

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

Date of the Hearing: March 22, 2017

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: CS, representing the applicant

Date of Decision: May 20, 2017

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 November 30, 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 served the filed application on the respondent by registered mail signed for December 13, 2016.

The applicant alleged the respondent had caused damages to the rental premises and left the rental premises in an unclean condition. An order was sought for payment of costs for repairs and cleaning.

A hearing was scheduled for March 22, 2017, by three-way teleconference. CS appeared representing the applicant. SN was served notice of the hearing by registered mail signed for March 13, 2017. The respondent did not appear at the hearing, nor did anyone appear on her behalf. The hearing proceeded in the respondent's absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Previous orders

Rental Officer Order Number 15228 dated October 6, 2016, required the respondent to pay overholding rental arrears in the amount of \$8,045, ordered eviction of the respondent from the rental premises November 1, 2016, and required the respondent to pay compensation for use and occupation of the rental premises at a rate of \$53.43 for each day she remained in the rental premises after October 31, 2016.

Tenancy agreement

The applicant's representative testified and provided evidence establishing a residential tenancy agreement between the parties for subsidized public housing commencing September 17, 2012. The respondent voluntarily vacated the rental premises on or before October 31, 2016. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the Act.

Damages and cleaning

In the application to a rental officer, the applicant claimed costs for the following:

Replace one storm door	\$444.69
Repair holes in walls and water damaged ceiling	\$4,006.64
Replace six window screens	\$317.00
Replace one toilet tank lid	\$121.16
Replace four interior doors	\$1,511.86
Replace six curtain rods	\$322.22
Replace floor registers/grills	\$194.00
Replace one exterior light fixture	\$51.00
Cleaning throughout interior and exterior	\$358.00
Garbage removal and disposal	\$867.50
Repair/replacement of cabinets, countertops, hardware	\$825.49
Replace two exterior doors	\$1,469.28
Replace linoleum and clean, repair, and repaint concrete floor	\$1,779.99
Replace tub surround	\$1,714.00
Repair oven/range	\$210.79
TOTAL	\$14,085.60

The applicant's representative testified and provided evidence supporting the claims for the following, which are allowed as claimed:

Replace one storm doors	\$444.69
Replace six window screens	\$317.00
Replace one toilet tank lid	\$121.16
Replace six curtain rods	\$322.22
Replace floor registers/grills	\$194.00
Cleaning throughout interior and exterior	\$358.00
Garbage removal and disposal	\$867.50
Repair oven/range	\$210.79

Repair of holes in walls and water damaged ceiling

With respect to the repairs of holes in walls, my review of the entry/exit inspection reports and photographs found there were holes in the walls throughout the rental premises for which the respondent is responsible. The respondent appears to have attempted to patch many of the holes herself, but the work was of substandard quality and the applicant had to repair the attempted repairs. I am satisfied the respondent is responsible for the damages to the walls.

With respect to the repairs to the ceiling, the exit inspection report does identify that the back entry area ceiling is water damaged and a photograph was provided showing the referenced water damaged ceiling (the popcorn/stucco is peeling from the ceiling). The applicant's representative was unable to provide evidence or otherwise substantiate what actions or inactions the tenant might have taken to cause the identified water damage. I am not satisfied the respondent is responsible for causing the damage to the back entry ceiling.

One work order was provided claiming \$4,000 for costs of repairs to the walls and ceiling. The work order does not break down the amount claimed between the work done to the walls and the work done to the ceiling. There are nine rooms/areas that had damaged walls requiring repairs and one room/area that required the ceiling repairs. I will allow nine-tenths of the amount claimed in the work order for the costs of repairing the walls, amounting to a total of \$3,600.

Replace interior doors

The applicant claimed costs for replacing four interior doors. The entry/exit inspection reports and the photographs reflect three damaged interior doors, not four. I am satisfied the respondent is responsible for damaging three interior doors. One work order was provided claiming \$1,511.86 to replace four interior doors. I will allow three-quarters of this amount for the replacement of three interior doors, totalling \$1,133.90.

Replace exterior front entrance light fixture

The applicant's representative acknowledged that he does not recall the exterior front entrance light fixture being damaged or missing from his inspection of the premises, nor was it referenced in the exit inspection report. The work order for this repair/replacement was generated by maintenance personnel who attended the premises after the applicant's representative completed the exit inspection report. I am not satisfied the respondent is responsible for the missing exterior light fixture as it cannot be established when that light fixture went missing or was damaged. The claim of \$51 is denied.

Repair/replacement of cabinets, countertops, hardware and replacement of tub surround

Work orders were submitted claiming costs to "make any necessary repairs/replacements" to all cabinets/cupboards and to "re-build bathroom vanity and re-install" and to "remove damaged tub surround and replace with new, make any necessary repairs/patches prior to install" in the total amount of \$2,539.49. There is no indication in the entry/exit inspection report that any of the cabinets, cupboards, bathroom vanity, or tub surround were damaged. Photographs entered into evidence also do not show any damage to these items. The applicant's representative testified that when he conducted the exit inspection he did not

observe the claimed damages. He advised that the maintenance personnel who inspected the premises subsequent to the exit inspection identified water damage to the claimed items. No evidence was presented to establish either when the water damage occurred or what happened to cause the water damage. I am not satisfied that the respondent's wilful or negligent conduct resulted in the claimed water damages and therefore will not hold the respondent responsible for them. The applicant's claim for costs to repair and replace the cabinets, cupboards, bathroom vanity, and tub surround is denied.

Replace two exterior doors

In the reasons for decision for Rental Officer Order Number 15228 the applicant's claim for costs to temporarily repair the back exterior door, jamb, and casing were denied because the damage was caused by a person who was not permitted entry to the rental premises by the respondent. The door in question was kicked in by an unauthorized person, the action was reported to the RCMP, and the person was arrested for the crime; there is an RCMP file number for the incident.

Section 42(1) of the Act requires a tenant to repair damages to the rental premises which are caused by the wilful or negligent conduct of the tenant or *persons who are permitted on the premises by the tenant*.

In the current application, the applicant claimed costs to replace both the front and back exterior doors. Clearly, the claimed damages to the back door were not caused either by the tenant or by a person permitted on the premises by the tenant, and therefore the tenant cannot be held responsible for the resulting damages, as established in Rental Officer Order Number 15228. There is no evidence to support or suggest that the back exterior door was repaired subsequent to the last rental officer order or that the currently claimed damages occurred since then. Neither the entry/exit inspection reports nor the photographs identify any damages to the front exterior door. I am not satisfied the respondent is responsible for any damages to either the front or back exterior doors. The applicant's claims for costs to repair/replace the two exterior doors is denied.

Repair of linoleum floor and concrete floor

With respect to the linoleum floor in the entry area, the entry/exit inspection report does not identify any damages to that flooring other than it had not been cleaned. However, a photograph was entered into evidence showing six of the linoleum tiles were stained. The stains could not be cleaned out of the linoleum and therefore constitute damage. The work order entered into evidence claimed costs to replace 20 square feet of linoleum where only six square feet of linoleum was damaged. There was photographic evidence of a section of the linoleum flooring that had lifted and torn away from beneath the exterior door, however this appears to be normal wear and tear rather than damage caused by the tenant. Even if the other 14 square feet of linoleum required replacement, there is no evidence to support that it was damaged by the tenant, therefore it would be considered normal wear and tear, which the respondent is not responsible for. I will grant the applicant reasonable costs to replace six square feet of damaged linoleum.

With respect to the concrete floor in the basement, the entry/exit inspection report does identify that there was a substantial amount of adhesive tape left on the floor which is supported by photographs. The applicant's representative testified that the tape was of a type that could not easily be removed from the concrete floor and the effort required to remove the tape resulted in the paint coming off with it. As a result, the repairs required not only cleaning and removal of the tape, but also preparing and re-painting the floor. The work order entered into evidence claimed costs to clean and remove the tape, and to prepare and re-paint the entire floor area of the basement. The applicant's representative estimated the total floor area of the basement to be approximately 600 square feet and the area damaged by the tape to be approximately 18 square feet. I will grant the applicant reasonable costs to repair 18 square feet of the basement concrete floor.

The costs for both of the above flooring repairs was claimed on one work order for a total amount of \$1,779.99. The respondent is responsible for repairing 30 percent of the linoleum floor area and 3 percent of the concrete floor area. For ease of calculation, and in consideration of the amount of effort required to scrape and clean the concrete floor, I will grant the applicant 33 percent of the total amount claimed on the work order of \$1,779.99, which amounts to \$587.40.

In summary, the following table lists all the allowed claims:

Replace one storm doors	\$444.69
Replace six window screens	\$317.00
Replace one toilet tank lid	\$121.16
Replace six curtain rods	\$322.22
Replace floor registers/grills	\$194.00
Cleaning throughout interior and exterior	\$358.00
Garbage removal and disposal	\$867.50
Repair oven/range	\$210.79
Repair holes in walls	\$3,600.00
Replace three interior doors	\$1,133.90
Repair linoleum floor and concrete floor	\$587.40
TOTAL	<u>\$8,156.66</u>

Order

An order will issue requiring the respondent to pay costs for repairs and cleaning in the amount of \$8,156.66.

Adelle Guigon
Rental Officer