

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

CP

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: March 29, 2017

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: AB, representing the applicant
CP, respondent

Date of Decision: May 30, 2017

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of the NTHC as the applicant/landlord against CP as the respondent/tenant was filed by the Rental Office January 4, 2017. The application was made regarding a subsidized public housing residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The applicant personally served the filed application on the respondent January 5, 2017. An addendum to the application was also personally served on the respondent after an attempt to serve it by email on March 7, 2017, failed.

The applicant alleged the respondent had repeatedly and unreasonably disturbed the landlord and other tenants' enjoyment or possession of the rental premises or residential complex, the respondent had repeatedly failed to pay rent, and the respondent had accumulated rental arrears. An order was sought for payment of the rental arrears, that future rent be paid on time, that the tenant comply with her obligation not to cause disturbances and not breach that obligation again, for termination of the tenancy agreement, and for eviction.

A hearing was scheduled for March 29, 2017, in Yellowknife, Northwest Territories. AB appeared representing the applicant. CP appeared as respondent.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing July 1, 2015. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Disturbances

The applicant's representative testified and provided evidence of complaints of disturbances occurring at the residential complex. Copies of security incident reports and notices to the respondent from the applicant documenting 12 complained of disturbances occurring between February 2016 and February 2017. Nine of the disturbances occurred between November 7 and December 16, 2016. Of the 12 reports, the five most recent ones were vague and could not be directly attributed to the respondent or the respondent's guests.

The respondent admitted to the disturbances occurring prior to December 9, 2016, acknowledging that while her husband was living with her his behaviour while under the influence of alcohol resulted in loud noise, fighting, and partying at her rental premises. The respondent testified that she has not permitted alcohol in her premises since about December 5, 2016, and her husband had moved out of the premises in mid-December 2016. She does not permit parties in her premises and while she does still have visitors they are not noisy and she personally escorts them into the building.

I am satisfied the security reports and notices dated between February 10, 2016, and December 7, 2016, document disturbances for which the respondent is responsible. I am not satisfied the security reports dated between December 9, 2016, and February 14, 2017, document disturbances which can be directly attributable to the respondent or the respondent's guests. I find the respondent has disturbed the landlord's or other tenants' enjoyment or possession of the rental premises or residential complex in the past, but I am not satisfied those disturbances have continued past December 2016.

Rental arrears

The applicant's representative testified that the respondent had repeatedly failed to pay her rent and had accumulated rental arrears. She failed to produce a lease balance statement at hearing to support the claim. The applicant's representative confirmed that all rents had been subsidized based on reported household income.

The respondent admitted to missing a few payments on occasion and did not dispute that she likely carried rental arrears. She did question whether or not the rent subsidies had been adjusted to account for her husband no longer living with her. Although the applicant was aware that the respondent's husband had moved out, the respondent had failed to report the changes to her household income; without the tenant reporting changes to household income in compliance with section 6 of the tenancy agreement the landlord is unable to re-assess subsidies accordingly.

There being no dispute that the respondent carried rental arrears, I find the respondent has failed to comply with her obligation to pay her rent when due. I could not make a finding as to the amount of rental arrears accumulated without the lease balance statement. I agreed to reserve my decision with respect to an order for payment of rental arrears until May 5, 2017, in order for the parties to coordinate effecting any rent subsidy re-assessments for which the respondent might be eligible and to provide the lease balance statement. A lease balance statement current to March 30, 2017, was provided reflecting subsidized rents currently assessed at \$160 per month and a rental arrears balance of \$460. I am satisfied the lease balance statement accurately represents the current status of the respondent's rent account. I find the respondent has accumulated rental arrears in the amount of \$460.

Replacement keys

The applicant's representative testified to several outstanding charges to repeatedly replace various keys to the rental premises and residential complex. Although the applicant failed to produce documentary evidence of the various charges and the lease balance statement had not been produced at hearing reflecting those charges, the respondent admitted to losing the referenced keys and accepted responsibility for the costs associated with replacing the keys.

The applicant's representative was granted until May 15, 2017, to produce the invoices and/or work orders for the key replacements. The applicant's representative provided invoices and tenant adjustment forms with the lease balance statement on March 30, 2017. The documents support the applicant's claim, and the lease balance statement included not only the associated charges but also reflected payments that had been received specifically against those charges.

In total, there were six instances that keys required replacement for which the tenant was charged a total of \$808.50. Three payments were made against the charges totalling \$340, leaving an outstanding amount of \$468.50 for key replacements.

I am satisfied the invoices and tenant adjustment forms represent the charges associated with replacing the various keys. I am satisfied the lease balance statement accurately reflects the payments received against the costs of replacing the various keys. I find the respondent liable to the applicant for replacing keys in the outstanding amount of \$468.50.

Termination of the tenancy agreement and eviction

The applicant originally requested termination of the tenancy agreement and eviction due to the repeated disturbances. The accumulated rental arrears were later included as further justification for the requested termination and eviction, however, the applicant's representative acknowledged both the recent lack of disturbances and the generally consistent payment of rent and conceded that at most a conditional termination and eviction order may be warranted.

In granting the extended period of time to May 15, 2017, for the production of outstanding documents previously mentioned, the intent was to also provide for an assessment of whether or not disturbances would recur. No submissions indicating further disturbances had occurred were received between March 30 and May 15, 2017. To my mind, this supports the respondent's sincerity at hearing that the cause of the previous disturbances is no longer a factor and I can have some confidence that no further disturbances should be expected going forward. I am not satisfied that termination of the tenancy agreement and eviction are justified due to the disturbances.

The amount of rental arrears accumulated represents approximately three months' rent. While there have been a few months when rent was not paid on time or in full, I am not satisfied that the respondent has been sufficiently delinquent to justify termination of the tenancy agreement due to the accumulation of rental arrears, and I am confident the respondent is committed to resolving her debt.

The applicant's request for conditional termination of the tenancy agreement and eviction is denied.

Orders

An order will issue: requiring the respondent to comply with her obligation not to cause disturbances and to not breach that obligation again; requiring the respondent to pay rental arrears in the amount of \$460; requiring the respondent to pay her future rent on time; and requiring the respondent to pay costs for key replacements in the amount of \$468.50.

Adelle Guigon
Rental Officer