

IN THE MATTER between **Midwest Property Management**, Applicant, and **Sheldon Olson**, 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 city of Yellowknife in the Northwest Territories**.

BETWEEN:

MIDWEST PROPERTY MANAGEMENT

Applicant/Landlord

- and -

SHELDON OLSON

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$2,900.00 (two thousand nine hundred dollars).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent must pay his rent on time in the future.

3. Pursuant to section 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as #204, 5304 - 49 Street, in Yellowknife, Northwest Territories, will terminate August 31, 2015, and the respondent must vacate the rental premises on or before that date, unless the rental arrears of \$2,900.00 (two thousand nine hundred dollars) are paid in full and the rents for July and August 2015 are paid on time.

DATED at the City of Yellowknife in the Northwest Territories this 10th day of July 2015.

Adelle Guigon
Deputy Rental Officer

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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:

MIDWEST PROPERTY MANAGEMENT

Applicant/Landlord

-and-

SHELDON OLSON

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	June 24, 2015
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	Joyce Dust, representing the applicant Joel Thomas, representing the applicant Sheldon Olson, respondent
<u>Date of Decision:</u>	June 24, 2015

REASONS FOR DECISION

An application to a rental officer made by Midwest Property Management as the applicant/landlord against Sheldon Olson as the respondent/tenant was filed by the Rental Office May 20, 2015. The application was made regarding a residential tenancy agreement for the rental premises known as #204, 5304 - 49 Street, in Yellowknife, Northwest Territories. The applicant served a copy of the filed application on the respondent by registered mail signed for June 3, 2015.

The applicant alleged the respondent had accumulated rental arrears, disturbed other tenants' quiet enjoyment of the residential complex, and had caused damages to the residential complex. An order was sought for payment of rental arrears, termination of the tenancy agreement, and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for June 24, 2015, in Yellowknife, Northwest Territories. Ms. Joyce Dust and Mr. Joel Thomas appeared representing the applicant. Mr. Sheldon Olson appeared as respondent.

The parties agreed that a residential tenancy agreement is in place between them for the rental premises described as #204, 5304 - 49 Street, in Yellowknife, Northwest Territories. The tenancy commenced November 21, 2014, and the monthly rent was set out at \$1,424.

The applicant testified and provided evidence of complaints received from other tenants of disturbances occurring at the rental premises. The first disturbance, for which Mr. Olson was given a written notice on March 19, 2015, was regarding rocks being thrown at his window by a person outside the apartment complex, presumably to gain Mr. Olson's attention. Mr. Olson was not home at the time and did not permit entry to the building, as indicated in the written notice.

The second set of disturbances stem from incidents reportedly occurring on April 26, 2015. A written complaint by a tenant of the residential complex to the landlord was submitted into evidence regarding "loud noises" in the corridor that afternoon and observing a shirtless man in the hallway who could not be recognized by the complainant, who entered "the apartment close to mine." Later that night, according to media reports and two tenant complaints, two persons

waiting in a vehicle parked at the residential complex fired multiple gun shots when the respondent returned in his own vehicle to the residential complex, hitting the respondent and the residential complex, causing damages. The shooters were publicly identified and the applicant recognized one of them as a known associate of the respondent from a previous introduction to view another of the applicant's apartments at a different residential complex. Mr. Olson disputed the media's reporting of there being two shooters, but did acknowledge that he was and is friends with the man who shot him. The applicant provided no evidence to suggest that either of the shooters were invited to or permitted entry to the residential complex by the respondent, and Mr. Olson confirmed that he did not invite his friend over that day. The applicant expressed concern for the safety and well-being of the other tenants in the building while Mr. Olson remains there.

The applicant provided into evidence the respondent's resident statement which indicated the rents for May and June had not been paid. Late payment penalties were applied to the account, bringing the balance owing to \$2,900. The statement indicated that historically Mr. Olson has paid his rent in full and on time. Mr. Olson did not dispute that he had not paid his rent for May and June. He explained that because of his gunshot injury he has been unable to work and as such has no money to pay for anything, let alone his rent. When questioned, he admitted he does not even have enough money to pay for food, that his parents have been giving him food. Mr. Olson has sought assistance from Income Support, but that remains ongoing. He was not aware of the Homelessness Assistance Fund as another possible source of financial assistance. He disputed not being able to afford the apartment, stating that once he goes back to work he will have the money to pay the rent. Mr. Olson confirmed he had been trying to find another place to live and thought he had something arranged for July 1, 2015, but that has since fallen through.

Tenancy agreement

The lease entered into evidence establishes a residential tenancy agreement made between the parties on November 21, 2014, for the rental premises identified as #204, 5304 - 49 Street, in Yellowknife, Northwest Territories. The parties did not dispute the tenancy agreement. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Disturbances

Sections 43(1) and (2) of the Act specify that a tenant shall not disturb the landlord's or other tenants' possession or enjoyment of the rental premises or residential complex and that a disturbance caused by a person permitted by a tenant to enter the residential complex or the rental premises of the tenant is deemed to be a disturbance caused by the tenant.

The complaints entered into evidence by the applicant regarding disturbances at the residential complex fail to identify the source of the disturbances or the respondents' responsibility for them. With the rock-throwing incident of March 19, 2015, the respondent clearly was not the person throwing the rocks, nor did he permit the rock-thrower entry into either the residential complex or his rental premises. The respondent cannot be held accountable for this disturbance.

With the loud noises incident from the afternoon of April 26, 2015, noises were heard, a person was seen walking in the corridor, and a person was seen entering a neighbouring apartment. The type of noises were not identified. The person in the corridor was not recognized or identifiable as the source of the noises. The neighbouring apartment was not identified either by apartment number or by whose apartment it was. The respondent cannot be held accountable for this disturbance.

With the shooting incident from the evening of April 26, 2015, the applicant could provide no evidence that either of the persons alleged to be involved in the shooting were invited to the property by the respondent or had been permitted to enter the residential complex by the respondent that day. The respondent testified that he had invited neither of the parties to the premises that day. The respondent cannot be held accountable for this disturbance.

Rental arrears

The resident statement provided into evidence represents the landlord's accounting of monthly rents, late payment penalties, and payments received against the respondent's rent account. The respondent did not dispute the accuracy of the statement's accounting. I am satisfied the resident statement accurately represents the current status of the respondent's rent account.

Section 6.3 of the tenancy agreement specifies that the monthly rent is due and payable on the first of each month. The resident statement clearly shows that up until May 2015 the respondent had consistently paid the full amount of his rent each month on time. The rent for May and June have not as yet been paid. The applicant has applied late payment penalties in accordance with the Act and consistent with the *Residential Tenancies Regulations*. The respondent did not dispute the amount of rental arrears as stated in the resident ledger. I find the respondent has accumulated rental arrears in the amount of \$2,900.

Termination and eviction

The applicant's request to terminate the tenancy agreement was grounded in both the allegations and seriousness of disturbances as well as the failure to pay rent. Having found the respondent not accountable for the claimed disturbances, termination of the tenancy agreement is not justified on that ground. However, the rental arrears have accumulated over two months now to a substantial amount. No efforts to make even partial payments towards the arrears have been made. The respondent's explanation for failing to pay his rent, while understandably related to his inability to work due to his injury, does not absolve him from his obligation to pay his rent. He must do more than wait on Income Support's assistance. I find that termination of the tenancy agreement and eviction are justified, but I am satisfied that the termination and eviction should be conditional on the respondent paying the rental arrears in full and paying his future rent on time.

An order will issue requiring Mr. Sheldon Olson to pay rental arrears in the amount of \$2,900, to pay his future rent on time, terminating his tenancy agreement on August 31, 2015, unless the rental arrears are paid in full and the rents for July and August are paid on time, and evicting him from the rental premises on September 1, 2015, if the termination becomes effective. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Resident statement dated May 20, 2015
- Exhibit 2: Applicant's statement of reasons for application
- Exhibit 3: Set of nine photographs and two floor plans
- Exhibit 4: Resident notes dated May 13, 2015
- Exhibit 5: Applicant's notice to terminate tenancy correspondence to respondent dated April 28, 2015
- Exhibit 6: Note from maintenance manager, Tuan Thai
- Exhibit 7: Email to landlord dated May 14, 2015
- Exhibit 8: Email to landlord dated May 14, 2015
- Exhibit 9: Correspondence from "Anxious Resident" dated May 11, 2015
- Exhibit 10: Email from office administrator, Joel Thomas, dated May 11, 2015
- Exhibit 11: Applicant's notice of entry correspondence to respondent dated May 11, 2015
- Exhibit 12: Applicant's correspondence to respondent dated May 8, 2015
- Exhibit 13: Note from office administrator, Joel Thomas
- Exhibit 14: Screen shot of residential management guest guard
- Exhibit 15: Media article web-release from CBC News posted April 27, 2015
- Exhibit 16: Media article web-release from CBC News posted April 28, 2015
- Exhibit 17: Photocopy of front page of May 1, 2015, Yellowknifer newspaper
- Exhibit 18: Media article web-release from EdgeYK posted April 27
- Exhibit 19: Applicant's correspondence to respondent dated March 20, 2015
- Exhibit 20: Lease made November 21, 2014
- Exhibit 21: Check-in condition report dated November 20, 2014
- Exhibit 22: Resident statement dated June 24, 2015