

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

MF

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	December 15, 2021
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	DD, representing the Applicant RV, representing the Applicant MF, the Respondent
<u>Date of Decision:</u>	December 16, 2021

REASONS FOR DECISION

An application to a rental officer made by the IHA on behalf of the NTHC as the Applicant/Landlord against MF as the Respondent/Tenant was filed by the Rental Office November 10, 2021. The application was made regarding a residential tenancy agreement for a rental premises located in Inuvik, Northwest Territories. The filed application was personally served on the Respondent on November 23, 2021.

The Applicant claimed the Respondent or their guests had repeatedly disturbed other tenants in the residential complex. An order was sought for eviction and compensation for use and occupation after termination of the tenancy.

A hearing was held on December 15, 2021, by teleconference. DD and RV appeared representing the Applicant. The Respondent, MF, appeared.

Tenancy agreement

Evidence was provided establishing a tenancy agreement between the parties for subsidized public housing. The Applicant testified the Respondent had been a tenant for a period of time with the latest tenancy agreement commencing on July 1, 2018, and continuing month to month. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Disturbances

Subsection 43(1) of the Act says:

“A tenant shall not disturb the landlord’s or other tenant’s possession or enjoyment of the rental premises or residential complex.”

The Applicant provided evidence and testified to disturbances caused by the Respondent in breach of this section including:

- January 18, 2021 - yelling, screaming and arguing, RCMP called and attended - first warning letter was issued;
- April 15, 2021 - fighting, yelling, loud banging at 12:30 a.m. - final warning letter was issued;
- May 11, 2021 - banging and fighting in hallway - termination notice issued. Tenant appealed termination, board rescinded termination on the agreement that there would be no further disturbances in the next year;

- October 2, 2021 - loud noises and banging - new termination notice issued;
- October 22, 2021 - loud noises and banging 2:27 a.m., yelling in unit and hallway 3:45 a.m.;
- October 27, 2021 - loud argument at 1:51 a.m., previous night as well;
- November 2, 2021 - banging and yelling;
- November 3, 2021 - banging and yelling, RCMP called;
- November 10, 2021 - loud banging, yelling, loud thumping, RCMP called and attended and after the RCMP left noise started again; and
- December 2, 2021 - loud banging and noises coming from the rental premises all night and into the morning - notice of termination issued.

At the hearing the Applicant also read from a letter from the property managers (provided to the Rental office and the Respondent prior to the hearing) reporting that the Respondent's previous neighbour had moved out in July 2021 because of the disturbances, the new tenant moved out in August 2021 because of the noise, and the current neighbouring tenant has complained about the late night excessive noise coming from the Respondent's rental unit. The property manager asked the Applicant to address this issue as provided for under the Act.

The Respondent admitted that they were responsible for the disturbances and were struggling with a number of issues including breaking up with their partner. They believed some of the complaints related to his behaviour. They also commented that they had been living in the building for a long time and the complaints are only coming from one unit, the other neighbours have not complained.

I pointed out to the Respondent that three different tenants in the neighbouring unit had complained about the disturbances, and at any rate the Respondent is responsible for not disturbing any of their neighbours.

Based on the evidence and the testimony I find that the Respondent is in breach of their obligations under subsection 43(1) by repeatedly disturbing the enjoyment of other tenants in the residential complex.

Termination of the tenancy and eviction

Although the application did not specifically include a request for termination, under subsection 54(4) of the Act, a landlord who has given notice of termination is also required to apply to a rental officer for an order to terminate the tenancy. I will deal with termination of the tenancy as part of this application.

At the hearing the Respondent asked to be allowed to remain in their rental unit as they had nowhere else to go. The Applicant stated that they did not want to evict any of their tenants but the Respondent had previously been given an opportunity and continued to disturb other tenants. However, the Applicant agreed to a conditional termination order that would allow them to act promptly to address any further disturbances.

At the hearing I reserved my decision in order to consider an approach to the conditional order that would allow the Respondent to remain in their rental premises, but also give the Applicant the ability to act promptly if there are further disturbances by the Respondent or their guests.

In light of the Respondent's repeated disturbances, I am satisfied termination of the tenancy and eviction are justified. After consideration I believe that tiered conditional termination and eviction orders dependent on no further disturbances being caused by the Respondent is appropriate.

Compensation for use and occupation

In their application the Applicant had requested compensation for the use and occupation of the rental premises if the Respondent remains in the rental premises after the tenancy is terminated. Under paragraph 63(4)(b) of the Act, a rental officer who terminates a tenancy may make an order requiring the tenant to compensate the landlord for the use and occupation of the rental premises, calculated for each day the tenant remains in occupation following the termination of the tenancy. As the tenancy agreement has not yet been terminated I did not think it appropriate at this time to order compensation.

Orders

An order will be issued:

- requiring the Respondent to comply with their obligation to not cause disturbances and not to breach that obligation again (p. 43(3)(a), p. 43(3)(b));
- terminating the tenancy:
 - (a) December 31, 2021, unless no further disturbances are caused by the Respondent or their guests;
 - (b) January 31, 2022, unless no further disturbances are caused by the Respondent or their guests; and
 - (c) March 31, 2022, unless no further disturbances are caused by the Respondent or their guests (p. 43(3)(d), ss. 83(2)); and

- evicting the Respondent from the rental premises:
 - (a) January 1, 2022, if the termination of the tenancy becomes effective December 31, 2021;
 - (b) February 1, 2022, if the termination of the tenancy becomes effective January 31, 2022; and
 - (c) April 1, 2022, if the termination of the tenancy becomes effective March 31, 2022 (p. 63(4)(a), ss. 83(2)).

Janice Laycock
Rental Officer