

IN THE MATTER between **NORMAN WELLS HOUSING AUTHORITY**, Applicant,  
and **KATHLEEN MCDONALD**, Respondent;

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:

**NORMAN WELLS HOUSING AUTHORITY**

Applicant/Landlord

- and -

**KATHLEEN MCDONALD**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 43(3)(a) and 43(3)(b) of the *Residential Tenancies Act*, the respondent shall comply with her obligation to not disturb other tenants and shall not breach that obligation again.

DATED at the City of Yellowknife, in the Northwest Territories this 19th day of April,  
2013.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **NORMAN WELLS HOUSING AUTHORITY**, Applicant,  
and **KATHLEEN MCDONALD**, 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.

BETWEEN:

**NORMAN WELLS HOUSING AUTHORITY**

Applicant/Landlord

-and-

**KATHLEEN MCDONALD**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** April 18, 2013

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

**Appearances at Hearing:** Darrin Holmes, representing the applicant  
Lise Dolen, witness for the applicant  
Kathleen McDonald, respondent

**Date of Decision:** April 19, 2013

### **REASONS FOR DECISION**

The applicant alleged that the respondent had breached the tenancy agreement by repeatedly disturbing other tenants. The applicant sought an order terminating the tenancy agreement and evicting the respondent. The application originally alleged non-payment of rent and disturbance but the applicant stated that the rent arrears had been paid in full since the application was filed.

The applicant received two written complaints from the respondent's neighbour alleging disturbances in January and February, 2013. His complaints outline banging, loud parties, fighting and people banging on his door. The applicant sent a notice to the respondent dated March 5, 2013 warning her that they would commence legal action if a third complaint was received. A third complaint was received on March 13, 2013 alleging that there was a loud party and banging late at night over the previous weekend. The applicant served a notice of termination to the respondent on March 15, 2013 and filed an *Application to a Rental Officer* on March 20, 2013. The applicant stated that there were also damages to the premises due to the parties.

The applicant stated that they had not received any complaints of disturbance since March 13, 2013.

The applicant's witness stated that although she did not have any direct knowledge of the alleged incidents she knew that the respondent's neighbour, a senior, was very concerned that the parties might result in a fire or injury to himself.

The respondent did not dispute the incidents in January and February, 2013 but stated that the premises were vacant during the alleged incident in March. She suggested that perhaps the noise that was reported came from people who were outside. She stated that she was trying to eliminate the disturbances and had paid all of her rent arrears.

The premises consist of a duplex. If, in fact, the respondent's unit was not occupied, it would be obvious that the noise originated from outside. It is certainly possible that there was noise outside the premises and the complainant assumed they were guests of the respondent. Indeed, some of the previous complaints noted persons fighting outside and banging on his door. Without the opportunity to question the complainant, the exact nature of this incident is difficult to establish.

In my opinion, this tenancy agreement should continue only if there are no future disturbances. Without any other evidence, I accept that the March disturbance may not have been created by the respondent or persons she permitted in the premises. The respondent has, since the first warning notice was issued, paid a significant amount of money to clear her rent arrears. It would appear that she may be sincere about ceasing the disturbances and behaving as a responsible tenant. I believe she should be given an opportunity to demonstrate her sincerity but I also urge the landlord to promptly file another application should any future disturbance occur. The respondent's neighbour has a right to quiet enjoyment of his home and must not endure any more disturbance.

I find the respondent in breach of her obligation to not disturb other tenants. An order shall issue

requiring the respondent to comply with her obligation to not disturb other tenants and not breach that obligation again.

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Hal Logsdon  
Rental Officer