

IN THE MATTER between **AB**, Applicant, and **RB AND BR AND BF**, Respondents.

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 **Hal Logsdon**, Rental Officer,

BETWEEN:

AB

Applicant/Landlord

-and-

RB AND BR AND BF

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: January 10, 2018

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: BL, representing the applicant

HC, representing the applicant

RB, respondent

Date of Decision: January 18, 2018

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondents to pay the alleged rent arrears, termination of the tenancy agreement and eviction of the respondents.

The tenancy agreement commenced on April 1, 2013 and names RB as the sole tenant. The applicant provided an unapproved form entitled "Request To Add Name To Lease" in evidence. The document is signed by RB, BR and BF requesting that BR and BF be added to the tenancy agreement as joint tenants with RB. The document is not signed by the landlord nor was a new tenancy agreement executed. The document was executed by the parties on April 12, 2017 but does not contain an effective date. The document also states that the persons being added to the tenancy agreement are "fully responsible for all the terms and conditions of the lease, for the full duration of the contract" (*my emphasis*).

Changing the tenant(s) on a tenancy agreement requires an assignment. Sections 22(2) and 23(2) set out the requirement for the landlord's written consent.

22.(2) An assignment or subletting is not valid unless the landlord has given written consent, which must not be unreasonably withheld.

23.(2) A consent to an assignment or subletting may be in the approved form and must be signed by the landlord or agent of the landlord.

In my opinion, the "Request To Add Name To Lease" form is not effective as an assignment. While it may seem obvious that the landlord did not oppose the addition of BR and BF as tenants, the consent is not in writing. Additionally, the document contains no effective date to determine what arrears were the sole responsibility of RB and what arrears are attributable to RB, BR and BF as joint tenants. An assignment cannot hold the assignee responsible for rent that accrued prior the effective date of the assignment. In my opinion, RB remains the sole tenant and is solely responsible for the rent arrears.

The resident ledger indicates a balance of rent owing in the amount of \$17,532.19. The applicant also sought penalties for eight months of rent arrears at \$35/month. The respondent provided a cheque at the hearing for \$4200 which was accepted by the landlord, bringing the amount of rent arrears sought by the applicant to \$13,612.19. The monthly rent for the premises is \$2135.

The respondent did not dispute the allegations. He stated that he had lost his job with the landlord and had been unable to find work until present. He stated that he was just starting a job which paid \$40/hour that would enable him to pay the arrears over time. He stated that his wife was working as well and he thought he could pay the rent plus \$1000 - \$1500/month and retire the debt by May 31, 2018. He asked that the matter be adjourned so he could demonstrate his ability and willingness to clear the account.

The applicant stated that there had been similar promises made by the respondent in the past with little result.

The applicant charged the respondents \$100 for two returned cheques. There was no evidence to support that the landlord had been charged these amounts. Consequently, compensation for these amounts is denied.

I find the respondent RB in breach of his obligation to pay rent and find the rent arrears to be \$13512.19 calculated as follows:

Balance as per ledger	\$17,532.19
Late fees	280.00
Payment	(4200.00)
Returned cheques denied	<u>(100.00)</u>
Total	\$13,512.19

The rent payments since April, 2017 have been inconsistent and insufficient to meet the respondent's obligation. The arrears represent more than six months rent. The respondent's plan to retire the debt by May appears unrealistic. Adjourning this matter for any significant length of time would put the landlord at risk for even more loss. In my opinion, there are sufficient grounds to terminate the tenancy agreement and evict the respondent unless the rent arrears are promptly paid.

An order shall issue requiring the respondent, RB to pay the applicant rent arrears in the amount of \$13,512.19. The tenancy shall be terminated on February 28, 2018 unless the rent arrears and the rent for February, 2018 in the total amount of \$15,647.19 are paid in full.

The eviction order shall be effective on March 1, 2018 unless the rent arrears and the rent for February, 2018 in the total amount of \$15,647.19 are paid in full on or before February 28, 2018.

Hal Logsdon
Rental Officer