

IN THE MATTER between **NTHC**, Applicant, and **TH and HD**, Respondents.

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-

TH and HD

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: March 30, 2022

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: WJC, representing the Applicant
AG, representing the Applicant
TH, Respondent
HD, Respondent

Date of Decision: March 30, 2022

REASONS FOR DECISION

An application to a rental officer made by the FSHA on behalf of the NTHC as the Applicant/Landlord against TH and HD as the Respondents/Tenants was filed by the Rental Office September 13, 2021. The application was made regarding a residential tenancy agreement for a rental premises located in Fort Smith, Northwest Territories. The filed application was served on the Respondents by registered mail on September 24, 2021.

The Applicant claimed the Respondents had accumulated rental arrears and had disturbed their neighbours and the landlord. An order was sought for payment of rental arrears, payment of rent on time in the future, termination of the tenancy agreement, and eviction.

A hearing was scheduled for October 19, 2021, by three-way teleconference. No one appeared on behalf of the Applicant. The hearing was rescheduled and held March 30, 2022, by three-way teleconference. WJC and AG appeared representing the Applicant. The Respondents, TH and HD, both appeared at the hearing.

Tenancy agreement

Evidence was provided establishing a joint tenancy agreement for subsidized public housing commencing on January 1, 2016, and continuing month to month. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Rental arrears

The lease balance statement provided as evidence represents the Landlord's accounting of monthly rents and payments received against the Respondent's rent account. The Applicant testified that since the application was filed the applicant's rent had been re-assessed to \$80 per month and their arrears were now \$51.74. An updated lease balance statement issued on March 30, 2022, was provided to the Rental Office the day of the hearing. This statement confirmed the testimony.

I am satisfied based on testimony at the hearing, the lease balance statement accurately reflects the current status of the rental account and I find the Respondents have rental arrears totalling \$51.74. The Respondents agreed at the hearing to pay this amount.

The Applicant had asked for an order to pay arrears and to pay rent on time in the future, however, the amount owing is minor and the lease balance statement shows the rent has been paid regularly. I denied their request and will not be issuing an order for payment of arrears or payment of rent on time in the future.

Disturbances

When the application was filed in September 2021, the Applicant alleged the Respondents were responsible for disturbances and provided the following evidence:

- December 5, 2018 - yelling and threatening neighbours - letter from Applicant to Respondent dated December 6, 2018.
- February 6 and 7, 2019 - excessive noise, so excessive RCMP were called twice - letter from Applicant to Respondent dated February 7, 2019.
- September 18, 2020 - harassing and threatening neighbours from 7:30 p.m. until 6:00 a.m. - letter from Applicant to Respondent dated September 22, 2020, includes the following: "You were sent multiple warnings regarding noise complaints and disturbing your neighbours in the past".

According to the evidence, in December 2020 the Respondents signed a last chance agreement agreeing to "not disturb the quiet enjoyment of other tenants and the landlord". On September 1, 2021, a "Notice of Termination of Tenancy" was sent to the Respondents by registered mail. This notice requested vacant possession of the rental premises on October 31, 2021 because "the tenant has repeatedly failed to conduct themselves in a civilized manner despite several verbal and written warnings. On numerous occasions, complaints were made by neighbours during the investigation. The Last Chance Agreement (LCA) was signed on December 10, 2021, is already breached. The LCA states to not disturb the quiet enjoyment of the tenants or landlord. More than 10 complaints have been filed to the FSHA office since March 2021, which include complaints from FSHA Staff."

According to evidence provided, the Respondents appealed the termination and received a letter dated September 23, 2021, that their appeal was successful and they were on probation for 6 months from October 1, 2021, to March 31, 2022. Under the terms of the probation the Respondents were to communicate with the Landlord's staff by email or letter, because of verbal abuse, shouting, physical intimidation, or other threatening actions, contacting staff while under the influence of drugs or alcohol, gossiping about staff. The Respondents were also to stop disturbing the Landlord as well as neighbours.

At the hearing the Applicant testified that there had been a further complaint from neighbours about a disturbance at the Respondent's house on February 21, 2022, involving loud music and excessive noise at late hours, and one of the Respondents had been calling the Landlord's staff while intoxicated, being abusive, and swearing at the staff member.

The Respondents testified they felt harassed, that other tenants were also creating disturbances, and that during the time of the most recent complaint on February 21st they were watching television and not responsible for the disturbance that had been reported. An RCMP officer came to their rental unit and could confirm this testimony. One of the Respondents testified that their spouse does swear and call the Landlord when intoxicated but they were unable to stop them.

I asked the Applicant about the February 21st incident and what steps were taken to confirm the complaint. They said that they were not aware of any follow up and that should probably have happened. Overall I believe the complaints from the neighbours are not well documented by the Applicant. For instance the notice of termination sent to the Respondents in September 2021 cites 10 complaints, however no details were provided to the Respondents of those complaints, nor were they provided as evidence for this hearing.

Based on the testimony and evidence I find the Respondents have in the past disturbed the Landlord other Tenants' possession or enjoyment of the rental premises in breach of subsection 43(1) of the Act. However, I do not believe that termination and eviction are justified. I will order the Respondents to comply with their obligations under subsection 43(1) and not to breach this obligation again.

Orders

An order will issue requiring the Respondents to comply with their obligation to not disturb the landlord's or other tenants' possession or enjoyment of the rental premises or residential complex, and not to breach that obligation again (p. 43(3)(a), p. 43(3)(b)).

Janice Laycock
Rental Officer