

IN THE MATTER between **LIRIC CONSTRUCTION LTD.**, Applicant, and **PEARL LISKE AND WALDON KOTCHILEA**, 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 the rental premises at **YELLOWKNIFE, NT.**

BETWEEN:

LIRIC CONSTRUCTION LTD.

Applicant/Landlord

- and -

PEARL LISKE AND WALDON KOTCHILEA

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents shall pay the applicant rent arrears in the amount of one thousand eight hundred fifty dollars (\$1850.00).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents shall pay future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 17th day of May, 2010.

Hal Logsdon
Rental Officer

IN THE MATTER between **LIRIC CONSTRUCTION LTD.**, Applicant, and **PEARL LISKE AND WALDON KOTCHILEA**, 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.

BETWEEN:

LIRIC CONSTRUCTION LTD.

Applicant/Landlord

-and-

PEARL LISKE AND WALDON KOTCHILEA

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: May 5, 2010

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Arie Keppel, representing the applicant
Pearl Liske, respondent
Waldon Kotchilea, respondent

Date of Decision: May 5, 2010

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent, by disturbing other tenants in the residential complex and by creating an overcrowded condition in the premises. The applicant sought an order requiring the respondents to pay the alleged rent arrears and to pay future rent on time. The applicant also sought a remedy for the alleged disturbance.

The applicant provided a statement of the rent account which indicated that the May, 2010 rent of \$1850 had not been paid and that the monthly rent had frequently not been paid in advance. The written tenancy agreement, provided in evidence, obligates the tenants to pay the monthly rent in advance.

The applicant stated that the respondents had permitted other persons to occupy the premises creating an overcrowded condition. The applicant stated that there were currently seven persons occupying the three bedroom apartment, four adults and three children, and that other tenants had complained about an infant crying.

The respondents did not dispute the rent arrears. The respondents stated that their relatives, an adult couple and an infant child, had been staying with them temporarily until they found other accommodation. They disputed that this was a permanent arrangement and stated that the family was on the waiting list for social housing.

Article 3 of the landlord's rules and regulations limits the stay of guests.

3. The Tenant will not leave guests in charge of the premises nor have guests stay longer than two weeks without written consent of the management.

Section 45(3) of the *Residential Tenancies Act* prohibits overcrowding.

- 45.(3) A tenant shall not permit such number of persons to occupy the rental premises on a continuing basis that results in the contravention of health, safety or housing standards required by law or in a breach of the tenancy agreement.**

The tenancy agreement does not contain a clause limiting the number of occupants. Therefore the applicant must rely on Article 3 of the tenancy agreement. In my opinion, Article 3 is not reasonable in all circumstances and is therefore not enforceable. The Act clearly enables a landlord to limit the number of persons who may occupy the premises on a continuing basis. However, limiting the duration of a guest's stay is quite different. A guest may become a occupant on a continuing basis but this does not appear to be the case in this matter. I have also taken into consideration that the respondents wish to either assign this tenancy agreement or terminate the agreement by mutual consent, which would require all occupants to vacate the premises.

The disturbances are limited to an unknown tenant allegedly complaining about an infant's excessive crying. In my opinion, this does not constitute disturbance. Infants cry, some more than others, and tenants in an apartment building must be tolerant of this type of noise.

I find the respondents in breach of their obligation to pay rent and find the rent arrears to be \$1850. An order shall issue requiring the respondents to pay the applicant rent arrears of \$1850

and to pay future rent on time.

Hal Logsdon
Rental Officer