

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

AD

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: June 7, 2017

Place of the Hearing: Hay River, Northwest Territories

Appearances at Hearing: AS, representing the applicant

Date of Decision: June 7, 2017

REASONS FOR DECISION

An application to a rental officer made by HRHA on behalf of the NTHC as the applicant/landlord against AD as the respondent/tenant was filed by the Rental Office April 5, 2017. The application was made regarding a subsidized public housing residential tenancy agreement for a rental premises located in Hay River, Northwest Territories. The filed application was served on the respondent by registered mail signed for May 8, 2017.

The applicant alleged the respondent had caused damages to the rental premises. An order was sought for payment of costs for repairs and losses suffered as a direct result of the damages, termination of the tenancy agreement, and eviction.

A hearing was scheduled for June 7, 2017, in Hay River, Northwest Territories. The Rental Officer appeared by telephone. AS appeared representing the applicant. AD was sent notice of the hearing by registered mail deemed served May 24, 2017, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act). The respondent did not appear at the hearing, nor did anyone appear on his behalf. The hearing proceeded in the respondent's absence pursuant to section 80(2) of the Act.

Tenancy agreement

The applicant's representative testified and provided evidence establishing a residential tenancy agreement between the parties for subsidized public housing commencing February 1, 2014. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Previous orders

Rental Officer Order Number 10-13326 dated March 26, 2013, required the respondent to pay rental arrears in the amount of \$370, and required the respondent to pay costs of repairs in the amount of \$486.69. This order was satisfied.

Rental Officer Order Number 10-13789 dated February 21, 2014, required the respondent to pay his rent on time in the future.

Rental Officer Order Number 10-15107 dated April 22, 2016, required the respondent to pay rental arrears in the amount of \$214.50, terminated the tenancy agreement May 31, 2016, and evicted the respondent from the rental premises June 1, 2016. The termination and eviction orders were not enforced by the landlord.

Damages

On December 10, 2015, the respondent left his young children unattended in the rental premises. Becoming hungry, the children decided to cook for themselves. Their attempts resulted in a fire, from which the children were safely removed. The fire caused extensive damages to the rental premises, making it uninhabitable until repairs were completed April 20, 2016. The respondent and his children were transferred to another rental premises.

The property is rented by the applicant for use as subsidized public housing. The property owner's insurance company conducted an investigation into the incident and determined that the cause of the fire was due to tenant negligence. As a result, the property owner was denied insurance compensation for the costs of repairs and lost rent. The applicant was invoiced for those costs and the property owner's deductible in the total amount of \$41,360.24. The insurance investigation was completed and the applicant was notified of the results October 18, 2016. The applicant sought legal advice before proceeding with pursuing compensation from the respondent. The respondent was notified of the resulting costs on March 24, 2017, after which the application to a rental officer was filed.

The applicant's representative supported their claim by providing into evidence: the fire chief's report dated December 10, 2015; the quote for costs of repairs from the construction company dated January 9, 2016; the actual invoice for costs of repairs from the construction company dated April 20, 2016; and the notice from the property owner's insurance company dated October 18, 2016. Included in the construction company's quote were 18 photographs identifying the damages to the rental premises.

Section 42(1) of the Act specifies the tenant's responsibility for damages caused to the rental premises by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant. Paragraph 12(b) of the written tenancy agreement goes further to require the tenant to pay the landlord within a reasonable time the cost of repairing any damage to the premises caused by the wilful or negligent conduct of the tenant, other authorized occupants of the premises, or of any persons who are permitted on the premises by the tenant.

Based on the evidence presented, it is clear that the extensive fire damage to the rental premises was caused by the children's attempts to cook without supervision. The respondent's wilful conduct in leaving the children unsupervised resulted in the negligent (albeit unintentional) conduct of the children. I find the respondent responsible for the damages caused to the rental premises and liable to the applicant for costs of repairs and losses suffered as a direct result of the damages in the total amount of \$41,360.24.

Termination of the tenancy agreement and eviction

The applicant applied for termination of the tenancy agreement and eviction due to the extensive damage caused by the fire which occurred in December 2015. While I certainly agree the fire was a dramatic and traumatic event which resulted in a substantial loss to the landlord, it is one significant incident occurring in a tenancy spanning approximately three years to date. Since the fire occurred and the respondent was transferred to another unit, there have been no new issues or concerns arising with respect to damaging the new rental premises. Any issues with respect to paying rent or other tenant obligations were not specifically raised under this application. The only grounds raised for terminating the tenancy agreement at this time was the damages caused by the fire in December 2015. I am not satisfied that termination of the tenancy or eviction are justified. As such, the applicant's request for termination and eviction is denied.

Order

An order will issue requiring the respondent to pay costs of repairs and losses suffered as a direct result of the damages caused by the fire in the total amount of \$41,360.24, and requiring the respondent to comply with his obligation not to cause or permit to be caused any damages to the rental premises or residential complex.

Adelle Guigon
Rental Officer