

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

MG

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	April 25, 2017
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	RB, representing the applicant KL, representing the applicant MG, respondent
<u>Date of Decision:</u>	April 25, 2017

REASONS FOR DECISION

An application to a rental officer made by YDFNHD on behalf of the NTHC as the applicant/landlord against MG as the respondent/tenant was filed by the Rental Office March 1, 2017. The application was made regarding a subsidized public housing residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served on the respondent by email deemed received March 11, 2017, pursuant to section 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The applicant alleged the respondent had repeatedly failed to pay rent, had failed to report income as required, had accumulated rental arrears, and had failed to obtain written permission for additional occupants in the rental premises. An order was sought for payment of rental arrears, termination of the tenancy agreement, and eviction.

A hearing was scheduled for April 25, 2017, in Yellowknife, Northwest Territories. RB and KL appeared representing the applicant. MG appeared as respondent.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing commencing April 1, 2012. 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 10-14990 dated January 19, 2016: required the respondent to pay rental arrears in the amount of \$13,985.62; required the respondent to pay her future rent on time; required the respondent to report her household income in accordance with the tenancy agreement; terminated the tenancy agreement April 30, 2016, unless at least \$1,000 was paid to the rental arrears, the household income was reported for February, March, and April 2016, and rents for February, March, and April 2016 were paid on time; evicted the respondent from the rental premises May 1, 2016, if the termination of the tenancy agreement became effective; required the landlord to compensate the tenant for unreasonable interference with access to the rental premises in the amount of \$300; and required the landlord to give the tenant immediate access to the rental premises. The orders for monetary compensation remain enforceable if filed with the Supreme Court of the Northwest Territories before January 19, 2019, pursuant to section 86(3) of the Act.

Rental arrears and reporting of household income

The tenant ledger cards entered into evidence represent the landlord's accounting of monthly assessed rents and payments made against the respondent's rent account. All rents up to and including June 2016 have been subsidized based on reported household income. All rents from July 2016 to April 2017 have been assessed at the maximum monthly rent of \$1,545 due to the respondent's failure to report her household income for the 2015 and 2016 calendar years. The last four payments received against the respondent's rent account were recorded: February 2, 2017, in the amount of \$400; November 21, 2016, in the amount of \$200; October 13, 2016, in the amount of \$200; and September 7, 2016, in the amount of \$200.

Section 6 of the written tenancy agreement requires the respondent to report her total household income as and when required to the applicant. Prior to July 2016, the applicant required the household income be reported monthly from which each month's rent subsidy would be calculated. Effective July 2016, the applicant initiated a policy change under which the respondent would no longer be required to report monthly, but would rather be required to report her household income annually from which the monthly rent would be calculated for the 12-month period from July to June. The expected form of reporting is with the CRA notice of assessments for the prior calendar year. In other words, the monthly rent for July 2016 to June 2017 would be calculated based on the 2015 income tax returns of all adult occupants of the household.

Section 7 of the written tenancy agreement states that the tenant is only eligible for rent subsidies as long as they are not in breach of any of the terms of the tenancy agreement, including but not limited to the requirement to report household income. Because the respondent has failed to report income as required, the applicant does not have the information necessary to accurately calculate any rent subsidies the respondent might be entitled to which justifies the charging of the maximum monthly rent.

The respondent admitted she has not completed her income tax returns for either the 2015 or 2016 calendar years. The applicant's representative confirmed that upon receipt of the necessary CRA income tax return documents rent adjustments will be assessed for the July 2016-June 2017 period.

I am satisfied the respondent has failed to report her household income as required. I am satisfied that the charge of the maximum monthly rent for July 2016 to date is appropriate and justified. I am satisfied the tenant ledger card accurately reflects the current status of the respondent's rent account. I find the respondent has failed to comply with her obligation to report her total household income in accordance with paragraph 6 of her written tenancy agreement. I find the respondent has repeatedly failed to pay the full amount of her rent when

due. I find the respondent has accumulated rental arrears in the amount of \$26,928.98. I find the respondent has failed to comply with a rental officer order to pay her rental arrears, pay her future rent on time, and report her household income as required. In consideration of the rental arrears ordered paid under Rental Officer Order Number 10-14990 in the amount of \$13,985.62, which as previously mentioned remains enforceable until January 2019, an order to pay issued under the current application will be for \$12,943.36, which is the difference between the current total and the previous amount ordered.

Additional occupants

The applicant made allegations that the respondent had at least two other adults residing in the rental premises with her without the prior written consent of the landlord. The respondent denied that this was the case, clarifying only that there remained the five authorized occupants: three adults and two teenagers. No substantive evidence was presented to satisfy me that unauthorized persons were occupying the rental premises.

Disturbances

The applicant made allegations of the following disturbances originating from the respondent's rental premises: a life-threatening stabbing incident on February 5, 2017; and repeatedly overflowing garbage bins prior to January 13, 2017. At hearing, the applicant's representative also referenced a single complaint received in April 2017 regarding the respondent's black dog.

With respect to the stabbing incident, the respondent denies either that the stabbing occurred within the rental premises or that she or any of the other authorized occupants or any invited guests were involved in the incident. The stabbing apparently occurred outside, near the rental premises but not on the property, and involved one of the respondent's brothers-in-law. I am not satisfied based on the limited evidence presented that the respondent is responsible for the disturbances created by the violent actions which took place in this instance.

With respect to the overflowing garbage bins, the respondent admitted to permitting the bins to overflow, but was only aware of one instance when that occurred. The applicant's representative testified to having received multiple complaints. There is documentary evidence of one complaint received January 13, 2017, which references the problem has been ongoing for some time and that the bin is "always overfilled". The respondent was notified of the complaint on January 24, 2017, after which there have been no further complaints documented, suggesting the concerns were resolved. While I am satisfied that permitting garbage bins to overflow can disturb other tenants' enjoyment and possession of the residential complex, I am not satisfied that the respondent has continued to permit the garbage bins to overflow.

With respect to the disturbance caused by the respondent's dog, the respondent did not dispute that the one incident occurred. The parties agreed that no further disturbances have been caused by the dog or complained of. While I am satisfied that the incident with the dog occurring in April 2017 likely caused a disturbance to the other tenants' in the residential complex, I am satisfied that no further disturbances have occurred.

With reference to the garbage bins incident and dog disturbances incident, I am not satisfied the respondent has repeatedly caused disturbances, but I do find the respondent has failed to comply with her obligation not to cause disturbances.

Termination of the tenancy agreement and eviction

The respondent's repeated failure to report her household income as required, repeated failure to pay the full amount of her rent, and accumulation of substantial rental arrears are the significantly more serious of the respondent's breaches. Combined with the respondent's failure to comply with rental officer orders, I am satisfied that termination of the tenancy agreement and eviction are justified. The parties were agreeable to imposing a conditional termination and eviction order dependent on the respondent reporting her 2015 and 2016 household income and paying future rents on time and in full.

Orders

An order will issue:

- requiring the respondent to pay rental arrears in the amount of \$12,943.36;
- requiring the respondent to pay her future rent on time;
- requiring the respondent to comply with her obligation to report her household income as required and not to breach that obligation again;
- requiring the respondent to comply with her obligation not to cause disturbances and not to breach that obligation again;
- terminating the tenancy agreement July 31, 2017, unless the respondent reports her household income for the 2015 and 2016 calendar years and pays her rent for May, June, and July on time; and
- evicting the respondent from the rental premises August 1, 2017, if the termination of the tenancy agreement becomes effective.

Adelle Guigon
Rental Officer