

IN THE MATTER between **Amber Naveed and Jasmin Mirza**, Applicant, and **Dennis H. Godard**, 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:

AMBER NAVEED and JASMIN MIRZA

Applicants/Landlords

- and -

DENNIS H. GODARD

Respondent/Tenant

ORDER and EVICTION ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 45(4)(c) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears and utilities in the total amount of \$3,441.54 (three thousand four hundred forty-one dollars fifty-four cents).
2. Pursuant to sections 41(4)(c) and 45(4)(e) of the *Residential Tenancies Act*, the tenancy agreement between the parties will terminate June 30, 2016, and the respondent must vacate the rental premises on or before that date.

3. Pursuant to section 63(4)(a) of the *Residential Tenancies Act*, the respondent will be evicted from the rental premises known as 519 Range Lake Road in Yellowknife, Northwest Territories, on July 1, 2016.

DATED at the City of Yellowknife in the Northwest Territories this 22nd day of June 2016.

Adelle Guigon
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:

AMBER NAVEED and JASMIN MIRZA

Applicants/Landlords

-and-

DENNIS H. GODARD

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	June 17, 2016
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	Paula Smith, representing the applicant
<u>Date of Decision:</u>	June 17, 2016

REASONS FOR DECISION

An application to a rental officer made by Triton Property Management on behalf of Amber Naveed and Jasmin Mirza as the applicants/landlords against Dennis H. Godard as the respondent/tenant was filed by the Rental Office April 6, 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 April 12, 2016.

The applicant alleged the respondent had repeatedly failed to comply with his obligation to pay for utilities, had accumulated rental arrears, had repeatedly denied access to the rental premises for maintenance purposes, and that the respondent had repeatedly disturbed other tenants' and the landlord's enjoyment and possession of the rental premises and residential complex. An order was sought for payment of rental arrears and utilities, termination of the tenancy agreement, and eviction.

A hearing was scheduled for June 17, 2016, in Yellowknife, Northwest Territories. Ms. Paula Smith appeared representing the applicant. Mr. Dennis H. Godard was served notice of the hearing by email deemed received June 15, 2016, pursuant to section 4(4) of the *Residential Tenancies Regulations* (the Regulations). Mr. Godard did not appear at hearing, nor did anyone appear on his behalf. The hearing proceeded in Mr. Godard's absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The applicant's representative testified and presented evidence establishing that the landlord and tenant had entered into a written tenancy agreement for a fixed-term tenancy from September 10, 2015, to June 30, 2016. The tenancy agreement was signed by both parties. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the Act.

Residential Complex

The rental premises is a three-bedroom townhouse located within a group of townhouses. Each townhouse is independently owned, but all owners are members of a condominium corporation. Some of the owners reside in their townhouses, others have rented their townhouses out. All are bound by the condominium corporation's bylaws. All have access to common areas.

Section 1(1) of the Act defines a residential complex as including a related group of buildings in which one or more rental premises are located and includes all common areas, services and facilities available for the use of tenants of the buildings.

I am satisfied the rental premises for the tenancy agreement between the parties to this application comprises one unit within a residential complex as defined by the Act.

Rental arrears and utilities

Section 5 of the written tenancy agreement specifies the tenant is responsible for "power, water, heat, cable internet, tenant insurance, yard maintenance, and snow removal."

Section 45(1) of the Act says a tenant who has undertaken additional obligations in a written tenancy agreement shall comply with the obligations which are reasonable in all circumstances.

The applicant's representative testified and provided evidence of propane (heat) and water bills which the landlord has had to pay to ensure their continued service to the rental premises. The propane bill amounted to \$451.23; the water bill amounted to \$690.31. Efforts each month to have these bills satisfied in due time by the respondent have been unsuccessful.

The applicant's representative testified that the respondent has failed to pay the rent for June in the amount of \$2,300 as of this hearing date.

I am satisfied the respondent is liable for the utility costs above described and that the respondent has repeatedly failed to comply with his obligation to pay the propane and water bills. I am satisfied the respondent has failed to pay the rent for June. I find the respondent liable to the applicant for rental arrears and utilities in the total amount of \$3,441.54.

Denial of access to the rental premises

The applicant's representative testified the respondent had notified the landlord that the dishwasher in the rental premises was not working properly. The landlord gave the respondent notice of intent to enter for the purposes of effecting repairs in accordance with section 26 of the Act. The respondent did not object to the dates and times he was notified of, and did not provide alternative days and hours for entry. Upon attending the premises on the designated dates and times, entry was denied by the occupant, preventing the appliance repair person from effecting the necessary repairs. The appliance repair person is a private business person, not an employee of the applicant's representative. Arrangements had to be made with the appliance repair person to schedule the appointment times.

Section 26 of the Act says the landlord has a right to enter the premises to perform the landlord's obligations under the Act and tenancy agreement, that the landlord who intends to enter the premises for that purpose must give the tenant at least 24 hours notice with details of the date, time, and purpose of the required entry, and that unless the tenant objects to the days and hours set out in the notice the landlord may enter in accordance with the notice.

I am satisfied the landlord gave the tenant notice of entry in accordance with the Act. I am satisfied the tenant did not object to the time lines of the notice and did not provide alternative time lines to facilitate repairs. I am not satisfied that telling the repair person at the door to come back later constitutes objection to access in compliance with section 26(5) of the Act. I am satisfied the repair person had a right to entry on behalf of the landlord in compliance with section 26 of the Act. I find the respondent failed to comply with the requirements of section 26 of the Act by refusing entry to the repair person.

Disturbances

The applicant's representative testified to personal observations and receipt of multiple complaints from the respondent's neighbours and the condominium corporation board regarding disturbances caused by the respondent's resident family and guests. The nature of the disturbances complained of include excessive noise, arguments, loud music, excessive traffic, and vehicles improperly parked. Notice to the occupants of the complaints have been ignored and the disturbances have continued.

The applicant's representative also provided into evidence correspondence from the RCMP confirming the execution of a search warrant at the rental premises on April 11, 2016, in relation to a long-term investigation which resulted in individuals being arrested and charged. While I cannot consider this incident in relation to whether or not illegal activities occurred in the premises, it does speak to the likelihood of the reported ongoing disturbances throughout the tenancy and the disturbance of the April 11th search warrant execution itself.

I am satisfied the respondent has failed to comply with his obligation not to disturb the landlord's or other tenants' enjoyment or possession of the rental premises and/or residential complex.

Number of occupants

The applicant's representative made further submissions regarding the number of persons occupying the rental premises. Section 10 of the tenancy agreement specifies that no more than six persons may occupy the premises. The applicant's representative testified to personal observations confirming that at least eight persons were known to be occupying the rental premises, and that the respondent himself was not one of them.

Section 45(3) of the Act prohibits a tenant from permitting such number of persons to occupy the rental premises on a continuing basis that results in the contravention of health, safety, or housing standards required by law or in breach of the tenancy agreement.

I am satisfied on a balance of probabilities that the respondent permitted overcrowding of the rental premises to occur and I find the respondent has breached section 10 of their tenancy agreement.

Termination of the tenancy agreement and eviction

The rental arrears alone do not satisfy me that termination of the tenancy agreement is warranted, but when considered with the repeated failure to pay the utilities, the repeated disturbances, and the overcrowding of the rental premises, I find that termination of the tenancy agreement and eviction is justified.

Orders

An order will issue requiring the respondent to pay rental arrears and utilities in the total amount of \$3,441.54, terminating the tenancy agreement June 30, 2016, and evicting the respondent from the rental premises July 1, 2016.

Adelle Guigon
Rental Officer