

IN THE MATTER between **NTHC**, Applicant, and **ES**, 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;

BETWEEN:

NTHC

Applicant/Landlord

-and-

ES

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	February 16, 2022
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	RV, representing the Applicant MH, representing the Applicant MM, representing the Applicant ES, the Respondent
<u>Date of Decision:</u>	February 16, 2022

REASONS FOR DECISION

An application to a rental officer made by IHA on behalf of the NTHC as the Applicant/Landlord against ES as the Respondent/Tenant was filed by the Rental Office January 17, 2022. The application was made regarding a residential tenancy agreement for a rental premises located in Inuvik, Northwest Territories. The filed application was personally served on the Respondent February 8, 2022.

The Applicant alleged the Respondent had failed to comply with the obligation to transfer to another premises. An order was sought for the Respondent to comply with the obligation to transfer to another premises.

A hearing was held February 16, 2022, by three-way teleconference. RV, MH, and MM appeared representing the Applicant. ES appeared as the Respondent.

Tenancy agreement

Evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing April 1, 2012. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Transferring to another premises

The Respondent has been transferred to other premises three times during the course of the her tenancy. The last transfer to the current premises occurred on February 21, 2020, due to issues with the prior premises.

Since shortly after moving into the current premises, the Respondent has made multiple complaints regarding issues with the furnace, the presence of a white dust, the presence of carbon monoxide, and issues with the hot water tank. The Applicant responded to each of the complaints extensively and well within reason. The furnace was replaced, the white dust was tested and the premises was remediated, testing of the premises came back negative for carbon monoxide. The hot water tank started cutting out in October and the furnace started cutting out in November, and both have been responded to in each instance.

In an effort to mitigate the health and safety concerns expressed by the Tenant at the current premises and to mitigate the ongoing costs incurred by the Landlord in repeatedly responding to the claimed issues with the furnace and hot water tank, in November 2021 the Applicant gave notice to the Respondent to transfer to another unit which would be more suitable for her and her family. The other premises is in a three-plex which shares a boiler heating system rather than a forced-air heating system.

The Respondent refused the transfer, claiming she wanted to stay in the current premises despite the ongoing issues with the heating system and the ongoing concerns she's expressed for her health and safety. The Respondent claimed she could not live in an apartment complex because she suffers from anxiety and depression as a result of her neighbours at a previous rental premises having parties and setting their porch on fire. The Respondent also claimed that the apartment complex across the street from the premises the Applicant wants to transfer her to is known to be a place where extensive drug dealing occurs.

The Applicant clarified that the other premises is the end unit of the three-plex, which means the Respondent would only have one direct neighbour. It was also emphasized that the three-plex premises is an overall safer premises for the Respondent where she should not experience any of the same issues with the furnace and hot water tank.

I am satisfied given the circumstances that the Landlord's requested transfer is reasonable and appropriate. While I appreciate the Tenant's concerns for her anxiety and depression, I believe she will experience a less stressful living environment at the other premises than what she is experiencing at the current premises. Additionally, by moving the Tenant out of the current premises the Landlord will have better opportunity to investigate whether or why the furnace and hot water tank have started cutting out, and re-rent the premises as soon as possible.

The Applicant requested a move date of March 15th. The other premises has been held since November for the Respondent and they would prefer to have the transfer occur as soon as possible in order to make their open premises available for other families on their waiting list.

The Tenant said she would agree to move if she has to, but asked to wait until the weather warms up. The Tenant also indicated that she has medical treatments that she travels to Edmonton for roughly every 10 weeks, and she is scheduled to travel for her next appointment February 24th.

Balancing the Respondent's medical travel against the Applicant's request for the transfer to occur as soon as possible, I find a move date of March 31st would be a reasonable compromise. Should the Respondent fail to move to the new premises by March 31st the Landlord may then take the necessary actions to move the Respondent's belongings for her and the Respondent will be liable to the Applicant for the associated moving costs.

Household rule regarding plants and humidity levels

During the course of this hearing the Tenant questioned the reasonableness of a new rule the Landlord has imposed on her limiting the number of plants she could keep and requiring her to maintain a humidity level below 50 percent.

When the Tenant moved into the current premises she had about 200 plants and used several humidifiers. The environmental inspection of the premises in response to the complaints about the white dust confirmed the presence of airborne moulds and identified the number of plants and humidifiers as the likely source of the moulds. The environmental engineer recommended reducing the number of plants and setting the humidifiers to a lower level. In response to that recommendation, and in order to mitigate any further issues or damages to the rental premises, the Landlord gave written notice to the Tenant limiting the number of plants she could keep to 20 and requiring her to maintain the humidity levels to below 50 percent.

The Tenant confirmed at the hearing that she currently has less than 70 plants and has reduced the number of humidifiers being used. Both parties agreed that the last time the humidity levels were checked they were at 27 to 29 percent. The Applicant's representative MM identified himself as a ticketed environmental engineer and confirmed that the standard desirable humidity levels for residential premises should be maintained between 25 to 30 percent.

Subsection 12(3) of the Act specifies that any rules established by the Landlord concerning the Tenant's use, occupancy, or maintenance of the rental premises must be reasonable in all circumstances, in writing, and made known to the Tenant.

In this case, the Tenant was notified in writing on September 7, 2021, of the new rules. These new rules are specific to this Tenant's desire to keep numerous plants and are designed to mitigate the risk of developing mould or causing moisture damage to the premises. I am satisfied the imposition of a rule limiting the number of plants in the premises and controlling the humidity levels is reasonable in the circumstances.

As to the specific numbers imposed, the Tenant has reduced the number of plants she keeps but she has not reached 20. Given that the Tenant has managed to reduce and maintain the humidity levels to approximately 28 percent with more than 20 plants, I think it would be reasonable to increase the allowed number of plants to 65 but reduce the required humidity level to below 30 percent.

Orders

An order will issue:

- requiring the Respondent to comply with the House Rule to keep no more than 65 plants in the rental premises and to keep the humidity levels below 30 percent (ss. 12(5), p. 45(4)(a));
- requiring the Respondent to comply with the obligation to transfer to another premises (ss. 12(5), p. 45(4)(a)); and
- authorizing the Applicant to move the Respondent's belongings to the other premises if the Respondent has not moved by March 31, 2022, and requiring the Respondent to pay the Applicant for any reasonable expenses directly associated with the move (p. 45(4)(d), ss. 83(2)).

Adelle Guigon
Rental Officer