

IN THE MATTER between **Northview Apartment REIT**, Applicant, and **Alan Wayne Betsina**, 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**, Rental Officer, regarding a rental premises located within the **city of Yellowknife in the Northwest Territories**.

BETWEEN:

NORTHVIEW APARTMENT REIT

Applicant/Landlord

- and -

ALAN WAYNE BETSINA

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. The application is denied.

DATED at the City of Yellowknife in the Northwest Territories this 11th day of April 2016.

Adelle Guigon
Rental Officer

IN THE MATTER between **Alan Wayne Betsina**, Applicant, and **Northview Apartment REIT**, 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:

ALAN WAYNE BETSINA

Applicant/Tenant

-and-

NORTHVIEW APARTMENT REIT

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: March 31, 2016

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: Alan Wayne Betsina, applicant
Martha Frankie, witness for the applicant
Metslal Mesgun, representing the respondent
Scott Lefrancois, witness for the respondent

Date of Decision: March 31, 2016

REASONS FOR DECISION

An application to a rental officer made by Alan Wayne Betsina as the applicant/tenant against Northview Apartment REIT as the respondent/landlord was filed by the Rental Office January 27, 2016. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The applicant personally served a copy of the filed application on the respondent January 27, 2016.

The tenant alleged the landlord had failed to maintain the rental premises in a state fit for habitation by failing to remove all mold and requested an order to transfer the tenants to another apartment.

A hearing was scheduled for March 31, 2016, in Yellowknife, Northwest Territories. Mr. Alan Wayne Betsina and Ms. Martha Frankie appeared for the applicant. Ms. Metslal Mesgun and Mr. Scott Lefrancois appeared for the respondent.

Tenancy agreement

The parties agreed a residential tenancy agreement had been entered into between them commencing April 2012. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Mold

The tenant reported the presence of mold on exposed surfaces in the apartment starting in late 2014. The landlord inspected the premises numerous times, finding no evidence of mold. They did take note of excessive amounts of moisture in the premises, attributed to boiling and sanitizing baby products, as well as what appeared to be leaking windows. In December 2015 the tenant again complained of the mold issue and provided doctors notes regarding respiratory concerns exhibited by their infant child.

On January 6, 2016, the landlord's maintenance supervisor attended the rental premises and noted the extreme amount of moisture and that all the windows had accumulated moisture. The drywall below two of the windows was wet and soft, easily punctured with the push of a finger. Arrangements were made to replace the affected drywall. During the removal process, surface mold was noted growing on the vapour barrier where the drywall had been secured; the insulation and wood studs behind the vapour barrier had not been breached and were perfectly dry. The vapour barrier was cleaned with bleach and new, mold/mildew resistant drywall was installed. Due to the moisture levels in the premises it took a few weeks for the drywall mud to dry sufficiently to finish and paint the affected walls.

The tenant noted mold has continuously grown on the window sills and doors, even to date. An environmental health officer (EHO) conducted an inspection of the premises on January 26, 2016, and confirmed the presence of mold on the downstairs windows and the back door. The EHO noted that mold is not considered a health hazard in the Northwest Territories, but acknowledged the association between mold and respiratory or allergic health effects. The EHO indicated that mold should be removed when found and sources of unwanted water should be removed to prevent future mold growth.

The landlord's maintenance supervisor acknowledged the residential complex of which the rental premises is a part of was built some time in the 1970s. While not a tightly-sealed building, there is no evidence of leaks from the exterior of the building. Additionally, there was no evidence presented suggesting that other units in the residential complex were suffering from the same problems as this rental premises. He reiterated that the condensation and moisture in this rental premises appeared to be occurring primarily due to the amount of water boiling and sanitizing that is happening. No evidence was presented suggesting the continued presence of mold other than on exposed surfaces.

Section 30 of the Act does require a landlord to maintain a rental premises and residential complex in a good state of repair, fit for habitation, and in compliance with all health, safety, occupancy, and maintenance standards required by law. The landlord repaired the affected drywall and cleaned the concealed mold growth in a timely manner. The landlord was not found to be in breach of environmental health standards by the EHO. I am not satisfied the cause of continued mold growth on exposed surfaces can be attributed to the state of repair of the rental premises or residential complex. I am satisfied the landlord has complied with their obligations under section 30.

Section 45(2) of the Act requires a tenant to maintain the rental premises in a state of ordinary cleanliness. This is generally accepted to mean the tenant is required to keep all exposed surfaces within the premises clean, including cleaning mold from those exposed surfaces. The recurrence of mold on those exposed surfaces seems to be coming from the tenant's ordinary use of the rental premises, specifically as it relates to cleaning and sanitizing of baby products, rather than anything the landlord has any control over.

With respect to the tenant's request for a transfer to another rental premises, I am not satisfied I have the authority to issue such an order. The remedies available under the Act where a party is found in breach of an obligation do not include the provision of alternate accommodations. The remedies generally constitute compliance with obligations, authorizations to repair, compensation for losses suffered, or termination of a tenancy agreement. The tenant did not request termination of his tenancy agreement, he requested a different rental premises. As mentioned, I do not believe I have the authority to require a landlord to provide a different rental premises.

As I do not find the landlord in breach of their obligations, the tenant's application is denied.

Adelle Guigon
Rental Officer