

IN THE MATTER between **NTHC**, Applicant, and **SN**, 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-

**SN**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>October 4, 2016</b>
<b><u>Place of the Hearing:</u></b>	<b>Fort Smith, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>CS, representing the applicant AH, representing the applicant SN, respondent</b>
<b><u>Date of Decision:</u></b>	<b>October 4, 2016</b>

**REASONS FOR DECISION**

An application to a rental officer made by FSHA on behalf of the NTHC as the applicant/landlord against SN as the respondent/tenant was filed by the Rental Office May 24, 2016. The application was made regarding a subsidized public housing residential tenancy agreement for a rental premises located in Fort Smith, Northwest Territories. The applicant sent a copy of the filed application on the respondent by registered mail deemed served June 14, 2016, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act).

The applicant alleged the respondent had repeatedly failed to pay rent on time, had accumulated rental arrears, had caused damages to the rental premises, and had failed to vacate the rental premises in accordance with a valid notice to terminate the tenancy agreement. An order was sought for payment of rental arrears, payment of costs for repairs, and eviction.

A hearing was scheduled for October 4, 2016, in Fort Smith, Northwest Territories. The rental officer appeared by teleconference. Mr. CS and Ms. AH appeared representing the applicant. Ms. SN appeared as respondent.

*Tenancy agreement*

The parties agreed and evidence was entered establishing a residential tenancy agreement between the parties for subsidized public housing commencing September 17, 2012. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the Act.

By written notice dated December 8, 2015, the applicant terminated the tenancy agreement January 31, 2016, due to repeated and unreasonable disturbances throughout the tenancy. The notice was given pursuant to section 51(5) of the Act, which permits a landlord of subsidized public housing to terminate a tenancy by giving the tenant at least 30 days' written notice for the last day of a period of the tenancy.

The respondent exercised her right to appeal the FSHA's decision to terminate the tenancy to the FSHA Board of Directors (BOD) on December 21, 2015. The BOD denied the appeal on January 14, 2016, and upheld the termination date of January 31, 2016.

The respondent exercised her right to appeal the BOD's decision to uphold the termination of the tenancy to the NTHC South Slave District Office (SSDO) on January 25, 2016. The SSDO denied the appeal on February 4, 2016, and upheld the termination date of January 31, 2016.

The respondent had one more avenue of appeal available to her to the NTHC Housing Appeal Committee (HAC), of which she was informed in the SSDO's letter of denial. The respondent had 20 business days to file the appeal. On April 26, 2016, the respondent wrote to the HAC requesting consideration to submit an appeal. On May 10, 2016, the HAC informed the respondent that because she did not submit her appeal within the required timeline the committee is unable to consider her request.

Having exhausted her appeal options, the FSHA granted the respondent until May 24, 2016, to vacate the rental premises. The respondent failed to do so and remains in occupancy of the rental premises to date.

I am satisfied the tenancy agreement between the parties was terminated January 31, 2016, in accordance with section 51(5) of the Act. I find the respondent has continued occupying the rental premises as an overholding tenant.

#### *Rental arrears*

The lease balance statement entered into evidence represents the landlord's accounting of monthly assessed rents and payments made against the respondent's rent account. The respondent did not dispute the accuracy of the accounting.

The statements corroborate the applicant's allegation that the respondent has been repeatedly late paying the full amount of her rent throughout the tenancy. On January 29, 2016, the respondent had successfully brought her rent account to a zero balance, and on January 31, 2016, ECE made a payment on her behalf of \$160. Three subsequent payments were also made by ECE on behalf of the respondent of \$80 each on March 20<sup>th</sup>, April 30<sup>th</sup>, and July 24<sup>th</sup>. No payments for rent have been received from the respondent directly since January 29<sup>th</sup>.

Section 7 of the tenancy agreement specifies that as long as the tenant is not in breach of any of the terms of the agreement the tenant will be eligible for a rent subsidy. By repeatedly failing to pay her rent on time, the respondent became ineligible for rent subsidies. However, it was not until February 2016 – after the tenancy was terminated in accordance with the Act – that the applicant began assessing the maximum monthly rent of \$1,625. In light of the appeal periods and final confirmation of the unsuccessful appeals in May 2016, the applicant's representatives agreed to assess the minimum subsidized rent of \$80 each for the months of February to May while retaining their right to assess the maximum rent of \$1,625 for the months of June to October. I am satisfied this is a reasonable action for the applicant to take under the circumstances, and have amended the lease balance statement accordingly.

I am satisfied the amended lease balance statement accurately reflects the current status of the respondent's rent account. I find the respondent has accumulated rental arrears in the amount of \$8,045.

#### *Damages*

The applicant claimed costs to temporarily repair an exterior door, jamb, and casing in the amount of \$297.19. The applicant received a call from the respondent on the morning of September 1, 2016, notifying them that the door had been damaged. Maintenance personnel attended the premises, were told the door had been kicked in, and effected sufficient repairs to ensure the door could be secured.

The respondent testified that her cousin had come to her house intoxicated, demanding entry. When she refused to let him in, he kicked the door in and assaulted her. RCMP were called and the cousin was arrested. The respondent confirmed that there is an RCMP file number for the incident.

Section 12(b) of the tenancy agreement and section 42(1) of the Act hold the tenant responsible for damages caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant. In this case, the respondent did not kick the door in, and the person who did kick the door in was not permitted on the premises by the respondent. As such, the respondent cannot be held responsible for the costs to repair the door, jamb, and casing. The applicant's request for costs of repairs is denied.

#### *Eviction*

Having found the tenancy agreement between the parties was terminated January 31, 2016, in accordance with the Act, and having determined that the respondent continues to occupy the rental premises, I am satisfied an eviction order is justified.

#### *Orders*

An order will issue requiring the respondent to pay rental arrears in the amount of \$8,045; evicting the respondent from the rental premises November 1, 2016; and requiring the respondent to pay to the applicant compensation for use and occupation of the rental premises at a rate of \$53.43 for each day she remains in the rental premises after October 31, 2016.

---

Adelle Guigon  
Rental Officer