

IN THE MATTER between **YELLOWKNIVES DENE FIRST NATION HOUSING DIVISION**, Applicant, and **JOHN TSETTA**, 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 **YELLOWKNIFE, NT**.

BETWEEN:

**YELLOWKNIVES DENE FIRST NATION HOUSING DIVISION**

Applicant/Landlord

- and -

**JOHN TSETTA**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to sections 43(3)(a) and 43(3)(b) of the *Residential Tenancies Act*, the respondent shall comply with his obligation to not disturb other tenants in the residential complex and shall not create any disturbance in the future.

DATED at the City of Yellowknife, in the Northwest Territories this 6th day of June, 2008.

Hal Logsdon  
Rental Officer

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Applicant/Landlord

-and-

**JOHN TSETTA**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** June 3, 2008

**Place of the Hearing:** Yellowknife, NT

**Appearances at Hearing:** Stephan Folkers, representing the applicant  
John Carter, witness for the applicant  
John Tsetta, respondent

**Date of Decision:** June 6, 2008

### **REASONS FOR DECISION**

The applicant alleged that the respondent had breached the tenancy agreement by repeatedly disturbing other tenants in the residential complex and sought an order terminating the tenancy agreement between the parties. The applicant also alleged that the respondent had failed to repair damages to the premises which were caused by the respondent's negligence.

The applicant provided three notices in evidence. Only one of the notices was issued recently. The other two were issued in 2000 and 2004. One appears to be related to another tenancy agreement and does not specifically mention disturbance or damages. The most recent notice, dated February 25, 2008 advises the respondent that due to repeated disturbances and damages to the premises, the tenancy agreement would not be renewed and asks the respondent to vacate the premises no later than March 31, 2008. The notice does not refer to any specific incidents of disturbance. The tenancy agreement is a month-to-month agreement and as such does not expire or require renewal. The respondent has remained in possession.

The applicant also provided an E-mail from the RCMP indicating that the police attended the premises seven times in 2007 and five occasions so far in 2008. The memo states that all calls related to "alcohol related incidents and one assault".

The applicant's witness stated that about two weeks ago a neighbour (not a tenant) complained of a disturbance at the respondent's premises and the RCMP attended about 10:00 PM.

The respondent denied creating any significant disturbance and stated that he and others were just cleaning up the premises on the night described by the applicant's witness.

The applicant provided photographs of the premises but the quality was poor and none show, to my eye, any specific damage. The applicant provided an inspection report dated January 16, 2008 which indicates damages noted as "tenant damages". Overall the report rates the condition of the premises as 76%. Although the tenancy agreement indicates that a security deposit is required, there was no evidence that a condition report outlining the condition of the premises at the commencement of the tenancy was completed in accordance with section 15 of the *Residential Tenancies Act*.

On the balance of probabilities, I am convinced that the respondent has disturbed other tenants in the residential complex. The evidence leaves considerable doubt as to the type of disturbance, the severity of the disturbances, the dates they occurred, and what action was taken by the landlord. Therefore it is difficult to determine if there has been any abatement of the disturbance or whether the frequency and severity of the disturbances should result in termination of the tenancy agreement. The lack of detail about specific incidents also makes it difficult for the respondent to offer any rebuttal or defence to the allegations. I can only conclude, therefore, that there has been a breach of the respondent's obligation to not disturb other tenants but I am not convinced by the evidence that termination is the most reasonable remedy. Therefore an order shall issue requiring the respondent to comply with his obligation to not disturb other tenants and to not create any disturbance in the future. Should the respondent breach this order by creating any further

disturbance, the applicant may file another application seeking termination.

In the matter of the alleged tenant damage, I do not find sufficient evidence to conclude what damages are the result of the tenant's negligence or what monetary relief might be appropriate.

There is not in my opinion, sufficient evidence to warrant termination of the tenancy on the basis of the alleged damages.

Hal Logsdon  
Rental Officer

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