

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **TIM CAISSE AND HELEN CAISSE**, 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 -

TIM CAISSE AND HELEN CAISSE

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondents shall comply with their obligation to not keep pets in the rental premises by removing their pets from the premises no later than May 31, 2014.

DATED at the City of Yellowknife, in the Northwest Territories this 6th day of May,
2014.

Hal Logsdon
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **TIM CAISSE AND HELEN CAISSE**, Respondents.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
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BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

-and-

TIM CAISSE AND HELEN CAISSE

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: February 19, 2014, continued on April 2, 2014

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Ella Newhook, representing the applicant
Tim Caisse, respondent

Date of Decision: April 30, 2014

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by keeping a dog and a cat in the rental premises. The applicant sought an order terminating the tenancy agreement and evicting the respondents. The premises are subsidized public housing.

The tenancy agreement between the parties was made in writing and contained a specific prohibition against keeping pets in the premises or on the grounds of the rental property. The applicant alleged that the respondents kept a dog and a cat in the apartment. Photographs of the animals were provided in evidence and the applicant testified that the animals had been seen in the apartment on several occasions.

The respondent did not dispute the allegations. Mr. Caisse stated that he had picked up the animals as strays. He also stated that there were other pets kept in the building. Mr. Caisse stated that he suffered from disabilities including posttraumatic stress disorder and that he could provide evidence from a physician that the animals were helpful to treat his conditions. He stated that his physician was out of town. Mr. Caisse also submitted that the landlord had failed to properly maintain his apartment after repeated requests for repairs and therefore the landlord should overlook the dog and cat he kept in the apartment. The matter was adjourned to permit Mr. Caisse to submit additional evidence.

The matter was continued on April 2, 2014. A letter from Eileen Peters, MD was provided in

evidence by the respondents. The applicant stated that they did not believe that the letter was adequate to consider an exemption to their policy as it did not refer to a specific disability and did not demonstrate a strong relationship between keeping the animals and the ability to function. They also noted that the respondent had not sought any exemption from the prohibition until the animals were discovered in the apartment although he was well aware of the "no pets" obligation. The applicant also noted that an exemption should be based on the diagnosis of a medical specialist rather than a family or general practitioner.

After the hearing, the applicant submitted another letter from Loraine Sampson, Mental Health and Addictions Counsellor. The letter was provided to the applicant who provided similar objections and again stated that they did not believe the evidence was sufficient to consider an exemption to the pet prohibition.

Sections 12 of the *Residential Tenancies Act* deals with obligations that are not specifically set out in the Act.

- 12. (1) A landlord and tenant may include in a written tenancy agreement additional rights and obligations that are not inconsistent with this Act and the regulations.**
- (2) Where an additional obligation concerns the tenant's use, occupancy or maintenance of the rental premises or residential complex, the obligation cannot be enforced unless it is reasonable in all circumstances.**
- (3) A landlord shall not establish, modify or enforce rules concerning the tenant's use, occupancy or maintenance of the rental premises or residential complex, unless the rules are reasonable in all circumstances, in writing and made known to the tenant.**

The “no pets” provision contained in the tenancy agreement between the parties is not inconsistent with the Act. In my opinion, it is also reasonable. There is abundant evidence that pets often create damage to rental premises and disturb the quiet enjoyment of other tenants. There is also the issue of allergies. Some landlords do not wish to subject their property and tenants to the potential problems that may arise from pets in the residential complex. This tribunal has determined in many other cases that the prohibition is reasonable.

The Human Rights Act applies to rental premises. Notwithstanding the reasonableness of the prohibition, a landlord may not discriminate against persons with disabilities and must reasonably accommodate the needs of a tenant with a genuine disability.

Are there situations where the landlord must consider an exemption from the “no pets” prohibition? In my opinion, yes. Where an animal is required to permit a person with a disability to function and the person would suffer significant hardship without the animal, an exemption from the prohibition should be granted by the landlord. Trained guide dogs used by persons with significant visual disabilities is one example where an exemption should be granted but not the only one. Each case must be determined on its own merits.

Landlords who prohibit pets in rental premises are understandably hesitant to make exceptions to the prohibition. Rental premises where pets are permitted are not plentiful, and tenants who do not have a pet but would like one are quick to point out the exceptions made and question why they can not have a dog or a cat.

In my opinion the following evidence must be present to determine if the landlord's refusal to permit a pet is discriminatory.

1. There must be clear evidence of a medically recognized disability that has been diagnosed by a practitioner qualified to make the diagnosis.
2. There must be a strong connection between the disability and the medical necessity of having a pet. It must be demonstrated that not having a pet would result in a adverse impact on the tenant's specific condition, not simply the loss of the general benefits of having a pet.

In my opinion, the evidence fails to clearly identify a disability. Only Mr. Caisse referred to post traumatic stress disorder. He is clearly not qualified to make this diagnosis and neither letter refers to any specific condition. Dr. Peters refers only to "medical issues", not a disability and Ms Sampson does not identify any medical condition.

I also fail to find sufficient evidence that keeping a pet would result in benefit to Mr. Caisse other than the general benefits a pet provided to anyone. Ms Sampson notes that "seniors who have pets live happier and healthier lives" and states that she believes that the dog provides "companionship" and is "emotionally and mentally stimulating". Neither letter notes any adverse effects on the tenant's medical condition should he not have the pets. While I accept the content of both letters as accurate, the letters could have been written in support of any tenant wanting to have a pet.

It may be the case that other tenants in the residential complex have pets. The applicant is a provider of subsidized public housing and rents certain apartment in the building from the owner to rent to public housing tenants. The owner may indeed permits pets in the apartment that they rent directly, but it is certainly permissible for the applicant to set their own rules for the apartments that they rent to public housing tenants.

I find the respondents in breach of their obligation to not keep pets in the rental premises. I find insufficient evidence to support any allegation of discrimination in the matter. In my opinion, the termination of the tenancy and the eviction of the respondents is not warranted at this time. An order shall issue requiring the respondents to remove the pets from the premises no later than May 31, 2014. Should they fail to comply with the order, the applicant may terminate the tenancy by notice pursuant to section 51(5) or serve a *Notice of Early Termination* and file an application pursuant to section 54(1)(d).

Hal Logsdon
Rental Officer