

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

JD

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: September 10, 2020

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: DH, representing the Applicant

Date of Decision: September 10, 2020

REASONS FOR DECISION

An application to a rental officer made by FSHA on behalf of the NTHC as the Applicant/Landlord against JD as the Respondent/Tenant was filed by the Rental Office March 9, 2020. The application was made regarding a residential tenancy agreement for a rental premises located in Fort Smith, Northwest Territories. The filed application was sent to the Respondent by registered mail deemed served September 2, 2020, pursuant to subsection 71(5) of the *Residential Tenancies Act* (the Act).

The Applicant alleged the Respondent had repeatedly and unreasonably caused disturbances and had failed to vacate the rental premises after being served with a valid notice to terminate the tenancy agreement. An order was sought to evict the Respondent from the rental premises.

Emergency Public Health Orders were issued in response to the COVID-19 pandemic before this file could be scheduled for a hearing. Due to the resulting office closures, the Applicant agreed to postponing the further processing of this application until they had returned to work in their office and had stabilized their work flow. The Applicant confirmed their readiness to proceed on this matter in August, at which time processing was completed and a hearing was scheduled. The Applicant received the filed applications and notices of attendance by registered mail signed for August 26, 2020. The Applicant then sent the Respondent's copy of those documents to him by registered mail deemed served September 2, 2020.

A hearing was held September 10, 2020, by three-way teleconference. DH appeared representing the Applicant. JD did not appear at the hearing nor did anyone appear on his behalf. Having been served notice of the hearing in accordance with the Act, the hearing proceeded in the Respondent's absence pursuant to subsection 80(2) of the Act.

Tenancy agreement

Evidence was provided establishing a residential tenancy agreement between the parties for subsidized public housing commencing February 10, 2017. A notice to terminate the tenancy agreement was given to the Respondent on February 25, 2020, terminating the tenancy March 31, 2020, under subsection 51(5) of the Act.

Subsection 51(5) of the Act provides for subsidized public housing Landlords to give a Tenant at least 30 days' written notice to terminate a tenancy agreement for the last day of any month for a month-to-month tenancy agreement. No particular reason for termination of the tenancy is necessary under this section. In this case, the Landlord did give reasons for terminating the tenancy as being due to repeated and unreasonable disturbances caused by the Respondent and his guests.

I am satisfied the tenancy agreement was terminated in accordance with the Act on March 31, 2020, and that the Respondent remains in occupancy of the rental premises as an overholding Tenant.

Disturbances

The Applicant provided evidence documenting a repeated pattern of behaviour from the Respondent and persons he has permitted into the residential complex throughout the tenancy. The nature of the disturbances included: partying, being loud and noisy, public intoxication, fighting, roaming and passing out in the hallways and common areas, hitting on walls, arguing, and yelling. On several occasions the RCMP were required to attend due to the disturbances. The incidents would occur at all hours of the day or night, but the night-time incidents further interfered with the neighbouring Tenants' sleep. Despite a one-year period in 2018, after the Respondent attended a treatment program, during which there appears to have been a respite from the disturbances, it is well documented that the disturbances have otherwise been constant throughout the tenancy to date.

The Applicant further testified that the on-site caretaker has been keeping diligent logs of the incidents, and has continued to communicate the issues to the Respondent. The Respondent has not responded to any of the complaints, nor has he apparently taken any actions to resolve the issues.

I am satisfied the Respondent is responsible for repeatedly and unreasonably causing disturbances. I find the Respondent has failed to comply with his obligation not to disturb the Landlord's and other Tenants' enjoyment and possession of the rental premises and residential complex, contrary to subsection 43(1) of the Act and paragraph 12(c) of the written tenancy agreement.

Termination of the tenancy agreement

The Applicant has given the Respondent four separate notices since April 2017 to terminate the tenancy under subsection 51(5) of the Act due to the disturbances.

The first one, issued April 21, 2017, was successfully appealed by the Respondent to the FSHA Board (the Board), who withdrew the termination notice with conditions.

The second notice, issued October 31, 2017, was rescinded by the Board with conditions upon confirming that the Respondent would be attending an 8-week treatment program.

The third notice, issued October 30, 2019, was appealed by the Respondent on November 18, 2019. On February 25, 2020, the Board denied the Respondent's appeal and affirmed the notice to terminate by issuing a new notice the same day for the termination date of March 31, 2020.

As previously mentioned, I am satisfied the tenancy agreement was terminated March 31, 2020, in accordance with the Act.

Eviction

In light of the Respondent's continued occupancy of the rental premises as an overholding Tenant combined with his continued disruptive behaviour, I am satisfied an eviction order is justified. An order will issue evicting the Respondent from the rental premises on or after September 30, 2020.

Adelle Guigon
Rental Officer