

IN THE MATTER between **SA and MLDA**, Applicants, and **JLS**, 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:

**SA and MLDA**

Applicants/Landlords

-and-

**JLS**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** April 19, 2017

**Place of the Hearing:** Yellowknife, Northwest Territories

**Appearances at Hearing:** MLDA, applicant  
SA, applicant  
JLS, respondent

**Date of Decision:** April 19, 2017

**REASONS FOR DECISION**

An application to a rental officer made by SA and MLDA as the applicants/landlords against JLS and KA as the respondents/tenants was filed by the Rental Office November 25, 2016. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served on the respondents by registered mail signed for November 30, 2016.

The applicants alleged the respondents had failed to pay rent for the last month of their tenancy and sought an order for payment of lost future rent.

A hearing was scheduled for April 19, 2017, in Yellowknife, Northwest Territories. MLDA and SA appeared as applicants. JLS appeared as respondent.

*Preliminary matters*

The respondent testified and the applicants confirmed they were aware that, despite KA being a joint tenant with JLS to the tenancy, KA had moved out of the rental premises in April 2016. The applicants agreed to withdraw their application against KA and proceed against JLS alone. The application to a rental officer will be amended accordingly and the style of cause going forward will identify JLS as the sole respondent/tenant.

*Tenancy agreement*

The parties agreed and evidence was presented establishing a residential tenancy agreement between them commencing July 1, 2015, for a fixed-term to June 30, 2016. The respondent vacated the rental premises June 30, 2016. I am satisfied a valid tenancy agreement was in place in accordance with the *Residential Tenancies Act* (the Act).

*Lost future rent*

Section 51(1) of the Act specifies that a tenant in a fixed-term tenancy agreement may terminate the tenancy on the last day of the fixed-term by giving the landlord at least 30 days' written notice before the termination date.

Section 49 of the Act specifies that, unless the landlord and tenant have entered into a new tenancy agreement or the tenancy has been terminated in accordance with the Act, a fixed-term tenancy agreement is deemed to be renewed as a month-to-month tenancy agreement on the first day after the last day of the fixed-term period.

Section 52(1)(b) of the Act specifies that a tenant in a month-to-month tenancy agreement may terminate the tenancy on the last day of a period (month) of the tenancy by giving the landlord at least 30 days' written notice before the termination date.

In this case the respondent gave the applicants two days' written notice of his intention to vacate the premises on June 30, 2016, by email sent to the applicant June 28, 2016.

The notice that the respondent gave the applicant on June 28, 2016, of his intention to vacate did not effectively terminate the tenancy agreement until July 31, 2016. Because the fixed-term tenancy agreement was not terminated in accordance with the Act, it automatically renewed as a month-to-month tenancy effective July 1, 2016.

Section 1(3) of the Act states that a tenant has abandoned the rental premises where the tenancy has not been terminated in accordance with the Act and the landlord has reasonable grounds to believe that the tenant has left the rental premises. As mentioned, when the respondent vacated the rental premises June 30, 2016, he had failed to give proper notice in accordance with the Act and therefore the tenancy agreement had not been terminated in accordance with the Act. The applicants were aware the respondent had vacated the rental premises June 30, 2016, and the respondent does not dispute this. Effectively, the respondent abandoned the rental premises June 30, 2016.

Section 62 of the Act specifies that where a tenant abandons the rental premises the tenancy agreement is terminated on that date but the tenant remains liable to compensate the landlord for loss of future rent that would have been payable under the tenancy.

Section 5 of the Act requires the landlord to mitigate their losses where a tenant abandons a rental premises by re-renting the premises as soon as is practicable.

As previously stated, the respondent failed to give proper notice of his intention to vacate the rental premises, providing the applicants with only two days' notice. The respondent had informed the applicants of his intention by text message June 25, 2016, but text messaging is not a form of writing recognized by the Act or *Residential Tenancies Regulations* (the Regulations). Despite the invalidity of the texted information, the applicants saw the writing on the wall, so to speak, and began placing for-rent advertisements as early as June 26, 2016. The applicants successfully re-rented the premises in September 2016.

Because the tenancy agreement automatically renewed as a month-to-month tenancy agreement effective July 1, 2016, the respondent was obligated to give 30 days' notice to terminate the tenancy agreement for the last day of a given month. As previously stated, the email notice the respondent sent to the applicants on June 28, 2016, would have taken effect to terminate the tenancy agreement for July 31, 2016, and the respondent would be liable for the rent for July.

I am satisfied the applicants took adequate steps to mitigate their losses by advertising the rental premises' availability for rent, complying with their obligation under section 5 of the Act. I find the respondent liable to the applicants for the rent for July 2016 in the amount of \$2,250.

#### *Order*

An order will issue requiring the respondent to pay lost future rent in the amount of \$2,250.

---

Adelle Guigon  
Rental Officer