

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **CATHY MICHETTI AND PAUL MICHETTI**, 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 **YELLOWKNIFE, NT.**

BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

- and -

CATHY MICHETTI AND PAUL MICHETTI

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 45(4)(a) and 45(4)(b) of the *Residential Tenancies Act*, the respondents shall comply with their obligation to not keep pets in the premises or on the grounds of the premises and shall not breach that obligation in the future.

DATED at the City of Yellowknife, in the Northwest Territories this 30th day of April,
2012.

Hal Logsdon
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **CATHY MICHETTI AND PAUL MICHETTI**, 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:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

-and-

CATHY MICHETTI AND PAUL MICHETTI

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: April 18, 2012

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Ella Newhook, representing the applicant
Paul Michetti, respondent
Cathy Michetti, respondent

Date of Decision: April 30, 2012

REASONS FOR DECISION

The applicant, a landlord of subsidized public housing, served a notice of termination on the respondents on February 14, 2012 terminating the tenancy agreement on March 31, 2012 for breaching the obligation to not keep pets on the premises. The applicant stated that the respondents have not vacated the premises and sought an order evicting the respondents.

The applicant stated that the tenancy agreement between the parties was initially made for a term and renewed as a monthly agreement. The applicant provided a copy of the tenancy agreement which stated simply "no pets allowed" and an addendum to the agreement, which prohibited pets in the rental unit or on the grounds of the rental unit in article 14. The termination notice was also provided in evidence and appears to conform to the provisions contained in sections 51(5) and 55(3) of the *Residential Tenancies Act*.

The applicant provided three written complaints from other tenants in the residential complex regarding the pets. The first was undated and unsigned and complained of three big dogs at the respondents' residence. The complainant stated that her sons were afraid of the dogs. The second was dated February 1, 2012 and stated that three pit bull dogs were seen in the respondents' yard on January 30, 2012. The third was undated but marked receive by the landlord on October 12, 2011 and stated that a pit bull dog was being kept in the front yard of the respondents' residence.

The applicant also provided reports from two staff members who indicated that they observed

four dogs in the premises and in the yard on January 30, 2012. Both reports note that the dogs belonged to the respondents' son who was helping the respondents move from a previous unit to the current premises.

The respondents stated that the dogs belonged to their son and were not kept in the premises. The respondents stated that their previous term agreement did not contain any prohibition concerning dogs in the yard and when their son came to visit, his dogs were put in the yard. They stated that the addendum prohibiting pets on the grounds, only became effective on January 13, 2012 when they signed the current monthly tenancy agreement and addendum. They acknowledged that the dogs were permitted in the yard on January 30, 2012 when they were moving from one unit to another but stated that no dogs have been kept in the premises or on the grounds since that date.

The applicant stated that the previous term tenancy agreement contained the same terms and conditions as the current monthly agreement and also included the same addendum. The applicant referred to an agreement signed by the respondents on April 19, 2010 acknowledging their understanding of Section 14, "No pets are allowed in the Rental Unit or to be kept on the grounds of the Rental Unit".

The evidence indicates that the tenancy agreement and addendums have been in effect throughout their tenancy. When their son's dogs were being kept in the yard from time to time, the landlord warned them of the breach and they appear to have complied with the exception of the breach on January 30, 2012 which the respondents acknowledge. There is no evidence of any

breach since that time. Clearly, the respondents do not keep pets on the premises on an ongoing basis and have only breached the prohibition when their son has arrived with the dogs.

Section 63(4) of the *Residential Tenancies Act* sets out the criteria that must be met in order for a rental officer to issue an eviction order.

- 63.(4) A rental officer who terminates a tenancy or determines that a tenancy has been terminated in accordance with this Act, and who determines that an eviction is justified, may make an order**
- (a) evicting the tenant on the date specified for the termination of the tenancy in the agreement, notice or order, or on the earliest reasonable date after the date of termination of the tenancy; and**
 - (b) requiring the tenant to compensate the landlord for the use and occupation of the rental premises, calculated for each day the tenant remains in occupation following the termination of the tenancy.**

I find that the notice provided by the applicant to the respondents terminated the tenancy agreement in accordance with the Act. However in my opinion, the breach of the respondents does not justify their eviction from the premises. The evidence suggests that the respondents have taken the necessary steps to prevent the dogs from being on the property.

I also note that the prohibition concerning pets anywhere on the grounds could be unreasonable in some circumstances. Although the yards in the residential complex are fenced, there is nothing to prevent a visitor with a pet from entering the yard without the permission of the tenant. In this matter however, it appears that the dogs were kept in the yard on January 30, 2012 with the full approval of the respondents, while the respondents' son helped them move.

The request for an eviction order is denied. An order shall issue requiring the respondents to comply with their obligation to not keep pets in the premises or on the grounds of the premises and to not breach that obligation in the future.

Hal Logsdon
Rental Officer