

IN THE MATTER between **NPR Limited Partnership**, Applicant, and **Doreen Washie**, 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, regarding a rental premises located within the **City of Yellowknife, Northwest Territories**.

BETWEEN:

NPR LIMITED PARTNERSHIP

Applicant/Landlord

- and -

DOREEN WASHIE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the tenant is ordered to pay to the landlord rental arrears in the amount of two thousand seven hundred and seventy-one dollars and seventy-one cents (\$2,771.71) and late payment penalties in the amount of three hundred and seven dollars (\$307.00), for a total amount owing to the landlord of three thousand seventy-eight dollars and seventy-one cents (\$3,078.71).
2. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding Apartment 103 at 5001 - 52 Avenue in Yellowknife, Northwest Territories, shall be terminated on May 13, 2013, and the tenant is required to vacate the premises on or before that date unless the rental arrears have been paid in full.

DATED at the City of Yellowknife in the Northwest Territories this 30th day of April 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NPR Limited Partnership**, Applicant, and **Doreen Washie**, 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:

NPR LIMITED PARTNERSHIP

Applicant/Landlord

-and-

DOREEN WASHIE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: April 24, 2013

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: Connie Diener representing the Applicant

Date of Decision: April 24, 2013

REASONS FOR DECISION

Application

The application package submitted by the Applicant/Landlord was received by the Rental Office on March 22, 2013 and filed on March 25, 2013, respecting a tenancy agreement for Apartment 103 at 5001 - 52 Avenue in Yellowknife, Northwest Territories. The Applicant personally served a copy of the filed application package on the Respondent on April 2, 2013.

The application package indicated that the Applicant was seeking the following remedies pursuant to the *Residential Tenancies Act*:

- Payment of rental arrears pursuant to section 41(4)(a);
- Termination of the tenancy agreement for non-payment of rent pursuant to section 41(4)(c);
- Termination of the tenancy agreement for repeatedly late payment of rent pursuant to section 54(1)(g); and
- Eviction of the tenant from the rental premises pursuant to section 63(1).

Included in the application package were the following exhibits:

Exhibit 1: Tenancy Agreement made February 7, 2012

Exhibit 2: Tenant Ledger from February 13, 2012, to March 19, 2013

Hearings

A hearing regarding this matter was scheduled for April 24, 2013, for which notices of attendance were served on the Applicant personally on April 10, 2013, and on the Respondent by registered mail sent on April 9, 2013. The notice was signed for as received by the Respondent on April 13, 2013.

On April 24, 2013, Ms. Connie Diener was present at hearing representing the Applicant. Neither the Respondent nor any representative for the Respondent appeared for the hearing. As all required notices of the hearing were confirmed as received by the Respondent, the hearing proceeded in the Respondent's absence.

Submissions

The Applicant confirmed that they were seeking payment of rental arrears and late payment penalties, termination of the tenancy for non-payment of rent, and an order for eviction of the tenant from the rental premises. They also submitted an updated Tenant Ledger representing account entries from February 13, 2012, to April 22, 2013 [Exhibit 3].

The Tenancy Agreement [Exhibit 1] indicated the term of the lease as from March 1, 2012, to February 28, 2013, with an early move-in date of February 8, 2012. The rent was indicated to be \$1,500 per month from March 1, 2012, plus the pro-rated partial month rent for February 2012 of \$1,137.93. Also referenced in the Tenancy Agreement was the amount of \$1,500 for the security deposit.

In reviewing the Tenant Ledger [Exhibit 3] the following entries were questioned by me:

1. The line items dated February 13, 2012, and May 1, 2012, charging the amount of \$750 each were confirmed to reflect the security deposit owing. The payment amounts on the line items dated February 13, 2012, for \$750, March 22, 2012, for \$375, and April 13, 2012, for \$375, were confirmed to be payments meant to be against the security deposit owing. The methods of payment described in the Tenant Ledger for the security deposits indicate that these payments were made by Income Support on behalf of the tenant. Therefore, I am able to determine that the security deposit has been paid in full in accordance with section 14(2) of the *Residential Tenancies Act*.
2. The line item dated February 14, 2012, described as “chk# PPY from 5.0 :Load” and reflecting a payment of \$51.63 was confirmed by the Applicant as a credit to be applied against rent amounts.
3. The line item dated May 24, 2012, is described as “late fees” in the amount of \$14.70. The Applicant agreed that this was an odd entry, both in description and in dollar amount, and indicated that as she did not have any supporting documentation regarding the nature of this charge that it would be reversed from the account.

4. The two line items dated March 13, 2013, are both described as "refer to invoice 2013-YKN-057" and charge the amounts of \$50 and \$500. The Applicant did not have the invoices available on her file either to refer to or to submit for consideration in today's hearing. She speculated they were likely charges for damages, but could not confirm that without the invoices in question. As the details of these charges are not before me I am not in a position to consider them at this time.

5. Commencing on March 1, 2013, an increase of the monthly rent to \$1,600 is reflected on the Tenant Ledger. This increase was not questioned either before or at hearing. Should the tenant have any concerns regarding the validity of the rent increase I would direct them to section 47 of the *Residential Tenancies Act* respecting Rent Increases.

The Tenant Ledger reflects monthly rent charges totalling \$21,200. Payments made against the monthly rent owing total \$18,428.29. Of the payments made, \$10,500.66 was paid by Income Support with \$7,927.63 being paid by the Respondent. Income Support paid the full rent for the months of March, April, June, July, August, and November of 2012 and January 2013, with \$0.66 remaining to be applied against the rent owing. Income Support did not make any payments against the rent for May, September, October, and December of 2012 and February, March, and April of 2013. The remaining total amount of rent payable by the tenant is \$2,771.71.

Late payment penalties totalling \$307 were applied against the Tenant Ledger pursuant to section 41(2) of the *Residential Tenancies Act* and calculated in compliance with section 3 of the *Residential Tenancies Regulations*. All payments for monthly rent were made after their due date, with exception to those for May 2012 which were actually paid in April 2012.

Determinations

Section 54(1)(g) of the *Residential Tenancies Act* speaks to termination of the tenancy for repeatedly late payment of rent with a minimum of 10-days notice by the landlord. Section 54(4) of the *Residential Tenancies Act* specifies that “a landlord who has given a notice of termination under subsection (1) shall make an application to a rental officer for an order to terminate the tenancy agreement...”. As the landlord in this instance did not submit any evidence that they did in fact give a minimum of 10 days notice to terminate the tenancy to the Respondent, termination of the tenancy cannot be considered under section 54.

Section 41(1) of the *Residential Tenancies Act* requires a tenant to pay rent to the landlord on the dates specified by the tenancy agreement. The evidence submitted by the Applicant in this matter clearly shows that approximately 1.75 months of rent equalling \$2,771.71 currently remains outstanding.

Section 41(2) of the *Residential Tenancies Act* confirms that tenants are liable to any late payment penalties that are justifiably applied against them, calculated in accordance with the *Residential Tenancies Regulations*. The evidence submitted by the Applicant in this matter clearly shows that the Respondent’s rent has repeatedly not been paid on time and that the late payment penalties applied by the Applicant currently equal \$307.

Order

In consideration of the evidence that has been brought before me, an order shall be made requiring the payment of rental arrears in the amount of \$2,771.71 and late payment penalties in the amount of \$307. Further, an order shall be made terminating the tenancy agreement on May 13, 2013, if the rental arrears are not paid in full by that date. An eviction order shall also be made under separate cover which will be effective May 14, 2013, if the rental arrears have not been paid in full by May 13, 2013.

Adelle Guigon
Deputy Rental Officer