

IN THE MATTER between **NTHC**, Applicant, and **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 **Adelle Guigon**, Rental Officer;

BETWEEN:

**NTHC**

Applicant/Landlord

-and-

**CG**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>October 25, 2021</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>PS, representing the Applicant DW, witness for the Applicant SR, witness for the Applicant  CG, Respondent</b>
<b><u>Date of Decision:</u></b>	<b>October 29, 2021</b>

### **REASONS FOR DECISION**

An application to a rental officer made by YHA on behalf of the NTHC as the Applicant/Landlord against CG as the Respondent/Tenant was filed by the Rental Office September 13, 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 September 17, 2021.

The Applicant alleged the Respondent had repeatedly and unreasonably caused disturbances, and had failed to comply with a Rental Officer order to comply with the obligation not to cause disturbances and not to breach that obligation again. An order was sought for termination of the tenancy and eviction.

A hearing was scheduled for October 14, 2021, by three-way teleconference. PS appeared representing the Applicant. CG appeared as Respondent. The Respondent's request to adjourn the hearing so she could seek and receive further legal advice was granted. The hearing was re-scheduled to and held October 25, 2021, by three-way teleconference. PS appeared representing the Applicant, with DW and SR appearing as witnesses for the Applicant. CG appeared as Respondent, arriving 15 minutes late.

#### *Tenancy agreement*

Evidence was presented establishing a residential tenancy agreement for subsidized public housing commencing July 16, 2019. The rental premises is an apartment located in a multi-unit complex owned by NCHYP (the Owner). The Applicant rents various individual apartments from the Owner to provide housing under their Subsidized Public Housing Program (SPHP). In this multi-unit complex, known as Hudson House, the Applicant has two SPHP rental premises. The remainder of the apartments are rented out directly by the Owner to their own tenants. I am satisfied a valid tenancy agreement is in place between the parties for subsidized public housing in accordance with the *Residential Tenancies Act* (the Act).

#### *Previous order*

Rental Officer Order #16973 issued July 15, 2020, found the Respondent had repeatedly caused disturbances, but the presiding Rental Officer could not be satisfied that the Respondent was responsible for all the disturbances that were alleged. The requested termination and eviction orders were denied as unjustified at the time, but an order was issued requiring the Respondent to comply with her obligation not to cause disturbances and not to breach that obligation again.

### *Disturbances*

The Applicant provided evidence of complaints received identifying the Respondent as repeatedly engaging in disruptive behaviour which interfered with neighbouring tenants' peaceful enjoyment. The disruptive behaviour included yelling, whistling, screaming, and arguing, both from inside the premises and with individuals calling up to the Respondent from the street outside the multi-unit complex, as well as rude and disrespectful comments and threats being made by the Respondent against other tenants, security personnel, and the Applicant's representatives. Additional complaints were received about banging, thumping, and screaming from inside the rental premises which disrupted the tenants residing in the apartment directly below the Respondent's. Although the behaviour occurs both during the day and night, the complaints are primarily about the nighttime disturbances as those continuously wake the neighbouring tenants' from their sleep.

It was further submitted that the Respondent had been permitting persons into her rental premises without proper social distancing and personal protective equipment in contravention of the Chief Public Health Officer's pandemic restrictions orders. One of the Applicant's witnesses testified to observing these contraventions and tracking them directly to the Respondent's premises. Those breaches were reported to the COVID-19 Secretariat.

The Applicant's witnesses corroborated the Applicant's submissions, clarifying that the disturbances have been continuous since the last Rental Officer order was issued but have increased in frequency and level of disruption since late June of this year. Both witnesses visually confirmed the source of the disturbances as coming from the Respondent's apartment, and their attempts to approach the Respondent directly regarding the disturbances was met with aggression and threats. Complaints and reports were filed with the Applicant, the building Owner, and with the RCMP, with no improvement or resolution to the Respondent's behaviour. Both witnesses confirmed the behaviours exhibited by the Respondent and her guests have been intimidating and have caused them to feel unsafe. The nighttime disturbances have caused mental and physical exhaustion and stress.

The Respondent deflected responsibility for the disturbances to the people who came to the building looking for her and to her grandson who lives with her. She testified that the people coming to the building and yelling up to her from the street are family and friends, and that she is not responsible for their behaviour or their attendance at the building. She claimed that because the buzzer to the building does not work that the only way anyone who is not a tenant can get into

the building is to either yell up to her fourth floor apartment to get her attention or to be let in by someone else. The Respondent claimed that she has been yelling at the people to go away and “fuck off” because they’re getting her in trouble, but it was clarified during the hearing that she only starting turning people away over the last few days before this hearing.

The Respondent further testified that the banging, thumping, and screaming from inside her premises was caused by her 5-year-old grandson who suffers from Autism and ADHD, and whom she cannot control. She claimed that middle-of-the-night noises from an apartment two floors below hers often wake her grandson up, startling him into having a fit, and then he won’t go back to sleep and plays and jumps around the apartment. The Respondent confirmed that her grandson has been living with her since February 2020 without the Landlord’s authorization. The Landlord’s authorization is required for additional occupants to the rental premises under section 5 of the written tenancy agreement.

Section 43 of the Act prohibits the Tenant from disturbing the landlord’s or other tenants’ possession or enjoyment of the rental premises or residential complex, and holds the Tenant responsible for disturbances caused by persons permitted to enter the residential complex or the rental premises by the Tenant.

With respect to the yelling back and forth with persons outside the building, were it just a matter of those persons doing the yelling and whistling with no engagement from anyone in the building, then I would be hard pressed to find the Respondent responsible for their behaviour. Those persons’ disruptive behaviour would be a matter for either the RCMP or Municipal Enforcement to address. However, in this case there is sufficient evidence that the Respondent has been interacting with the persons calling to her from the street, and doing so in a significantly disruptive manner. It is no longer just the people on the street who are causing the disturbances, but so is the Respondent, and it is that response and engagement that the Respondent is responsible for.

If it is true that the Respondent did not want or invite the people calling from the street to be there she would be better served by not responding to them at all, and if necessary calling the police to report the public disturbances. This is not what the Respondent did. The Respondent instead reacted to the street calling at all hours of the day and night by engaging in some form or another with them, aggravating the disturbances. This is despite having already been warned by an order of the Rental Officer not to cause further disturbances.

It seems to me the Respondent’s efforts over the last few days are more likely to be a self-serving attempt to avoid eviction rather than a sincere effort to take responsibility for and mitigate the disturbances, and it is unlikely to continue given the pattern of behaviour since the last Rental Officer order was issued.

With respect to the banging, thumping, and screaming noises from inside the rental premises, while it is more likely than not that those disturbances were primarily (not exclusively) caused by the grandson, the Respondent remains responsible for her grandson's behaviour. I believe it is more likely than not that the source of the disruption to the grandson's sleep is the same as it is for the other tenants' in the building, that being the Respondent's engagement with other people both inside and outside the building. It is unfair to the young child to blame him for his behaviour given his medical condition. It is the caregiver's responsibility to care for, guide, and teach the child how to cope with and manage his condition. If the Respondent is unable to do this and the consequences are the disturbance to the neighbouring tenants' peace and enjoyment then the Respondent should take the necessary steps to re-evaluate the environment she is caring for her grandson in so as to benefit the needs of the child and mitigate the rights of the other tenants in the residential complex.

I am satisfied on a balance of probabilities that the Respondent is responsible for repeatedly and unreasonably causing disturbances. I find the Respondent has repeatedly failed to comply with their obligation not to cause disturbances and has failed to comply with a Rental Officer order requiring her to comply with that obligation and not breach it again.

Given the lengthy period of time over which the repeated and unreasonable behaviour has continued, and the consequential effects on the neighbouring tenants' peace, enjoyment, and sense of safety and wellbeing, it would be unfair to the other tenants' in the building to permit the Respondent's tenancy to continue. I am satisfied termination of the tenancy and eviction are justified.

#### *Orders*

An order will issue terminating the tenancy November 30, 2021, (p. 43(3)(d)) and evicting the Respondent from the rental premises December 1, 2021 (p. 63(4)(a)).

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Adelle Guigon  
Rental Officer