

IN THE MATTER between **Hay River Housing Authority**, Applicant, and **Connie Pittman**, 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, **Adelle Guigon**, Deputy Rental Officer, regarding a rental premises within **the town of Hay River in the Northwest Territories**.

BETWEEN:

HAY RIVER HOUSING AUTHORITY

Applicant/Landlord

- and -

CONNIE PITTMAN

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 43(3)(d) and 54(4) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Apt. 307 - 46 Woodland Drive in Hay River, Northwest Territories, is terminated on February 28, 2014, and the respondent must vacate the rental premises on or before that date.

2. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, the respondent must pay to the applicant compensation for use and occupation of the rental premises known as Apt. 307 - 46 Woodland Drive in Hay River, Northwest Territories, for each day the respondent remains in the rental premises after March 1, 2014, in the amount of \$2.63 per day.

DATED at the City of Yellowknife in the Northwest Territories this 30th day of January 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Hay River Housing Authority**, Applicant, and **Connie Pittman**, 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 **Adelle Guigon**, Deputy Rental Officer.

BETWEEN:

HAY RIVER HOUSING AUTHORITY

Applicant/Landlord

-and-

CONNIE PITTMAN

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	January 28, 2014
<u>Place of the Hearing:</u>	Hay River, Northwest Territories, via Teleconference
<u>Appearances at Hearing:</u>	Adam Swanson, representing the Applicant Brenda McAuley, witness for the Applicant
<u>Date of Decision:</u>	January 28, 2014

REASONS FOR DECISION

An application to a rental officer made by Hay River Housing Authority as the applicant/landlord against Connie Pittman as the respondent/tenant was filed by the Rental Office November 29, 2013. The application was made regarding the rental premises known as Apt. 307 - 46 Woodland Drive in Hay River, Northwest Territories. The applicant served a copy of the filed application package on the respondent by personal service December 5, 2013.

The applicant alleged the respondent had repeatedly disturbed other tenants' and the landlord's possession and quiet enjoyment of the rental premises, and had permitted another individual to occupy the rental premises with her, contrary to the tenancy agreement and housing standards. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for January 28, 2014. The applicant was served a notice of attendance by registered mail signed for January 9, 2014; Mr. Adam Swanson appeared at hearing representing the applicant. Ms. Connie Pittman was personally served a notice of attendance January 17, 2014; she did not appear at hearing and no one else appeared on her behalf. Mr. Swanson indicated he had spoken with her as well after her receipt of the notice of hearing, confirming the date and time with her and encouraging her to attend. Having been given sufficient notice, the hearing proceeded in Ms. Pittman's absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Mr. Swanson testified at hearing that Ms. Pittman had been a tenant in subsidized public housing at the singles apartment in Hay River since October 2012. Initially there had been no problems with Ms. Pittman; however, in January 2013 Ms. Pittman's companion, Mr. Cody Peter, began residing with her, after which the disturbances began. Mr. Peter's residence in Ms. Pittman's rental premises was not authorized by the landlord. The rental premises is a bachelor suite designed specifically for single occupancy. The tenancy agreement specifies that no other occupants are permitted to reside in the rental premises than the tenant. Ms. Brenda McAuley, caretaker for the apartment complex, testified to her personal observations of Mr. Peter's residency with Ms. Pittman. Mr. Swanson referred as well to notes to file that were submitted into evidence referring to inquiries made of him by Mr. Peter's income support worker and supportive living services worker confirming they had been told by Mr. Peter that he was living with Ms. Pittman at her apartment. Several notices were sent to Ms. Pittman reminding her she was not permitted to have anyone residing with her.

Mr. Swanson further testified to several noise complaints received from other tenants and reported by Ms. McAuley between January and November 2013; the last complaint received was regarding an incident on November 26th involving another resident of the building. Ms. Pittman was given written warnings regarding the noise complaints. There have been no further disturbances since that date.

Mr. Swanson testified that Ms. Pittman had given notice January 17, 2014, to vacate the rental premises on February 28, 2014; a copy of Ms. Pittman's written notice was submitted into evidence. Based on the breaches of the tenancy agreement testified to – unauthorized occupant and disturbance of quiet enjoyment of premises – the applicant requested an order terminating the tenancy agreement, evicting the tenant, and granting compensation for use and occupation of the rental premises after termination of the tenancy agreement.

Tenancy agreement

The residential tenancy agreement (agreement) submitted into evidence is made between the parties for subsidized public housing at Apt. 307 - 46 Woodland Drive in Hay River, Northwest Territories. It is for a fixed-term from October 12, 2012, to February 28, 2014, after which it was deemed renewed as a monthly tenancy pursuant to section 49(1) of the Act. I am satisfied a valid tenancy agreement is in place.

Unauthorized occupant

Section 5 of the agreement specifies that only those people listed in Schedule B of the agreement may reside with the tenant at the rental premises and that any additional persons may only reside there with the written authorization of the landlord. There is no Schedule B attached to the agreement, suggesting that no other occupants have been authorized to reside with Ms. Pittman. Schedule A attached to the agreement identifies the rental premises as having zero bedrooms, supporting the testimony of Mr. Swanson that the unit is a bachelor suite suited to a single occupant. I am satisfied the rental premises is designed for a single occupant and that no authorization was given by the landlord permitting any other persons to reside in the rental premises with the tenant.

Testimony, notes to file, and warning correspondence to the tenant were entered into evidence speaking to direct observations and conversations suggesting Mr. Peter was repeatedly residing with Ms. Pittman at her rental premises for extended periods of time. I am satisfied this was the case. I find Ms. Pittman has breached her tenancy agreement by permitting another person to reside with her in her rental premises, contrary to section 5 of her residential tenancy agreement and section 45(1) of the Act, which requires tenants to comply with additional obligations set out in residential tenancy agreements.

Disturbing the quiet enjoyment of the premises

Section 12(c) of the agreement requires the tenant and persons permitted in the premises by the tenant to behave in a manner that does not disturb the quiet enjoyment and possession of the premises and residential complex of other tenants and the landlord; this requirement is in accordance with section 43(1) of the Act.

Numerous notes to file and correspondences to the tenant regarding complaints filed by other tenants and the caretaker of the apartment building were entered into evidence. Ms. McAuley, the caretaker, testified to her direct knowledge of the incidents complained of. There are nine distinct incidents for which complaints were received, including incidents resulting in the attendance of the RCMP. I am satisfied that Ms. Pittman, and/or persons permitted into the premises by Ms. Pittman, has caused incidents sufficient to disturb the quiet enjoyment of the premises by other tenants and the landlord. I find Ms. Pittman has failed to comply with section 12(c) of her residential tenancy agreement and section 43(1) of the Act.

Termination of the residential tenancy agreement

The applicant has supported their argument for termination of the tenancy agreement by proving Ms. Pittman has repeatedly caused disturbances at the rental premises and that she has repeatedly breached her agreement to not permit another person to reside with her, even after several warnings. Mr. Swanson also testified to – and provided a copy of – the submission by Ms. Pittman of one month's written notice to vacate the rental premises effective February 28, 2014. Mr. Swanson indicated he intended to provide Ms. Pittman with a written reply agreeing to terminate the tenancy agreement February 28, 2014, in accordance with section 50 of the Act; a copy of this reply was received by me January 29, 2014. Mr. Swanson indicated at hearing he would be satisfied with an order terminating the tenancy agreement February 28, 2014. I am satisfied termination of the agreement is justified in the circumstances.

Eviction and compensation for use and occupation

I am satisfied an eviction order is justified under the circumstances in order to ensure possession of the rental premises is returned to the applicant at the termination of the agreement. I am further satisfied the applicant should be compensated for the use and occupation of the rental premises by the respondent for each day the respondent remains in the rental premises after the termination date of the agreement.

An order will issue terminating the residential tenancy agreement between the parties on February 28, 2014, requiring Ms. Pittman to vacate the rental premises on or before that date, and requiring Ms. Pittman to pay compensation for use and occupation of the rental premises for each day after the eviction date in the amount of \$2.63 per day.

An order for eviction will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Applicant's statement of facts dated November 26, 2013
- Exhibit 2: Residential tenancy agreement - fixed term lease dated October 12, 2012
- Exhibit 3: Applicant's note to file dated November 26, 2013, regarding complaints of November 26, 2013
- Exhibit 4: Applicant's note to file dated November 21, 2013, regarding complaints of November 21, 2013
- Exhibit 5: Applicant's note to file dated November 21, 2013, regarding additional complaints of November 21, 2013
- Exhibit 6: Applicant's correspondence to respondent dated November 21, 2013, regarding unauthorized occupant
- Exhibit 7: Applicant's final warning correspondence to respondent dated November 21, 2013, regarding complaints of November 19, 2013
- Exhibit 8: Applicant's note to file dated November 21, 2013, regarding complaints of November 20, 2013
- Exhibit 9: Applicant's warning correspondence to respondent dated November 13, 2013, regarding complaints of November 8-9, 2013
- Exhibit 10: Applicant's note to file dated November 12, 2013, regarding complaints of November 8, 2013
- Exhibit 11: Applicant's warning correspondence to respondent dated October 25, 2013, regarding complaints of October 24-25, 2013
- Exhibit 12: Applicant's note to file dated October 25, 2013, regarding complaints of October 24-25, 2013
- Exhibit 13: Applicant's note to file dated April 18, 2013, regarding unauthorized occupant
- Exhibit 14: Applicant's correspondence to respondent dated April 17, 2013, regarding unauthorized occupant
- Exhibit 15: Applicant's note to file dated April 15, 2013, regarding unauthorized occupant
- Exhibit 16: Applicant's note to file dated April 15, 2013, regarding unauthorized occupant
- Exhibit 17: Applicant's correspondence to respondent dated April 15, 2013, regarding unauthorized occupant
- Exhibit 18: Applicant's note to file dated April 8-12, 2013, regarding complaints and unauthorized occupant

- Exhibit 19: Applicant's note to file dated February 4, 2013, regarding unauthorized occupant
- Exhibit 20: Applicant's correspondence to respondent dated January 29, 2013, regarding unauthorized occupant
- Exhibit 21: Applicant's correspondence to respondent dated January 29, 2013, regarding complaints of January 28, 2013
- Exhibit 22: Applicant's note to file dated January 29, 2013, regarding unauthorized occupant
- Exhibit 23: Applicant's note to file dated January 29, 2013, regarding complaints of January 28, 2013
- Exhibit 24: Applicant's note to file dated January 28, 2013, regarding unauthorized occupant
- Exhibit 25: Applicant's note to file dated January 28, 2013, regarding unauthorized occupant
- Exhibit 26: Applicant's notice of termination of tenancy correspondence to respondent dated November 26, 2013, terminating the tenancy agreement December 9, 2013
- Exhibit 27: Applicant's correspondence to respondent dated January 29, 2014
- Exhibit 28: Tenant's written notice dated January 17, 2014, to terminate tenancy February 28, 2014