

IN THE MATTER between **AS**, Applicant, and **YA**, 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:

**AS**

Applicant/Tenant

-and-

**YA**

Respondent/Landlord

**REASONS FOR DECISION**

**Date of the Hearing:** May 4, 2022

**Place of the Hearing:** Yellowknife, Northwest Territories

**Appearances at Hearing:** AS, the Applicant  
NG, representing the Respondent

**Date of Decision:** May 4, 2022

### **REASONS FOR DECISION**

An application to a rental officer made by AS as the Applicant/Tenant against YA as the Respondent/Landlord was filed by the Rental Office April 11, 2022. 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 April 12, 2022.

The Tenant alleged the Landlord had disturbed the Tenant's possession or enjoyment of the rental premises by interfering with the provision of electricity and interfering with the Tenant's access to the Internet. The Tenant further alleged the Landlord was harassing the Tenant in text messages after improperly issuing a 10-day notice to terminate the tenancy and demanding the Tenant vacate the rental premises.

A hearing was held May 4, 2022, by three-way teleconference. AS appeared as the Applicant. NG appeared representing the Respondent.

#### *Tenancy agreement*

Evidence was presented establishing a residential tenancy agreement between the parties September 11, 2021. The Tenant vacated the rental premises April 30, 2022. I am satisfied a valid tenancy agreement was in place in accordance with the *Residential Tenancies Act* (the Act).

#### *Disturbances*

It was clarified at the hearing that the tenancy had generally been amicable throughout the tenancy until approximately April 1, 2022. What few issues had arisen up until that point had been adequately addressed and resolved.

#### Text messages

The Tenant claimed that a substantial number of text messages exchanged between himself and the Landlord in which there was discontent that the rent for April had not been paid, and allegations that the Tenant had an additional person residing with him, constituted harassment. My review of what text messages were provided does show a certain level of discontent and frustration between both parties, but I am not satisfied the situation reached the level of being harassing or disturbing.

### Recording

The Tenant also complained that the Landlord had illegally recorded him speaking in his rental premises and that this action constituted a disturbance as well. Inquiries at the hearing clarified that the rental premises is made up of half of a mobile or modular home where a complete but uninsulated wall separated the Landlord's residence at their living room from the Tenant's residence.

Clarification of the incident in question revealed that the Tenant was speaking loudly enough in his residence to be clearly heard in the Landlord's residence allegedly uttering threats against the Landlord. From within the Landlord's residence, the Landlord recorded what he could hear and reported the incident to the RCMP.

I refused to consider the legalities of the Landlord making the recording as I do not believe it is in my jurisdiction to make that determination. I am not satisfied the Landlord caused a disturbance by recording what he heard, nor am I satisfied the Landlord caused a disturbance by reporting the incident to the RCMP.

### 10-day termination notice

The Tenant complained that the improper issuance of a 10-day notice to terminate the tenancy disturbed his enjoyment of the rental premises. The Tenant believed that the Landlord was not permitted to give such a notice without first applying to the Rental Office for an order, and that by trying to intimidate him by giving the notice the Landlord was harassing him.

The 10-day notice to terminate was given by the Landlord to the Tenant under paragraph 54(1)(g) of the Act claiming the Tenant had repeatedly failed to pay the rent when due. The giving of this notice does have to be followed up with an application to a rental officer, but the application and subsequent hearing do not precede the giving of the notice. The Landlord exercised section 54 correctly by giving the Tenant the notice and then they did in fact make an application to a rental officer afterwards (File #17536).

I am not satisfied the Landlord caused a disturbance by giving the Tenant a 10-day notice to terminate the tenancy.

### *Interference with services*

#### Electricity

The Tenant claimed that the Landlord was interfering with the provision of electricity to the rental premises. The Landlord confirmed that the breaker had repeatedly and randomly tripped in April. The Landlord reset the breaker as quickly as possible at each occurrence, but believed it was being tripped because of increased usage of high-draw appliances by the Tenant. The Landlord believed the Tenant's girlfriend had moved in with him without consent, which would result in an increased power usage, and the Landlord observed the Tenant bringing a space heater into the premises which if used could have caused the breaker to trip.

The Tenant denied that his girlfriend had physically moved in with him, clarifying that she was temporarily using his address to forward mail while she was in the process of moving to Yellowknife from Inuvik. The Tenant also disputed that usage of a space heater should cause a breaker to trip. He argued that he did not use any of the provided appliances to anything exceeding normal usage.

The Landlord conceded that the electricity to the entire building was serviced through one breaker box. When a breaker trips it affects the power to both residences. This suggests that the cause of the breaker being tripped could be the result of both residences using appliances at the same time. If the breaker system was not assessed by a qualified electrician for use by two separate, self-contained homes, then it is entirely possible that it is the electrical system that is the problem, not the building occupants' use of the appliances.

With that observation in mind, while the Landlord may not have ensured there would be no issues with the provision of the electricity, I am not satisfied the Landlord either withheld or deliberately interfered with the provision of electricity. I am also not satisfied that the Landlord caused a disturbance with the tripping of the breaker box because the Landlord was immediately responsive to remedying the problem when it arose. Additionally, it was revealed at the hearing that the issue only occurred over a relatively brief period between April 3<sup>rd</sup> and 12<sup>th</sup>.

#### Heat

The Tenant claimed that the Landlord interfered with the provision of heat to the rental premises in April. He claimed he returned to the unit to find it "freezing".

The Landlord disputed this claim, clarifying that there is one forced-air furnace that provides heat for both residences. If the furnace fails or is turned off it will affect both residences. The temperature in each residence, or zone, is regulated and monitored through a programmable Ecobee thermostat sensor which is set to maintain a temperature of 21.5 degrees. The sensor keeps track of temperature fluctuations and notifies the Landlord when there are any irregularities. The Landlord provided a report documenting the temperature in both residences in five-minute increments between April 1<sup>st</sup> and April 29<sup>th</sup>. There were four days when the temperature in the Tenant's residence fell below 18 degrees for a period of time, with one day getting as low as 15.4 degrees and another day getting as low as 14.3 degrees. However, the report also shows that the furnace was working hard to bring the temperature back up to the programmed level.

The Landlord's residence was also affected by these temperature drops but not by a significant amount, which seems to support the Landlord's suggestion that the heat loss in the Tenant's residence was likely because the Tenant had left a window open. Whatever the reason for the fluctuations, there is no evidence to support the Tenant's claim that the Landlord is responsible for the temperature drop. I am not satisfied the Landlord withheld or deliberately interfered with the provision of heat to the rental premises.

#### Internet

The Tenant claimed that the Landlord had interfered with their access to the Internet in April by changing the password. The Tenant indicated that upon his return to the premises at the beginning of April, after the dispute regarding the payment of rent began, that he was no longer able to log in to access the Internet. He claimed this affected his ability to work from home and affected his income, although no evidence of the monetary loss was provided.

The Landlord denied changing the password and testified that they had never been told by the Tenant that he was having trouble accessing the Internet. There had been issues with the Internet access a few months previously which the parties had worked together to diagnose and the Landlord remedied, so if they knew the Tenant was having issues again they would have again taken steps to fix the problem. The Tenant conceded that he did not report the issue to the Landlords, and agreed that since he did not take steps to mitigate his losses by reporting the issue to the Landlord it would not be fair to hold the Landlord liable for those losses.

I am not satisfied the Landlord withheld or deliberately interfered with access to the Internet.

*Conclusions*

Given that I have found no breaches by the Landlord of their obligations respecting disturbances or provision of services, nor was there any evidence of monetary losses suffered by the Tenant, this application is denied.

Dated at the city of Yellowknife in the Northwest Territories this 20<sup>th</sup> day of May 2022.

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Adelle Guigon  
Rental Officer