

IN THE MATTER between **VQ84 INVESTMENTS LTD.**, Applicant, and **JORDON BALANUIK AND LUC ERB AND MYLES ERB**, Respondents;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act") and amendments thereto;

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer, regarding the rental premises at **NORMAN WELLS, NT.**

BETWEEN:

VQ84 INVESTMENTS LTD.

Applicant/Landlord

- and -

JORDON BALANUIK AND LUC ERB AND MYLES ERB

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents shall pay future rent on time.
2. Pursuant to sections 43(3)(a) and 43(3)(b) of the *Residential Tenancies Act*, the respondents shall comply with their obligation to not disturb the landlord or other tenants in the residential complex and shall not create any disturbance in the future.
3. Pursuant to section 45(4)(b) of the *Residential Tenancies Act*, the respondents shall not breach the rules established by the landlord concerning the disposal of garbage again.

DATED at the City of Yellowknife, in the Northwest Territories this 4th day of November, 2010.

Hal Logsdon
Rental Officer

IN THE MATTER between **VQ84 INVESTMENTS LTD.**, Applicant, and **JORDON BALANUIK AND LUC ERB AND MYLES ERB**, 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:

VQ84 INVESTMENTS LTD.

Applicant/Landlord

-and-

JORDON BALANUIK AND LUC ERB AND MYLES ERB

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: November 3, 2010

Place of the Hearing: Norman Wells, NT via teleconference

Appearances at Hearing: Robert Greek, representing the applicant
Jordon Balanuik, respondent
Luc Erb, respondent
Myles Erb, respondent

Date of Decision: November 4, 2010

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent on the days it is due, failing to establish an account for electricity and paying for electricity during the term of the agreement, disturbing the landlord and other tenants and failing to dispose of garbage in accordance with the rules established by the landlord. The applicant sought an order terminating the tenancy agreement between the parties and evicting the respondents.

Rent Arrears

The applicant provided a copy of the tenancy agreement in evidence as well as a document showing the dates on which the monthly rent had been paid. The tenancy agreement obligates the tenant to pay rent in advance on the first day of each month. The document showing the payment dates indicates that the rent has not been paid on time for every month from the commencement of the tenancy agreement in February, 2010 to and including September, 2010. The maximum number of days late was twenty two (July) and the minimum number of days late was one (February). The average was eight days late. The applicant stated that the rent was paid on time in October and November, 2010. There are no current rent arrears. The respondents did not dispute the allegations concerning rent.

Electricity

The tenancy agreement between the parties obligates the tenant to establish an account with the supplier and pay for electricity during the term of the agreement. The applicant stated that the

respondents failed to establish an account at the commencement of the tenancy agreement. The applicant stated that the respondents did establish an account on August 31, 2010 and have paid for all electricity consumed during the term. The respondents did not dispute the allegations but stated that they had difficulty establishing an account due to an administrative problem with the supplier.

Disturbance

The applicant alleged that the respondents had disturbed other tenants in the residential complex on several occasions. The applicant stated that he was a tenant in the complex and, as such, had direct knowledge of the incidents. The applicant stated that the incidents involved loud parties and drinking and that he had notified the respondents that the disturbances were unacceptable. The number of incidents and the dates and times of the disturbances were not noted. The applicant stated that one complaint involved a barking dog that the respondents were keeping. The applicant provided a letter from a neighbour (not a tenant) complaining of noise on August 1, 2010 at 2:00 AM due to slamming doors and high traffic in and out of the premises. The applicant stated that there had not been any complaints of disturbance since that date.

The respondents disputed the August 1st incident, stating that a person had come to the premises seeking entry but was not permitted to enter the premises and had to be escorted, unwillingly, off the property. The respondents also acknowledged that they did care for a friend's dog for a period of time but the dog has been returned to its owner.

Garbage Disposal

The tenancy agreement between the parties sets out a rule requiring tenants to put their garbage in the outdoor garbage bin and prohibits leaving garbage on the front or rear decks. The applicant provided photographs of the premises showing numerous garbage bags on one of the decks. The neighbour's letter of complaint, mentioned previously, noted that visitors to the premises on August 1, 2010 tripped over the bags which sounded like they contained empties. I think it is reasonable to assume the bags did not contain household garbage, otherwise the ravens would have most certainly broken into the bags. The applicant stated that the garbage bags were removed by the respondents. The respondents did not dispute the allegations.

I find that the respondents did breach their tenancy agreement by failing to pay rent on the days it was due, by failing to establish an account for the electricity, by disturbing the landlord and other tenants and by failing to dispose of garbage in accordance with the rules established by the landlord. I note however that all of these breaches appear to have been corrected. The rent has been paid on time for the past two months. The electrical account has been established. The garbage has been cleaned up. There have been no incidents of disturbance in the past three months. The rent account is current.

The *Residential Tenancies Act* is intended to be remedial, not punitive. The remedy of termination is one which should be applied when no others are likely to be effective. There is every indication from the evidence that the respondents have resolved these issues and now intend to meet their obligations. In my opinion, the remedy of termination is not the most

appropriate remedy, provided the respondents continue to meet their obligations. Any significant future breach would undoubtedly warrant the termination of the tenancy agreement.

An order terminating the tenancy agreement is denied but an order shall issue requiring the respondents to comply with their obligation to not disturb the landlord or other tenants in the residential complex and not create any disturbance in the future, to not breach the rules established by the landlord concerning the disposal of garbage and to pay all future rent on time.

Hal Logsdon
Rental Officer