

IN THE MATTER between **NCHYP**, Applicant, and **KC**, 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:

**NCHYP**

Applicant/Landlord

-and-

**KC**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>January 12, 2022</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>KC, representing the Applicant KC, Respondent</b>
<b><u>Date of Decision:</u></b>	<b>January 12, 2022</b>

## **REASONS FOR DECISION**

An application to a rental officer made by NCHYP as the Applicant/Landlord against KC as the Respondent/Tenant was filed by the Rental Office December 7, 2021. 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 email deemed received January 3, 2021, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The Applicant alleged the Respondent had repeatedly and unreasonably caused disturbances and had committed actions seriously impairing the safety of other tenants. An order was sought for termination of the tenancy and eviction.

A hearing was held January 12, 2022, by three-way teleconference. KC appeared representing the applicant. KC appeared as Respondent.

### *Tenancy agreement*

Evidence was presented establishing a residential tenancy agreement between the parties commencing September 1, 2021. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

### *Disturbances*

The Applicant referenced complaints received on November 8<sup>th</sup>, 20<sup>th</sup>, 23<sup>rd</sup>, and 30<sup>th</sup>, 2021. Warning notices were given to the Respondent regarding each complaint and a notice to terminate the tenancy was given under section 54(1)(a) of the Act. The Applicant's representative confirmed that there have been no further complaints received since the November 30<sup>th</sup> incident.

### November 8th

The November 8<sup>th</sup> incident referenced yelling, banging doors, and the dog barking at all hours. The Respondent acknowledged this occurrence, but also pointed out that there have been no further such incidents for which she is responsible. I am satisfied the Respondent is responsible for this single incident of disturbance.

### November 20th

The November 20<sup>th</sup> incident referenced yelling and fighting in the hallway with a taser occurring early in the morning. The Respondent agreed this incident occurred, but disputed her responsibility for it. She explained that a stranger had come knocking on their door looking for the previous tenant. He persistently called out for the previous tenant, and when the Respondent's boyfriend responded to tell the stranger the person they were looking for was not there, the stranger pushed his way into the premises and attacked the Respondent's boyfriend with the taser. The Respondent's boyfriend defended himself, managing to get the stranger out of the premises. At no point was this stranger permitted into the rental premises or residential complex by either the Respondent or her boyfriend.

The Respondent testified that she and her boyfriend tried to explain what happened to the Applicant's representative, but were not permitted to and were not believed. The Applicant's representative took the complainant Tenant's word over the Respondent's.

The Applicant's representative confirmed that the Respondent and her family came into the office to speak with her about the incident. The Applicant's representative said that the complainant Tenant witnessed two men come out of the Respondent's apartment fighting, and from that the assumption was made that the two men were guests of the Respondent. Given the level of fear expressed by the complainant Tenant from the altercation, as well as in consideration of concerns expressed by other Tenants in the complex for their safety generally, the Applicant assumed the Respondent was responsible for the altercation and therefore responsible for causing the neighbouring Tenants' fear for their own safety. To clarify, there was no connection made by the other Tenant's concerns to this November 20<sup>th</sup> incident; rather their concerns were generally expressed.

I am not satisfied the Respondent is responsible for this incident. The complainant Tenant's observations were limited and uninformed as to what was actually happening. While the complainant Tenant's fear is understood, the Respondent and her boyfriend also experienced fear for their own safety. It is not their fault this stranger forced his way into the rental premises and they did not instigate the altercation. Nor has the Respondent been identified as causing the general fear for personal safety expressed by the occupants of the residential complex. There being no evidence to contradict the Respondent's testimony, I am not satisfied the Respondent is responsible for this disturbance. I am also not satisfied that the Respondent is responsible for seriously impairing the safety of the Landlord or other Tenants'.

#### November 23<sup>rd</sup>

The November 23<sup>rd</sup> incident referenced complaints that the Respondent's dog was being maltreated when it was left outside in -30 degree temperatures for hours. The Respondent acknowledged putting the dog out to do it's business, but denied maltreating the dog or leaving it outside for a lengthy period of time. At any rate, there is no evidence that the dog was causing a disturbance while it was outside.

Section 28 of the City of Yellowknife's Dog By-law speaks to the protection of dogs. If someone believes the Respondent's dog is being maltreated the appropriate venue for their complaint is to the City of Yellowknife's Municipal Enforcement Division. Had the maltreatment been accompanied by behaviour that caused a disturbance for the neighbouring tenants, then there would be a breach of section 43 of the Act which prohibits tenants from disturbing the Landlord's or other tenants' possession or enjoyment of the rental premises or residential complex.

I am not satisfied that a disturbance was caused for which the Respondent might be responsible under the Act.

#### November 30<sup>th</sup>

The November 30<sup>th</sup> incident referenced complaints about a verbal altercation between the Respondent and the complainant Tenant which put the complainant Tenant in an "uncomfortable position". No details as to the nature of this altercation were provided.

The Respondent acknowledged speaking to one of her neighbouring Tenants about the complaints she feels have been falsely made against her in an attempt to resolve whatever the issue was with this person. While the conversation may have been uncomfortable, the Respondent denied that it could be described as an altercation. The Respondent again pointed out that there have been no issues that she is aware of since November 30<sup>th</sup>.

It seems to me that the Respondent has been making efforts to resolve any disputes that have arisen by speaking directly with both the complaining Tenant and with the Landlord about the issues. I am not satisfied that the conversation of November 30<sup>th</sup> constitutes a disturbance.

*Conclusions*

Given my findings that there is only the one disturbance from November 8<sup>th</sup> that the Respondent could reasonably be responsible for, I am not satisfied termination of the tenancy and eviction are justified. The Applicant's request for termination and eviction orders is denied.

Dated at the city of Yellowknife in the Northwest Territories this 17<sup>th</sup> day of January 2022.

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Adelle Guigon  
Rental Officer