SMALL CLAIMS COURT OF NOVA SCOTIA

Citation: *Marshall v. Johnstone*, 2024 NSSM 16

ON APPEAL FROM AN ORDER OF THE DIRECTOR OF RESIDENTIAL TENANCIES

Date: 20240422
Docket: 525678
Registry: Truro

Between:

Gregory Marshall

Appellant

v.

Ryan Johnstone

Respondent

Adjudicator:	Julien S. Matte
Heard:	January 15 and 23, February 22, March 12, 14 and 19 2024 via teleconference
Decision:	April 22, 2024
Counsel:	Gregory Marshall, self-represented for the Appellant Ryan Johnstone, self-represented for the Respondent

By the Court:

[1] The matter was heard over several evenings following the initial hearing before the Residential Tenancy Officer in July 2023 arising from an application made on April 25, 2023, one year ago. The parties spent significant time and effort before the Court detailing their evidence with respect to alleged breaches by the Appellant. Despite all the issues raised below, in the end, the parties' fixed term lease agreement is determinative.

[2] The appeal is dismissed.

I. *Procedure*

[3] On August 14, 2023, a prehearing was held before a Small Claims Court adjudicator. The parties identified up to 8 witnesses would be needed and documents were to be filed by September 11, 2023, for the initial September 18, 2023 hearing. The Appellant filed a motion with supporting affidavit seeking an in-person hearing. An adjudicator considered the motion and issued an Order dated September 19, 2023 denying the request and setting the matter down for November 6, 2023.

[4] Between September 19, 2023 and November 6, 2023, the Appellant filed an appeal of the September 19, 2023 Order with the Supreme Court. At the November

6, 2023 hearing the Appellant requested a stay of the proceeding to allow the Appeal of the Order. The Court denied the request and offered the Appellant a video conference as an alternative to the telephone conference. The Appellant declined the offer citing unpredictable internet. The Appellant frequently raised the issue of the need for an in person hearing throughout the proceeding. The matter was adjourned twice before the first hearing date, once at the Appellant's request and once by consent.

[5] On January 15, 2023, the parties attended the first evening of the hearing. The Appellant filed a medical note on that day. However, the note was not authored by the Appellant's doctor, contained legal conclusions, hearsay and conclusion of facts. The Appellant advised that while he drafted the note, the doctor reviewed it and agreed with its contents. The note was accepted only for the fact that the Appellant suffered from diabetes, hypertension, and sleep disorders. In the end, the same information was obtained from the Appellant's uncontested testimony and evidence.

[6] The Appellant also tendered an Affidavit of his daughter who is in Ontario at university. The Affidavit was shared by the Court through email with the Respondent who indicated that they had not received it. The Court explained to the Appellant that without his daughter calling into the hearing, the Affidavit was hearsay and although admissible before the Court, it would be given due weight

given the parties inability to cross examine. The Appellant argued numerous times against the Affidavit being characterized as hearsay. The file notes reveal that the original Adjudicator had advised the Appellant that he would have to have any witness present for cross-examination when submitting an affidavit. Given the nature of a phone hearing, this could have easily been achieved.

[7] The Appellant testified during the January 15 and 23, 2024, hearing. The matter was adjourned until February 22, 2024, at the request of the Appellant due to medical reasons. The Respondent presented his case on February 22, March 12, 14 and 19 with most of the time spent on cross-examination. On March 19, the Court offered the parties the opportunity to make submission in writing to avoid further hearings. The Respondent elected to proceed by oral submissions on that date with a right of reply to the Appellant's intended written submissions. The Appellant was given until March 26 at 4pm to file submissions. The Court received a request for an extension, which was granted to March 29, 2024. No submissions were filed. The Appellant contacted the Court on two occasions to advised he was too ill to file submissions. He asked the Court to stay the matter or have a lawyer appointed for him.

[8] Given that the original matter was filed nearly a year prior and with no specific request for a further adjournment by the Appellant, the Court's finding's below and

considering the prejudice to the Respondent of any further delay, the Court elected to proceed without the Appellant's submissions.

II. Issues

[9] The issues raised by both parties are as follows:

1. Did the Appellant breach the *Statutory Conditions* or the Landlord's Rules?
2. Did the Respondent breach the *Statutory Conditions*?
3. Does the Respondent have a duty to accommodate the Appellant due to his medical conditions?
4. What is the appropriate remedy for any breaches?
5. Did the tenancy end on May 31, 2023?

1. Appellant Breaches

[10] Both parties acknowledge their respective obligations as enumerated under *Statutory Conditions* at section 9(1) of the *Residential Tenancies Act*. Of relevance here are conditions 1-4. In addition, the parties acknowledge the Landlord's Rules as also germane. Neither party challenged the statutory scope of landlord rules as defined in section 9A of the *Act*. The rules at issue include "Dogs are to be properly and promptly cleaned after" as found in Schedule A of the February 2020 lease and repeated in the document appended to the May 18, 2022, lease entitled "Pet Policy

Johnstone Properties". The pet policy highlighted two clauses for the Appellant, one requiring the owner of a pet to clean up after their pet and deposit waste in a plastic bag in the garbage while the other required the pet to be leashed at all times while on the premises.

a. Jasper

[11] The issues surrounding the Appellant's dog, Jasper, consumed a large amount of time before the Court. The parties, two property managers and a neighbour all testified, in part, about dog poop and Jasper running free. The Appellant admitted that he was not always able to pick up after Jasper. Between March 2020 and September 2021, the Appellant's daughter lived with him and took care of walking Jasper and associated waste. The issues were not germane while Appellant was away in Ontario with Jasper for the better part of 2022. The Appellant advised that he has difficulties bending down and he obtained a hoe-like tool that helped him pick up the waste but admitted he was not always able to get to it. During the last hearing, the Appellant said he had found someone to pick up after Jasper for one or two days per week.

[12] Ms. Moore, the Respondent's property manager from July 2021 until April 2023, testified that she had numerous interactions with the Appellant and described

them as cordial. Manager Moore also testified that she received a few, undocumented, complaints about Jasper barking in the building and unpleasant smells coming from the Appellant's apartment as well as an incident where the Appellant fell while walking Jasper in the parking lot. The Appellant says he fell over while Manager Moore reports accounts of him pulled down by Jasper.

[13] Manager Moore testified that the Respondent asked her to ask if any of the other tenants were interested in a job picking up after Jasper. This request was evidenced in an email exchange between the parties in February 2023. The email notes that "[y]ou will look into the possibilities of one of the downstairs tenant…" Throughout the hearing, however, the Appellant seemed to equate this to the Respondent having an obligation to find the Appellant a solution to the issue of Jasper's waste being left on the premises. On May 31, Manager Moore emailed the Appellant noted that:

> We cannot accommodate dogs being off leash or not being cleaned up after, as discussed. You need to hire a dog walker, at your expense, to walk the dog daily and clean up after him.

[14] The Appellant's neighbour was called as a witness. The Neighbour testified that he found the Appellant to be aggressive and he was scared of Jasper due to his barking and his opinion that the Appellant was unable to control him. The Neighbour also testified that he stepped in dog waste in front of a car on the

pavement and that the Respondent paid to have his designer shoes to be cleaned. Under cross examination, the neighbour conceded that he did not really have any issues with the Appellant beyond an initial interaction in 2021 where the Appellant confronted the neighbour about his daughter being upset. The Neighbour testified that after that incident, he did not interact with the Appellant and even recalled an instance where he brought a large package up to his door and the Appellant thanked with a note and small present.

[15] The parties tendered pictures of the parking lot where Jasper is said to have deposited his waste. The parties agree that for the most part, Jasper uses the dirt areas near the back stairs. Manager Moore testified that she received a complaint from the basement unit tenant that the smell of the waste would enter her apartment through the window if left open. There is some controversy whether Jasper ever deposited his waste on the parking lot itself.

[16] Manager Wade asserted that complaints were received about Jasper being off leash. The parties agree that on one occasion the Appellant fell or was pulled down causing Jasper to run loose. The parties also agree that Jasper, on one occasion, chased after wildlife. The Appellant testified that Jasper was generally quiet but could bark as a form of greeting. Further, the Appellant testified that he usually had Jasper on a leash and that Jasper may approach others with a friendly interest but

that he had him under control at all times. The parties submitted pictures and videos of Jasper.

[17] On November 10, 2022, the Respondent sent the Appellant a letter addressing breaches of the pet policy. After detailing concerns, the letter ends with:

> We value your tenancy at 88 Willow St and are willing to work with you on a renewed fixed term lease. However, this letter is your written notice that you must be able to handle, control and keep Jasper on a leash at all times while on the property.

b. Apartment

[18] The Respondent alleges that the Appellant's apartment is in a state of disrepair due to excessive clutter and a foul smell that emanates from the apartment. All of the Respondent's witnesses testified to smelling a foul smell that could not be attributed to anywhere else in the building. Manager Moore testified that she was in the Appellant's apartment in 2021 while Manager Wade testified she was in the apartment in 2023. Both recalled stacks of boxes and papers. Manager Wade expressed the belief that the apartment would require a full renovation including the replacement of floors. On cross examination, she conceded that she was relying on her experience and not direct observation of any damage to the apartment. The Respondent testified that he gave the Appellant the largest storage unit in the building.

[19] Both parties agree that when the Appellant moved in in March of 2020 with the intention was for a short duration until the Appellant's daughter went to university in Ontario and that the Appellant would follow. The Appellant testified that as a result he kept the boxes of paper in the apartment on a temporary basis until the anticipated move. Covid changed those plans with his daughter leaving in 2021 instead of 2020 and the Appellant electing to stay. The Appellant testified that he does not have the funds to store the papers elsewhere. The Appellant also questioned the Respondent's evidence of a smell coming from the Appellant's apartment noting that there were lingering and varied smells from cooking throughout the building. Further, the Appellant suggested that smells may be from water damage to the apartment that was never addressed by the Respondent. Pictures of the apartment and the water damage were filed with the Court.

Analysis of Appellant Breaches

i. Jasper's waste

[20] The Appellant admits to breaching the Landlord's Rule with respect to picking up Jasper's waste. Based on the evidence, the Court finds that the Appellant has allowed Jasper to deposit his waste in the areas between the parking lot and building on a consistent basis since coming back from visiting his mother in Ontario in 2022.

The Appellant has made efforts in fashioning a special tool that allows him to reach the waste without bending down and has asked the Respondent with assistance by suggesting solutions to the issue including reaching out to other tenants in the building that might want to take on the job. Further the Appellant advised the Court in March that he had hired someone to assist one or two days a week.

[21] While the Court recognizes the efforts made, the continued failure to pick up the dog waste is a breach of the Landlord's Rules.

ii. Control of Jasper

[22] The Respondent also raises the Appellant's ability to control Jasper as a breach of the Rules. The parties all agree that during one incident, the Appellant fell to the ground and broke his ribs. However, the Appellant denies that Jasper had anything to do with his misfortune while the Respondent suggests otherwise. The Neighbour testified he, despite being a dog person, was afraid of Jasper and cites barking from inside the apartment, witnessing the incident described above, one time when he described Jasper lunging at him while he was returning to his apartment and an incident of Jasper chasing after deer but did not recall friendly encounters when asked on cross examination.

[23] The Respondent's allegation that the Appellant cannot control Jasper is not supported by the evidence. Given that Jasper is taken out daily on a leash, no one has complained of anything more aggressive than barking from inside the apartment, the limited incidents reported where Jasper was or became off leash, given the time elapsed, is not evidence that the Appellant has no control over Jasper and does not constitute a breach of the Landlord Rules.

iii. State of Apartment

[24] Manager Moore described what she saw in the apartment in 2021 when addressing a plumbing complaint as total disarray. Manager Moore says she saw boxes piled high in hallways through the apartment with the second exit blocked with a chair. Pictures tendered show the apartment at that time. Manager Moore also describes a smell and says she received numerous complaints about a smell in the hallway adjacent to the Appellant's apartment. According to Manager Moore, trades persons such as plumbers were unwilling to work in the apartment.

[25] Manager Wade testified that upon taking over property management services in April 2023 for the building, she inspected each apartment. Manager described the Appellant's apartment having a small path with the living room filled with only a small area of 4'X5' left to use. She described the piles as so high that she could

barely, as a 5’1” person reach the top. Manager Wade says that given all of the boxes, there was no way to reach the ceiling to repair the water damage.

[26] Based on the evidence, the Court accepts that there is a smell, unnatural to the situation, coming from inside the Appellant’s apartment. As noted by the Appellant this smell could be from unrepaired water damage. The Court accepts that given all of the boxes piled in the apartment, the necessary repairs cannot be made. The Court recognizes the Appellant short term storage intention in 2020 changed but have never been addressed.

[27] Under Statutory Condition #4, the tenant is responsible for the ordinary cleanliness of the interior of the premises and for the repair of any damage from willful or negligent acts. Further under the Rules, the tenant is expected to keep the apartment in good order which is defined as clean, organized and free of fire, health and other hazards.

[28] The Court finds that the state of the Appellant’s apartment does not meet the standards under the *Act* or the Landlord Rules. The unaddressed temporary storage of boxes has created a hazard and prevents the Respondent from addressing any issues with respect to the smell, including possible water damage.

[29] The Appellant is in breach of the *Act* and the Rules.

2. Landlord Breaches

[30] Throughout the hearing, the Appellant accused the Respondent of failing to provide consistent Wifi, accuses the Respondent of not following the Building Code in installing a railing to the basement or failing to install a railing outside as well as accusing the Respondent of failing to enforce the breaches of Landlord Rules by other tenants.

[31] The parties agree that the Respondent made complaints about the Wifi, a service included in the rent. A service person was called to the premises on at least one occasion and installed wifi extenders in the building. According to the Appellant, the only solution for his wifi was for the Respondent to install a hardwire connection. According to the Respondent he was told that the service person advised that there was nothing wrong with the wifi and the problem was with the Appellant's computer. Neither party elected to call the service person. According to Manager Moore, Manager Wade and the Respondent, no other tenants complained about the wifi after the new extenders were put it. The Court finds that the Respondent is not in breach of the lease provision to provide wifi.

[32] The Appellant stated numerous time that there were Building Code violations. No building experts were called. The basis of the Appellant's assertion was that his

father was an architect. The Respondent testified that he employed professional tradespeople to due all of the work including the overall renovations done to the building after he purchased it. He relied on those professionals to follow the Building Code. The Court finds no merit to the Appellant's argument.

[33] Just like it is not a valid legal defence to a charge of speeding to claim that others were also speeding, the Appellant's argument that other tenants were not sanctioned for smoking in the building is without merit. Manager Wade testified that all rules are enforced. However, the reality of dissipating smoke rather than steaming dog waste makes enforcement more challenging. The Appellant's argument is without merit.

3. Duty to Accommodate

[34] Throughout the hearing, the Appellant asserted that the Respondent had a duty to accommodate his medical conditions in addressing the issues before this Court with respect to picking up Jasper's waster. The medical conditions raised are diabetes, hypertension and sleep disorders and related back problems.

[35] The Appellant testified that because Manager Wade left an eviction notice outside his door, for everyone to see, he became stressed. The Appellant attributed the stress as causing a diabetic ulcer on his foot which, to date, has not resolved and

further limits his mobility. As a result, the Appellant claims that the Respondent has a duty to accommodate his mobility restrictions with respect to picking up after Jasper and submits a doctor's note dated April 12, 2023 in support. The note reads in part:

> He has a medical condition that justifies him having an emotional support animal. He also has physical restrictions due to medical conditions. Therefore, he also needs accommodations to allow extra time to collect waste from his animal.

[36] During the hearing, the Appellant claimed that although Jasper was not officially a service dog, he had personally trained him, and he could be a service dog. The evidence does not support that conclusion. Jasper, while friendly, pulls on his leash, barks and strays off leash. While these are normal behaviors for dogs, service dogs are held to a higher standard. Further, Jasper does not meet the requirements of the *Service Dog Act 2016, c.4.* nor would the Appellant have recourse to the protection afforded to someone with a service dog under that Act.

[37] The Court was given little evidence on the definition of an emotional support animal and is left to interpret the words in their ordinary sense. All pets are used as emotional support to their owners. Here, the building already allows dogs so long as their owners abide by the prescribed Rules. No special accommodation is needed for Jasper to live in the building and can therefore act as a emotional support animal. The Appellant would argue that the stress caused by the manner of delivery of the

eviction notices caused his ulcer, making it harder to pick up Jasper's waste. And given that he needs Jasper as a emotional support animal, he should be exempt from part or all of the Rule's effect.

[38] The Respondent says he has accommodated the Appellant's request by having Manager Moore contact other tenants about a willingness to pick up the waste for the Appellant, presumably in exchange for a wage. The Respondent also notes that he did consider other options brought forward by the Appellant but found them not to be feasible. The Respondent points out that he built a railing in the basement at the request of the Appellant and designated the closest parking spot to the door for the Appellant's exclusive use given his mobility restrictions.

[39] Given the shared space of an eight-unit building, turning a blind eye to dog waste is not an available solution. The only solution is to remove the waste at or near the time it is produced. It is accepted that the Appellant's physical limitations, particularly because of his diabetic foot ulcer, prevent him from consistently picking up the waste while Jasper consistently produces it.

[40] The request for accommodation therefore is a request that the Respondent hire and pay for a waste collector. The Appellant testified that he has recently hired such a person but for only one or two days per week. This means waste may accumulate

for as long as a week before it is picked up. In the end the request is for the financial burden of the waste collection to fall on the Respondent's shoulders rather than the Appellant.

[41] In *M. v. Oxford Properties* 2011 NSSM 26 at paragraph 25, Adjudicator Slone summarized the principles involved when considering the duty to accommodate in the context of a tenancy:

> In all cases where the duty to accommodate is engaged, there needs to be a frank exchange of information. The person seeking accommodation must disclose to the provider that accommodation is required, with sufficient detail to allow the provider to consider whether it is capable of accommodating, or whether on the contrary to do so would be an undue hardship. It is important to emphasize that where the Landlord is able to show that it would be a due hardship to accommodate the disability, either because of the expense or the disruption to other tenants, then the duty has been met and the Tenant faces the unenviable choice of moving out and seeking accommodation elsewhere, or simply putting up with the less-than-ideal situation.

[42] The Appellant states he is financially unable to pay someone to be a full-time waste collector or dog walker. No financial information was provided by the Appellant to evidence his claim. Manager Wade offered the Appellant other buildings that might be better suited given his physical limitations. The Appellant declined the offers stating that he is able to navigate the stairs in order to get in and out the building and down to the basement.

Analysis of Duty to Accommodate

[43] The requested accommodation is not directly related to the Appellant's ability to reside in the building but rather his ability to keep his dog, Jasper. The Appellant testified that his mobility issues do not prevent him from any access to the building. It is having Jasper and the basic requirements associated having a dog the Appellant wants accommodations for. While the Respondent allows dogs in the building, it is under the condition that the Rules are followed. The only medical evidence provided supports the proposition that the Appellant requires an emotional support animal, not necessarily a dog. Having a cat, for example would eliminate the need for walks and picking up after the animal.

[44] Accordingly, the link between the requested accommodation, to be exempt from waste collection, and the Appellant's medical conditions is tenable at best. An emotional support animal is likely an animal used to address emotional or mental conditions when the Appellant cites diabetes, high blood pressure and sleep problems as the disabilities he wishes to have accommodated.

[45] The Court finds that the Appellant has not met his burden of showing a need for accommodation. The Appellant has failed to lead any evidence of what an emotional support animal is, how Jasper meets that definition to the exclusion of other animals such as a cat or shown a financial inability to pay for the services of a waste collector or a dog walker. Simply because the Respondent allows dogs in the

building, does not shift the responsibility for Jasper from the Appellant to the Respondent. The Appellants request is a wish to be excused from the financial responsibility of dog ownership rather than any accommodation for his medical conditions.

4. Potential Remedies for Breaches

[46] As found above, the Appellant breached the Landlord Rules and the *Act* by failing, on an ongoing basis, to collect Jasper's waste and failing to keep his apartment in order.

[47] On July 19, 2023, the Director found that these breaches warranted the termination of the lease. While the Court disagrees that termination of the lease based on the breaches is justified, and would have ordered less drastic remedies, given the Court's findings under final issue below, addressing a remedy for the breaches is moot.

5. Tenancy

[48] The Appellant moved into an eight-unit building owned by the Respondent with his teenage daughter as a temporary measure. The parties signed a fixed term lease to run from March 2020 to September 2020. The Appellant's intention was to

live in Truro until his daughter would enter university in Ontario in the fall of 2020. However, due to Covid, in person university moved to online and the Appellant's daughter remained until September 2021.

[49] Between September 2020 and ending in May 2023, the parties have signed a series of fixed term leases each at the rate of $1011 per month with the last six-month lease from December 1, 2022, to May 31, 2023. Beginning in April 2023 the Respondent hired Manager Wade to manage his building. As part of her duties, Manager Wade advised the Appellant that the Respondent would not be renewing another lease and asked for vacant possession as of May 31, 2023. The Appellant did not move out, no new lease was signed, and he has continued to pay the monthly rent ever since.

[50] As defined by s. 2(ac) of the *Act*, a fixed term lease is an agreement between a landlord and a tenant to rent premises for a defined period of time. When the tenancy period ends, the tenant must vacate or negotiate a new tenancy. Section 10A(2) states that despite the end of a fixed term lease, "if the tenant remains in a possession with the consent of the owner, the lease is deemed to have renewed itself on a month to month basis".

[51] This is in contrast to a yearly or monthly lease where so long as the tenant follows the provisions of the *Act*, the tenancy continues until the tenant gives notice subject to a few narrowly defined exception under the *Act* that permit landlords to end the tenancy.

[52] The evidence from Manager Wade was that after conducting an inspection of the Appellant's apartment and meeting with the Respondent, it was decided that the Appellant's lease would not be renewed. While Manager Wade could not recall when in April 2023 the Appellant was given a letter advising him of the Respondent's intention, the Court concludes that the Appellant knew of the Respondent's intention no later than April 20, 2023, when he filed a Form J with the Residential Tenancies Board alleging breaches by the Respondent. As a result, the Appellant was aware as of April 20, 2023, that he did not have the Respondent's consent to remain in his apartment after May 31, 2023.

[53] The Respondent offered the Appellant an extension of the lease until September 2023, to allow him to find a new place. No new lease was ever signed. From June 1, 2023, to date, the Appellant has paid his rent, the Respondent has accepted the rent while the parties have litigated their issues before the Court.

[54] In *Cyr v. Richards*, 2022 NSSM 57 Adjudicator Slone rejected an argument suggesting that the mere acceptance of rent by a landlord constitutes consent under s. 10A(2). Section 10A(2) attempts to fill the void at the end of a fixed term lease if the parties fail to turn their minds to it. As mentioned by the Respondent during the hearing, a Private Member's bill (Bill 258: *Ending Abuses of Fixed-term Leases Act* 2023) was brought forward before the Legislature but never passed. If passed, this Bill would have required all fixed terms lease to move to a month-to-month lease after a first term. That is not the law today. The law today is that where a fixed term lease ends, it only converts to a month to month leas if there is consent by the landlord. It is not automatic.

[55] Acceptance of rent is evidence of consent but alone is not enough to show that a landlord has consented to the tenant's possession. If it was, earlier leases between the parties may have converted to month to month due to the Respondent's delay in signing them. Giving the *Act* such an interpretation would create an obvious mischief and, in this instance, override the parties' mutual intention of entering into subsequent fixed term leases.

[56] The Respondent has been unequivocal in his pursuit of vacant possession from advising the Appellant that no new lease would be offered to a consistent pursuit of that goal before the Residential Tenancy Board and this Court. The only reason the

Appellant continues to be in possession of his apartment is due to the automatic stay of the Director's Decision pending the outcome of this appeal.

[57] The Appellant's request that this Court order a multi year fixed term lease is not within the Court's jurisdiction. While the use of fixed term leases can be subject to abuse as highlighted by the proposed *Ending Abuses of Fixed-term Leases Act*, there is little evidence of abuse by the Respondent, who has simply availed himself of fixed term leases as allowed under the *Act*. The parties initial lease in 2020 was signed under circumstances that the fixed term lease provision was designed to address. A short term need for temporary accommodation. Although the fixed term lease has been renewed many times, the Respondent never used the automatic end of the lease to request higher rents as some landlords have been known to do. As noted by both the Respondent and Manager Wade, they assert a right to choose who they do business with. Under fixed term leases, the law allows landlords to treat residential tenancies in this manner.

[58] It is up to the Legislature not the Court to decide how to regulate housing. Where fixed term leases are renewed over and over, it is less clear that the apparent legislative intention of fixed term leases is fulfilled. Instead, landlords create a parallel system of tenancy where some tenants enjoy tenure while others do not regardless of how long the tenancy ultimately last. A tenant, such as the Appellant,

having lived in the same apartment for four years, will never enjoy the protection of the law intended by most of the *Act*'s provisions while someone signing a tenured lease today would. However, this is the law today.

[59] In this case, however, it may have made little difference. The Appellant had years to address the state of his apartment and consider who could walk Jasper after his daughter left. It is the Appellant's failure to address these issues that eventually led the Respondent not to renew his lease which ended on May 31, 2023. Without agreement for any further leases, the Respondent is automatically entitled to vacant possession. Even a valid request for accommodation to allow an exemption from the Landlord's Rules would not change the outcome and would simply prevent eviction based on the breaches not the end of the lease.

[60] Considering the Appellant's health issues and the Respondent's previous offer to extend the lease, instead of immediate eviction, the Appellant is required to provide vacant possession on or before July 31, 2024.

[61] The appeal is dismissed. The Order of the Director dated July 19, 2023, is affirmed. The Appellant shall provide vacant possession on or before July 31, 2024.

Julien S. Matte, Small Claims Court Adjudicator