

IN THE MATTER between **NPRLP**, Applicant, and **MNV and NP**, Respondents.

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-

MNV and NP

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: February 22, 2017

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: BL, representing the applicant
RP, representing the applicant
MNV, respondent

Date of Decision: February 22, 2017

REASONS FOR DECISION

An application to a rental officer made by NPRLP as the applicant/landlord against MNV and NP as the respondents/tenants was filed by the Rental Office October 19, 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 respondents by registered mail signed for November 7, 2016.

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

A hearing was scheduled for February 22, 2017, in Yellowknife, Northwest Territories. BL and RP appeared representing the applicant. MNV appeared as respondent and on behalf of NP.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them commencing July 1, 2012. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Rental arrears

The resident ledgers entered into evidence represent the landlord's accounting of monthly rent, late payment penalties, insufficient funds (NSF) charges, and payments made against the respondents' rent account. The current monthly rent is established at \$1,830. The last two successful payments against the account were recorded February 1, 2017, in the amount of \$1,830 and October 1, 2016, in the amount of \$850.

Pre-authorized payments (automatic withdrawals) had been arranged to pay the monthly rent commencing in March 2014; since then the withdrawals have been reversed by the bank due to the respondents having insufficient funds (NSF) in their account to cover the withdrawals 19 times, most recently in January 2017. The landlord applied a "returned check charge" each time in the amount of \$50. No evidence was presented at hearing to substantiate the charge as representing a loss suffered by the landlord as a result of the tenants' failure to pay their rent in full and on time.

Section 13 of the Act specifies that a landlord may not charge penalties against a tenant for breaches under the Act or tenancy agreement, other than late payment penalties calculated in accordance with the Act and *Residential Tenancies Regulations* (the Regulations). The applicant has calculated late payment penalties in accordance with the Act and Regulations, which are allowed. The applicant was given until March 3, 2017, to provide evidence supporting their claim of losses suffered in the form of bank charges stemming from the NSF payments. As of the writing of this order, no supporting evidence had been received and as such the applicant's claim for NSF fees is denied. At hearing, the NSF fees were claimed as totalling \$350, however, a subsequent review of the resident ledger shows the total NSF fees applied against the respondents' rent account as \$950. I have adjusted the rental arrears balance accordingly.

The respondent did not dispute the amount of rental arrears claimed, acknowledging their responsibility for the debt. She admitted she expects to receive an inheritance within the next few weeks which should reduce the amount of rental arrears accumulated substantially. Additionally, the respondent indicated an imminent return to work which would facilitate paying the full amount of rent when due going forward.

I am satisfied the amended rent ledger accurately reflects the current status of the respondents' rent account. I find the respondents have repeatedly failed to pay their rent when due and have accumulated rental arrears in the amount of \$5,846.50.

Termination of the tenancy agreement and eviction

In light of the respondents' repeated failure to pay their rent and the substantial amount of rental arrears, I am satisfied termination of the tenancy agreement and eviction are justified.

By agreement between all parties, the termination and eviction will be conditional on the respondents' successful payment of at least \$4,000 towards the rental arrears and the rents for March and April being paid on time.

Orders

An order will issue: requiring the respondents to pay rental arrears in the amount of \$5,846.50; requiring the respondents to pay their future rent on time; terminating the tenancy agreement April 30, 2017, unless at least \$4,000 is paid towards the rental arrears and the rents for March and April are paid on time; and evicting the respondents from the rental premises May 1, 2017, if the termination of the tenancy agreement becomes effective.

Adelle Guigon
Rental Officer