling outside the apartment at 3:30 a.m. The notice also warned of COVID-19 restrictions relating to guests and that if the Respondent continued to endanger the health and safety of other Tenants the Applicant would be forced to file an application for termination of the tenancy agreement and eviction (my summary relating to disturbances only):
 - ▶ April 19th - giving access to building, people outside whistling and yelling
 - ▶ April 22nd - early on Sunday people whistling to be let in, banging, yelling, voices in hallway
 - ▶ April 28th - people constantly yelling and whistling to be let up day and night all the time
 - ▶ April 29th - same issue: people yelling and whistling to be let into the building
 - ▶ May 8th - letting people into building
 - ▶ May 14th - people yelling and whistling to be let into building, continues every day
 - ▶ May 29th - people from apartment above continue to communicate with people yelling and whistling to be let in, early Saturday morning and at night, 5:00 a.m. Sunday

The Applicant testified that they had received further complaints in June 2020.

The Respondent testified that they had not received any written communications from the Applicant on this issue prior to receiving the final warning letter. They have been living in the building for years and this is the first complaint. They also pointed out that there is no buzzer system in the building and if people want to get up to a unit they have to try to get the tenant's attention to do that. Not everyone has a phone, so this is a common issue in the building. Further, the Respondent reported that the backdoor is often jammed open so anyone can and do enter the building causing problems and creating disturbances. Finally, the Respondent testified that they often allow people into the building so that they can use her washroom, but they leave right away.

In reviewing the testimony and evidence I found that the majority of the complaints are about the Respondent giving access to the building to people who aren't Tenants, and people calling or whistling up from the street to get 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. However, if the people she permits into the building are causing a disturbance then that is a breach. 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 common practice in the building, as pointed out not all visitors have a phone, and not all people calling up are looking for entry to her unit.

Putting aside complaints relating to letting people into the building (which is not a breach under the Act), that people whistling and calling up to units to gain entry is not uncommon in the building, and considering the Respondent's testimony and lack of previous complaints, I am not convinced that termination of the tenancy agreement and eviction are justified. However, based on the Respondent's testimony confirming that they are letting people into the building and the complaints received, I believe that visitors of the tenant are creating a disturbance and the Respondent could make greater efforts to comply with their obligations under the Act, especially considering the COVID-19 restrictions.

Order

An Order will be issued requiring the Respondent to comply with their 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