

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

JM

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 3, 2016

Place of the Hearing: Deline, Northwest Territories

Appearances at Hearing: JV, representing the applicant
JM, respondent

Date of Decision: November 3, 2016

REASONS FOR DECISION

An application to a rental officer made by NTHC as the applicant/landlord against JM as the respondent/tenant was filed by the Rental Office August 29, 2016. The application was made regarding a subsidized public housing residential tenancy agreement for a rental premises located in Deline, Northwest Territories. The applicant personally served a copy of the filed application on the respondent September 2, 2016.

The applicant alleged the respondent had repeatedly failed to pay his rent, had accumulated rental arrears, and had failed to report household income as required. An order was sought for payment of the rental arrears, termination of the tenancy agreement, eviction, and compensation for use and occupation.

A hearing was scheduled for November 3, 2016, in Deline, Northwest Territories. The rental officer appeared by telephone. Mr. JV appeared by telephone representing the applicant. Mr. JM appeared as respondent.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing commencing November 5, 2013. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Previous orders

Rental Officer Order Number 20-14628 dated May 4, 2015, required the respondent to pay rental arrears in the amount of \$11,230 and terminated the tenancy agreement May 31, 2015, unless the respondent reported his household income and restored electricity to the rental premises. It should be noted here that the rental arrears of \$11,230 included rents which were unsubsidized due to the respondent's failure to report his household income. The respondent did subsequently report his income as required, which resulted in assessments of rent subsidies, which reduced the amount of rental arrears as of the hearing date of April 30, 2015, to \$1,681.09.

Rental arrears and reporting of household income

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 statement indicates the respondent has made four payments totalling \$2,667.09 between January 1, 2016, and September 30, 2016. No payments were made between June 1, 2014, and December 31, 2015. The respondent did not dispute the accounting. I am satisfied the lease balance statements accurately reflect the payments made by the respondent throughout the tenancy against his rent account.

All rents prior to July 2016 have been assessed subsidies based on reported household income. The rents for July 2016 to October 2016 have been assessed at the maximum monthly rent of \$1,445. The applicant's representative explained the reason the respondent was not assessed for rent subsidies for this period is because the respondent has not fully complied with his obligation to report his household income.

Section 6 of the tenancy agreement requires the tenant to report his total household income to the landlord whenever and as often as requested by the landlord, and in the form prescribed by the landlord. Prior to July 1, 2016, the applicant required the respondent to report his household income on or about the 1st of each month for the immediately prior month; the rent subsidy for the month would be calculated based on the prior month's income. Effective July 1, 2016, the applicant changed their policy from a monthly reporting requirement to an annual reporting requirement. Now the tenant is required to report their household income by providing their Canada Revenue Agency (CRA) annual income tax assessments to the landlord, from which the applicant will calculate the subsidized rent for a one-year period resulting in a set rent amount for each month from July to June.

The parties agreed that the respondent had provided the necessary authorization for the CRA to release the respondent's 2015 income tax assessment to the landlord, however, the respondent has not as yet filed his 2015 income tax return. Therefore, the CRA does not have any information to release to the applicant from which the applicant could calculate rent subsidies.

The respondent confirmed he has not yet filed his tax return for 2015. He indicated he does want to be a taxpayer, but had received legal advice not to file his return yet. He expects to file his return soon. The applicant's representative agreed to accept for the time being a reporting of the respondent's income for the months of June to October 2016 in order to assess applicable subsidies on the condition that income was reported no later than November 30, 2016. The respondent agreed to provide the necessary information.

The applicant's respondent also agreed that a temporary estimate of the respondent's likely subsidized rents for the months of July to October 2016 based on the subsidized amounts assessed for October 2015 to June 2016 of \$325 would not be unreasonable to impose at this time, conditional on the respondent's understanding that the amount may be different depending on what the respondent's actual household income is reported to be. The respondent understood this caveat. By applying an estimated subsidized rent of \$325 for the months of July to October 2016, the respondent's estimated rental arrears are reduced from \$8,069 to \$3,589.

I am satisfied the respondent has failed to comply with his obligation to report his household income in accordance with section 6 of his tenancy agreement. I am satisfied the respondent has repeatedly failed to pay his rent. I find the respondent has accumulated rental arrears in the amount of \$3,589.

Termination of the tenancy agreement and eviction

In consideration of the respondent's repeated failure to report his income as required, the respondent's repeated failure to pay his rent, and the substantial amount of rental arrears accumulated, I am satisfied termination of the tenancy agreement and eviction are justified. However, with agreement of the applicant's representative, I am satisfied termination and eviction conditional on strict requirements: to report his income for June to October 2016 by no later than November 30, 2016; to pay his rents for December, January, and February on time; and to pay at least half of the accumulated rental arrears before February 28, 2017, is appropriate under the circumstances.

Orders

An order will issue: requiring the respondent to pay rental arrears in the amount of \$3,589; requiring the respondent to pay his rent on time in the future; requiring the respondent to comply with his obligation to report his household income as required and to report his household income for June to October 2016 by November 30, 2016; terminating the tenancy agreement February 28, 2017, unless the rents for December, January, and February are paid on time, the household income is reported as required, and at least \$1,794.50 is paid towards the rental arrears; evicting the respondent March 1, 2017, if the termination of the tenancy becomes effective; and requiring the respondent to pay compensation for use and occupation of the rental premises at a rate of \$47.51 for each day he remains in the premises after February 28, 2017, if the termination of the tenancy agreement becomes effective.

Adelle Guigon
Rental Officer