

IN THE MATTER between **NCSC**, Applicant, and **DA**, 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:

NCSC

Applicant/Landlord

-and-

DA

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: March 9, 2021

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: CW, representing the Applicant

Date of Decision: March 9, 2021

REASONS FOR DECISION

An application to a rental officer made by NCSC as the Applicant/Landlord against DA as the Respondent/Tenant was filed by the Rental Office January 22, 2021. 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 Respondent February 3, 2021.

The Applicant alleged the Respondent had repeatedly and unreasonably caused disturbances. An order was sought for termination of the tenancy agreement and eviction.

A hearing was held March 9, 2021, by three-way teleconference. CW appeared representing the Applicant. DA was personally served with notice of the hearing February 3, 2021. The Rental Office was copied to an email sent February 4, 2021, from a Human Rights Officer to the Respondent which indicated that the Respondent's phone is not currently in service. The Rental Office subsequently emailed the Respondent to confirm the information provided in the Human Rights Officer's email. The Rental Office email also confirmed that the resources are not currently available to hold the hearing in person, and the Respondent was encouraged to make arrangements to use someone else's phone to participate in the hearing. The Respondent was also encouraged to contact the Rental Office if they have difficulty doing so, or if they have any further questions. The Respondent did not reply to the Rental Office email, nor was any other form of contact received from the Respondent. The Respondent did not appear at the hearing, nor did anyone appear on the Respondent's behalf. Being satisfied that the Respondent was aware of the application and his opportunity to speak to it, the hearing proceeded in the Respondent's absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

Evidence was presented establishing a residential tenancy agreement between the parties for subsidized housing commencing March 1, 2007. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Disturbances

The Applicant's representative started in his position as Executive Director for the Landlord in August 2019. He testified that a review of the Landlord's records showed him that multiple and repeated complaints of disturbances had been received and documented against the Respondent throughout his tenancy. Since August 2019, the Applicant's representative has received regular multiple complaints against the Respondent. The Applicant's security personnel have also received, responded to, and documented complaints of disturbances against the Respondent.

All the disturbances consist of excessively loud music and television being played at all hours of the day and night. The most disturbing instances are those that occur in the late evening through to the early morning. The security incident reports confirm the disturbances as originating from the Respondent's premises. The security incident reports also suggest that for the most part the Respondent turns the stereo down or off when approached by the security officer. That is not to say that the Respondent actually speaks to the security officers, just that when the security officers knock on the door and/or yell through the door the Respondent does not answer but does turn the volume down or off.

The Applicant's representative testified that the immediately affected neighbours on the same floor and the floor directly below the Respondent's have collectively expressed frustration with the Respondent's inconsiderate behaviour and have had enough. All but two of the complaining tenants were not comfortable being identified, but the Applicant's representative verified on the record the complaints that he received were from more than the two tenants identified in the security incident reports.

It has been reported to the Applicant's representative that the disturbances generally occur on a weekly basis since the tenancy started. Since the Applicant's representative started working for the Landlord in August 2019, no less than eight security incident reports have been made documenting incidents of disturbances verified as being caused by the Respondent. The Applicant's representative indicated that his review of the Landlord's records suggest that the Landlord had been attempting for years to work with the Respondent rather than pursuing resolution through the Rental Office. Based on the continued pattern of behaviour and the complaints and requests of the other tenants, it seems clear to the Applicant's representative that the previous efforts have not been successful and the ongoing disruption to the other tenants is unreasonable.

The Respondent sent a letter dated February 3, 2021, to the Applicant which was addressed to the Applicant, the Rental Office, the "Yellowknife Rental Board" (I believe he meant the Human Rights Commission), and the Respondent's MLA. This letter was not received by the Applicant until February 17, 2021, and it was not provided to the Rental Office by the Respondent. The Applicant provided the letter to the Rental Office on March 8, 2021, along with updated information related to their application.

The Respondent's letter made allegations against the Applicant and raised questions unrelated to the reasons the Applicant made their application. No mention of the claimed disturbances was made in the Respondent's letter, nor was any defence to those claims offered. Should the Respondent wish to have the tenancy issues he raises in his letter heard he may make his own application to a rental officer.

Based on the evidence and testimony provided at hearing, I am satisfied that the Respondent is responsible for repeatedly and unreasonably causing disturbances. I find the Respondent has breached his obligation under section 43 of the Act to not disturb the landlord's or other tenants' possession or enjoyment of the rental premises or residential complex. I am further satisfied that the Landlord has been generous over the duration of this tenancy in attempting to resolve the repeated pattern of behaviour and could have made an application to a rental officer on this issue well before now.

Termination of the tenancy agreement and eviction

In light of the repeated and unreasonable pattern of disturbances, and the Respondent's apparent unwillingness to recognize and comply with his obligation not to cause disturbances, I am satisfied termination of the tenancy agreement and eviction are justified. However, by agreement with the Applicant's representative, the termination and eviction orders will be tiered and conditional, dependent on the Respondent not causing any further disturbances.

Orders

An order will issue:

- requiring the Respondent to comply with his obligation not to cause disturbances and not to breach that obligation again (p. 43(3)(a), p. 43(3)(b));
- terminating the tenancy agreement March 31, 2021, April 30, 2021, or May 31, 2021, unless no further disturbances verified as caused by the Respondent are reported to the Applicant (p. 43(3)(d), ss. 83(2)); and
- evicting the Respondent from the rental premises April 1, 2021, May 1, 2021, or June 1, 2021, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

Adelle Guigon
Rental Officer