

IN THE MATTER between **NTHC**, Applicant, and **OKS and AC**, 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 **Hal Logsdon**, Rental Officer, regarding a rental
premises located within the **town of Inuvik in the Northwest Territories**.

BETWEEN:

NTHC

Applicant/Landlord

-and-

OKS AND AC

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	November 29, 2022
<u>Place of the Hearing:</u>	Yellowknife. NT via teleconference
<u>Appearances at Hearing:</u>	RV, representing the Applicant
	OKS, Respondent
<u>Date of Decision:</u>	December 5, 2022

REASONS FOR DECISION

The Application names OKJ as one of the Respondents. Mr. K stated that his legal name was OKS and asked that the style of cause be amended. The style of cause shall be amended accordingly.

The joint tenancy agreement between the parties was monthly and commenced on December 1, 2017. The premises are subsidized public housing. The premises are contained in a multi-unit apartment complex.

The Application was filed on July 20, 2022 and was scheduled for hearing on October 11, 2022. The October 11th hearing was cancelled, due to a malfunction of the teleconference equipment, and was rescheduled to November 29, 2022.

The Applicant alleged that the Respondents had breached the tenancy agreement by permitting or allowing illegal activity in the rental premises and disturbing the quiet enjoyment of other tenants in the residential complex. The Applicant served a notice of termination of the tenancy agreement on the Respondents on June 30, 2022 demanding vacant possession on or before August 1, 2022. The Respondents remain in possession of the premises. The Applicant sought an order evicting the Respondents and ordering the Respondents to pay compensation for overholding.

The Applicant testified that on June 9, 2022, the Respondent, OK, permitted four men to enter the residential complex and his apartment unit. The Applicant stated that a short time later, police entered the building with firearms drawn and arrested two of the men who were in the hallway. The Applicant stated that the police later re-entered the building, "seemingly to locate the other two men." The Applicant provided photographs taken by the hallway surveillance camera in evidence that appear to correspond with the Applicant's testimony.

The Applicant also testified that on June 29, 2022, the Respondent, OK, obscured the hallway surveillance camera by smearing a substance on the camera lens. The Applicant provided photographs from the surveillance camera in evidence showing Mr. K walking down the hallway with what appears to be a lotion bottle, covering his palm with a substance and smearing the substance on the camera lens.

The Applicant contends that the four men were engaged in some form of illegal activity and that Mr. K was aware of the activity and wilfully aided or sheltered them, a breach of section 46. of the *Residential Tenancies Act*. As well, the Applicant contends that other tenants were disturbed by the activity, a breach of section 43.

Mr. K did not dispute that he had let the men into the building and his apartment but claimed he did not know them or know of their backgrounds. He stated that he had been contacted by a friend who told him the men were friends of his and asked him to lend them assistance during their stay in town. The Respondent stated that the men seemed like “good and respectable guys” and he trusted his friend’s assessment. The Respondent stated that the police detained him only during the arrests and did not charge him with anything nor did they find any drugs or evidence of illegal activity in the apartment. The Respondent stated that two of the men were subsequently charged with breach of probation related to offences in Alberta.

With regard to the June 29th incident, Mr. K acknowledged that he had smeared lotion on the surveillance camera. He stated that he had been drinking, did not remember the incident and apologised for the act. He denied that there was any motive involved in the act and noted that the camera was not damaged.

Section 46 prohibits a tenant from illegal acts on the rental premises

46. (1) *A tenant shall not commit an illegal act or carry on an illegal trade, business or occupation, or permit another person to do so, in the rental premises or in the residential complex.*

The Applicant has not presented any evidence of an illegal act performed on the premises or residential complex by the tenants or anyone permitted on the premises by the tenant. If the Respondents’ guests were in breach of probation (which is only supported by hearsay) it is extremely unlikely that the Mr. K was aware of that at the time of the events.

The Applicant referred to “illegal and criminal motives” of the Respondents’ guests. In an email to the Applicant, the police stated that given the men were in the Respondents’ apartment “lends to the likelihood he was aware of their nefarious activities”. However neither the police nor the Applicant produced any evidence of any illegal acts committed in the premises or residential complex or the Respondents’ knowledge of such acts.

Section 46 prohibits a tenant from disturbing other tenants in the residential complex and holds the tenant accountable for persons they allow in the building who creates disturbances.

43. (1) *A tenant shall not disturb the landlord’s or other tenants’ possession or enjoyment of the rental premises or residential complex.*

(2) *A disturbance caused by a person permitted by a tenant to enter the residential complex or the rental premises of the tenant is deemed to be a disturbance caused by the tenant.*

Although there was no evidence produced by the Applicant that other tenants in the building were disturbed by the arrests and it is clear that the Respondents permitted the men into the building and his apartment, it is unlikely that the Respondents could have anticipated that such a disturbance would occur, being unaware of his guests' background.

I find insufficient evidence to conclude that the Respondents have breached either section 43 or section 46 of the Act by permitting the four men into the building or the Respondents' premises.

The Security Camera

It is clear that the Mr. K intentionally tried to disable the security camera. His claim of drunkenness or loss of memory does not excuse him from that responsibility. The Applicant alleged that the act disturbed the quiet enjoyment of other tenants, impaired the safety and security of the building, and was intended to aid future illegal acts. In my opinion, Mr. K compromised the security of the building by damaging the security camera but that action does not warrant termination of the tenancy agreement. The device was not seriously damaged and did not create a safety hazard for tenants. I find the Respondents in breach of section 42 of the Act. In my opinion, there is insufficient evidence to infer the Respondent's intentions.

Conclusion

I find the Respondents in breach of section 42 of the *Residential Tenancies Act* by damaging the security camera in the residential complex. An order shall issue requiring the Respondents to not create any damage in the future. In my opinion, the breach does not warrant the issuance of an eviction order. The Applicant's request for an eviction order is denied and pursuant to section 65(5) of the Act, the tenancy agreement between the parties is reinstated.

Hal Logsdon
Rental Officer