

IN THE MATTER between **Hay River Housing Authority**, Applicant, and **Allee Gaede**, Respondent;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act") and amendments thereto;

AND IN THE MATTER of a Hearing before, **Adelle Guigon**, Deputy Rental Officer, regarding a rental premises within **the town of Hay River in the Northwest Territories**.

BETWEEN:

HAY RIVER HOUSING AUTHORITY

Applicant/Landlord

- and -

ALLEE GAEDE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$400.00 (four hundred dollars);
2. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondent must compensate the applicant for costs directly associated with the repair of tenant damages in the amount of \$123.00 (one hundred and twenty-three dollars);

3. Pursuant to sections 41(4)(c) and 43(3)(d) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as Apt. 305 - 46 Woodland Drive in Hay River, Northwest Territories, is terminated effective February 28, 2014, and the respondent must vacate the rental premises on or before that date;
4. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, the respondent must pay compensation to the applicant for use and occupation of the rental premises known as Apt. 305 - 46 Woodland Drive in Hay River, Northwest Territories, for each day the respondent remains in the rental premises after March 1, 2014, at a rate of \$2.63 per day.

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

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Hay River Housing Authority**, Applicant, and **Allee Gaede**, 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:

HAY RIVER HOUSING AUTHORITY

Applicant/Landlord

-and-

ALLEE GAEDE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 28, 2014

Place of the Hearing: Hay River, Northwest Territories, via Teleconference

Appearances at Hearing: Adam Swanson, representing the Applicant

Date of Decision: January 28, 2014

REASONS FOR DECISION

An application to a rental officer made by Hay River Housing Authority as the applicant/landlord against Allee Gaede as the respondent/tenant was filed by the Rental Office October 3, 2013. The application was made regarding the rental premises known as Apt. 305 - 46 Woodland Drive in Hay River, Northwest Territories. The applicant served a copy of the filed application package on the respondent by personal service October 9, 2013.

The applicant alleged the respondent had accumulated rental arrears, caused damages to the rental premises, and repeatedly disturbed the quiet enjoyment and possession of the residential complex by other tenants and the landlord. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for November 13, 2013. The applicant was served the notice of attendance by registered mail signed for October 24, 2013; Mr. Adam Swanson appeared at hearing representing the applicant. The respondent, Ms. Allee Gaede, had not been served the notice of attendance as of the hearing date and did not appear at hearing. The hearing was adjourned *sine die* until confirmation of her location could be made.

The hearing was rescheduled to January 28, 2014. The applicant was served the notice of attendance by registered mail signed for January 9, 2014; Mr. Adam Swanson appeared at hearing representing the applicant. The respondent was served the notice of attendance by personal service January 10, 2014; Ms. Allee Gaede did not appear at hearing and no one else appeared to represent her. The hearing proceeded in her absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Mr. Swanson testified that Ms. Gaede had repeatedly disturbed the quiet enjoyment of the residential complex for other tenants. He provided notes to file and warning correspondence detailing 11 separate complaints of disturbances taking place between December 28, 2012, and December 15, 2013. The landlord's warnings to Ms. Gaede to cease causing disturbances have gone unheeded. It is primarily for this reason the applicant is seeking an order terminating Ms. Gaede's tenancy agreement and evicting her from the rental premises.

Mr. Swanson testified that at the time of the original application being made Ms. Gaede was only behind one month's rent of \$80, which was not enough to warrant applying for an order for payment of rental arrears. However, since then Ms. Gaede has made no effort to pay her rent and has accumulated rental arrears as of January 28, 2014, of \$400. Mr. Swanson submitted a written request on January 21, 2014, to amend the application to include a request for payment of rental arrears. Four notifications of outstanding rental arrears sent to Ms. Gaede – dated October 21, and December 11, 2013, and January 6 and January 20, 2014 – were submitted into evidence, indicating Ms. Gaede was aware of the rental arrears and informed of the consequences of failing to pay. Mr. Swanson also provided two payment plan agreements which were made by Ms. Gaede, agreeing to make monthly payments of \$50 in addition to her rent to go towards her rental arrears; these agreements were signed November 25 and December 13, 2013. Ms. Gaede has failed to comply with either of these agreements. Mr. Swanson reiterated his request for an order for payment of the rental arrears, and further requested termination of the tenancy agreement for non-payment of rent.

Mr. Swanson testified that a work order was generated October 10, 2013, for the applicant's maintenance team to repair one of Ms. Gaede's window screens. He confirmed Ms. Gaede reported the damaged screen herself and had accepted responsibility for the damage, however, she has not paid for the repairs. An invoice for these repairs was issued to Ms. Gaede October 16, 2013, for \$103 for labour and materials to effect the repairs. As well, there is a charge of \$20 laid against Ms. Gaede for replacing two keys on October 28, 2013 – one for the back door of the apartment building and one for Ms. Gaede's apartment door. Mr. Swanson requested an order for payment of the cost of repairs totalling \$123.

Mr. Swanson testified that, based on the pattern of behaviour exhibited by Ms. Gaede over the course of her tenancy and the lack therein of a positive response to resolve the issues, Ms. Gaede does not appear to take her responsibilities as a tenant seriously. Mr. Swanson indicated he has no confidence Ms. Gaede will voluntarily vacate the rental premises as directed should an order for termination of the tenancy agreement be granted and therefore requested an order for eviction and compensation for use and occupation as well.

Tenancy agreement

A residential tenancy agreement between the parties dated April 1, 2012, was submitted into evidence by the applicant. The tenancy agreement was for subsidized public housing for a fixed-term from February 1, 2012, to December 31, 2013, after which it was automatically renewed as a periodic monthly tenancy. The tenancy agreement identified the rental premises as Apt. 305 - 46 Woodland Drive in Hay River, Northwest Territories. I am satisfied a valid tenancy agreement is in place.

Rental arrears and tenant damages

The statement of account and client aged detail submitted into evidence by the applicant are the landlord's accounting of assessed monthly rent, costs of repairs for tenant damages, and payments made against the account. These reports reflect the tenancy period from February 1, 2012, to January 10, 2014. Mr. Swanson testified that no further payments have been made by Ms. Gaede since January 10, 2014. I am satisfied these reports accurately reflect payments made by Ms. Gaede. I find Ms. Gaede has accumulated rental arrears of \$400.

The applicant's correspondence to the respondent dated October 16, 2013, regarding the costs of repairing the damaged window screen included the work order and invoice supporting the charge of \$103. In my opinion, the amount of \$103 is not unreasonable to account for the labour and materials of repairing the window screen. I am satisfied Ms. Gaede was sufficiently informed of the costs of repair. The statement of account and client aged detail show no payments made by Ms. Gaede towards the costs of repair. I find Ms. Gaede responsible for the costs of repairing the damaged window screen in the amount of \$103.

The applicant has charged Ms. Gaede \$20 for the replacement of two keys to access the rental premises. Mr. Swanson testified this is the flat rate charged to tenants for such replacement, and he referred to the client aged detail where it appears evident this is not the first time Ms. Gaede has had to pay for replacement keys. I have no reason to disbelieve Mr. Swanson's testimony that Ms. Gaede required another set of keys to be cut and that these keys have not been paid for. In my opinion, the charge of \$20 for the provision of replacement keys is not unreasonable. I find Ms. Gaede responsible for the costs of replacing rental premises keys in the amount of \$20.

Disturbing the quiet enjoyment of the premises

Notes to file and warning correspondences have been submitted into evidence in support of complaints reported by tenants and the caretaker of the residential complex of disturbances coming from Ms. Gaede's apartment and by guests permitted in the premises by Ms. Gaede. These support Mr. Swanson's testimony. The notes to file reference security video that was reviewed by Mr. Swanson confirming incidents which occurred in the hallways of the apartment by persons coming from or going to Ms. Gaede's apartment. Mr. Swanson assured me the security video only records activity in the residential complex hallways and does not interfere with the tenants' privacy within their respective apartments. The security video does not record audio; it only records video. I have no reason to disbelieve Mr. Swanson's testimony and I am satisfied the notes to file and warnings reflect repeated disturbances caused by Ms. Gaede and/or persons permitted in the rental premises by her over the course of her tenancy. I find Ms. Gaede has breached section 12(c) of her residential tenancy agreement and section 43(1) of the Act by causing or permitting guests to cause disturbances within the residential complex.

Termination and eviction

Mr. Swanson has provided evidence and testimony which has established repeated disturbances in the residential complex for which Ms. Gaede is responsible and has not made any efforts to resolve. Mr. Swanson has further provided evidence and testimony to Ms. Gaede's failure to pay her rent. She has not paid her rent for five months. She has failed to comply with a payment plan agreement that she willingly entered into, twice. It is apparent to me Ms. Gaede does not respect the situation she is in and the responsibilities she agreed to abide by. I am satisfied termination of the tenancy agreement is justified, as is an eviction order.

An order will issue requiring Ms. Gaede to pay rental arrears in the amount of \$400, costs of repairs for tenant damages in the amount of \$123, termination of the tenancy agreement effective February 28, 2014, and compensation for use and occupation of the rental premises for each day Ms. Gaede remains in the rental premises after March 1, 2014.

An eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Applicant's statement of facts
- Exhibit 2: Residential tenancy agreement dated April 1, 2012
- Exhibit 3: Applicant's note to file dated September 30, 2013, regarding complaints of September 26, 2013
- Exhibit 4: Applicant's final warning correspondence dated September 23, 2013, regarding complaints of September 20-21, 2013
- Exhibit 5: Applicant's note to file dated September 23, 2013, regarding complaints of September 20-21, 2013
- Exhibit 6: Applicant's final warning correspondence dated September 3, 2013, regarding complaints of August 30-September 1, 2013
- Exhibit 7: Applicant's note to file dated September 3, 2013, regarding complaints of August 30-September 1, 2013
- Exhibit 8: Applicant's second warning correspondence dated August 29, 2013, regarding complaints of August 28, 2013
- Exhibit 9: Applicant's note to file dated August 28, 2013, regarding complaint of August 27, 2013
- Exhibit 10: Applicant's warning correspondence dated June 4, 2013, regarding complaints of June 3, 2013
- Exhibit 11: Applicant's note to file dated June 3, 2013, regarding complaint of June 3, 2013
- Exhibit 12: Applicant's second warning correspondence dated January 28, 2013, regarding complaints of January 26-27, 2013
- Exhibit 13: Applicant's note to file dated January 28, 2013, regarding complaints of January 25-27, 2013
- Exhibit 14: Applicant's warning correspondence dated January 2, 2013, regarding complaints of December 28, 2012
- Exhibit 15: Applicant's note to file dated January 2, 2013, regarding complaints of December 28, 2013
- Exhibit 16: Applicant's notice to the respondent terminating the tenancy effective October 11, 2013, pursuant to section 54(1)(a) of the *Residential Tenancies Act*
- Exhibit 17: Applicant's note to file dated October 17, 2013, regarding RCMP repeat offender notification
- Exhibit 18: Applicant's warning correspondence dated October 7, 2013, regarding complaints of October 5, 2013
- Exhibit 19: Applicant's note to file dated October 7, 2013, regarding complaints of October 5, 2013
- Exhibit 20: Applicant's warning correspondence to respondent dated December 16, 2013, regarding complaints of December 15, 2013

- Exhibit 21: Applicant's note to file dated December 16, 2013, regarding complaints of December 14 and 15, 2013
- Exhibit 22: Applicant's warning correspondence to respondent dated December 9, 2013, regarding complaints of December 6, 2013
- Exhibit 23: Applicant's note to file dated December 6, 2013, regarding complaints of December 6, 2013
- Exhibit 24: Applicant's warning correspondence to respondent dated November 13, 2013, regarding complaints of November 8 and 9, 2013
- Exhibit 25: Applicant's note to file dated November 13, 2013, regarding complaints of November 8 and 9, 2013
- Exhibit 26: Applicant's correspondence to the Rental Office dated January 21, 2014, amending their application to include payment of rental arrears and pay future rent on time
- Exhibit 27: Statement of account dated January 21, 2014, for August 1, 2013, to January 1, 2014
- Exhibit 28: Client aged detail as of January 21, 2014, for February 1, 2012, to January 1, 2014
- Exhibit 29: Agreement to pay rental arrears made December 13, 2013
- Exhibit 30: Applicant's outstanding rental arrears - 45 days correspondence to respondent dated January 20, 2014
- Exhibit 31: Applicant's outstanding rental arrears - 30 days correspondence to respondent dated January 6, 2014
- Exhibit 32: Applicant's outstanding rental arrears - 30 days correspondence to respondent dated December 11, 2013
- Exhibit 33: Agreement to pay rental arrears made November 14, 2013 - Voided
- Exhibit 34: Applicant's overdue account correspondence to respondent dated November 25, 2013
- Exhibit 35: Applicant's outstanding rental arrears - 45 days correspondence to respondent dated October 21, 2013
- Exhibit 36: Applicant's damages correspondence to respondent dated October 16, 2013
- Exhibit 37: Applicant's work order #1,179 dated October 10, 2013
- Exhibit 38: Applicant's invoice #14019 dated October 16, 2013
- Exhibit 39: Applicant's invoice #50896 dated October 16, 2013
- Exhibit 40: Statement of account dated October 8, 2013, for July 1 to October 1, 2013