

IN THE MATTER between **NPRLP**, Applicant, and **JW**, 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:

NPRLP

Applicant/Landlord

-and-

JW

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	September 27, 2016
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	LB, representing the applicant CD, representing the applicant
<u>Date of Decision:</u>	September 27, 2016

REASONS FOR DECISION

An application to a rental officer made by NPRLP as the applicant/landlord against JW as the respondent/tenant was filed by the Rental Office June 29, 2016. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The applicant served a copy of the filed application on the respondent by email deemed received July 7, 2016, pursuant to section 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The applicant alleged the respondent had repeatedly failed to pay rent and had accumulated rental arrears. An order was sought for payment of rental arrears, termination of the tenancy agreement, and eviction.

A hearing was scheduled for September 27, 2016, in Yellowknife, Northwest Territories. Ms. LB and Ms. CD appeared representing the applicant. Mr. JW was served notice of the hearing by registered mail deemed served September 16, 2016, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act), and by email deemed received September 25, 2016, pursuant to section 4(4) of the Regulations. Mr. JW did not appear at the hearing, nor did anyone appear on his behalf. The hearing proceeded in his absence pursuant to section 80(2) of the Act.

Tenancy agreement

The applicant's representatives testified and provided evidence establishing a residential tenancy agreement between the parties commencing February 1, 2016. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

The resident ledgers entered into evidence represent the landlord's accounting of monthly rents and payments made against the respondent's rent account. It includes late payment penalties as well as charges for payments returned due to insufficient funds (NSF). I am satisfied the monthly rents and payments received are accurately represented. I am satisfied the late payment penalties have been calculated in accordance with the Act and Regulations.

With respect to the NSF charges (seven of them at \$50 each), I am not satisfied these are appropriate charges to levy against the respondent. Section 13 of the Act says in part that a breach of a tenant's obligation may not result in a specific sum becoming due and payable. To my mind this means in general that penalties, other than late payment penalties, are prohibited. The NSF payments result in the tenant failing to pay the rent in full when due and as such late payment penalties may be applied, which they are in this case. No additional penalties are permitted for late payment or non-payment of rent. As such, the resident ledger balance will be amended to deduct \$750 in NSF charges.

I am satisfied the amended resident ledger accurately reflects the current status of the respondent's rent account. I am satisfied the respondent has been repeatedly and unreasonably late paying his rent throughout the tenancy. I find the respondent has accumulated rental arrears in the amount of \$7,840.

Termination of the tenancy agreement and eviction

The applicant's representatives testified that the last time they heard from the respondent directly regarding his rent account and intentions was approximately two months ago. The last successful payment against the respondent's rent account was recorded August 12, 2016, in the amount of \$2,000.

In consideration of the respondent's repeated failure to pay his rent on time and the substantial amount of rental arrears accumulated, I am satisfied the termination of the tenancy agreement and eviction are justified.

Orders

An order will issue requiring the respondent to pay rental arrears in the amount of \$7,840; terminating his tenancy agreement September 30, 2016; evicting the respondent from the rental premises October 15, 2016; and requiring the respondent to compensate the applicant for use and occupation of the rental premises at a rate of \$64.44 for each day he remains there after September 30, 2016.

Adelle Guigon
Rental Officer