

IN THE MATTER between **FORT MCPHERSON HOUSING ASSOCIATION**,  
Applicant, and **MARGARET THOMPSON**, 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, **HAL LOGSDON**, Rental Officer,  
regarding the rental premises at **FORT MCPHERSON, NT.**

BETWEEN:

**FORT MCPHERSON HOUSING ASSOCIATION**

Applicant/Landlord

- and -

**MARGARET THOMPSON**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 15th day of October,  
2002.

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Hal Logsdon  
Rental Officer

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Applicant, and **MARGARET THOMPSON**, Respondent.

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BETWEEN:

**FORT MCPHERSON HOUSING ASSOCIATION**

Applicant/Landlord

-and-

**MARGARET THOMPSON**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:**                      **October 15, 2002**

**Place of the Hearing:**                      **Fort McPherson, NT via teleconference**

**Appearances at Hearing:**                      **Shirley Wilson, representing the applicant**  
**Susan Blake, representing the applicant**  
**Margaret Thompson, respondent**

**Date of Decision:**                      **October 15, 2002**

**REASONS FOR DECISION**

The applicant alleged that the respondent had breached section 46 of the *Residential Tenancies*

*Act* which states:

46. (1) A tenant shall not carry on or permit to be carried on any criminal act or do or permit the doing of any criminal act in the rental premises or in the residential complex.
  
- (2) Where on the application of a landlord, a rental officer determines that a tenant has breached the obligation imposed by subsection (1) and that the landlord or another tenant has been adversely affected, or is likely to be adversely affected by a continuation or repetition of the breach, the rental officer may make an order
  - (a) requiring the tenant to comply with the tenant's obligation;
  - (b) requiring the tenant to not breach the tenant's obligation again;  
or
  - (c) terminating the tenancy on the date specified in the order and ordering the tenant to vacate the rental premises on that date.

The parties agreed that the respondent's common-law spouse, who normally resided with the respondent had been convicted of an offence under s. 84(c) of the *Liquor Act* on July 17, 2002.

The applicant sought an order terminating the tenancy agreement between the parties.

The applicant testified that the rental premises consisted of a one bedroom unit contained in a residential complex of six units. She indicated that the landlord had not received any complaints from any other tenants in the residential complex concerning the alleged activity. She also testified that she could offer no evidence that the alleged activity took place in the rental premises.

The respondent testified that the incidents which resulted in the conviction of her common-law spouse took place while she was out of town. She also noted that she had never received any complaints from her neighbours or had any problems with the landlord except on a few occasions when her rent was late.

The wording of section 46 refers to “criminal activity” which is normally considered to be any offense under the *Criminal Code*. The *Liquor Act* is a territorial enactment. Although the marginal notes to section 46 refer to “Illegal activities”, they do not form a part of the enactment and must be construed as being inserted for convenience of reference only, pursuant to section 12 of the *Interpretation Act*. However, even giving the broadest meaning to “criminal activity”, I find insufficient evidence to support the allegation. The alleged activity must have taken place in the rental premises and I find no evidence to support such a finding. As well, I do not find sufficient adverse affect on either landlord or other tenants to justify termination of the tenancy.

The applicant could have sought remedy pursuant to section 45 of the *Residential Tenancies Act* based on the tenant’s obligation, contained in the written tenancy agreement to not carry on a business in the rental premises. However, in my opinion, the evidence linking the activity to the rental premises is lacking and no finding of a breach can be made.

In summary, I find insufficient evidence to support the allegations and application is dismissed.

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Hal Logsdon  
Rental Officer