

IN THE MATTER between **NC and LC**, Applicants, and **SM and PC**, 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 **Adelle Guigon**, Rental Officer,

BETWEEN:

NC and LC

Applicants/Landlords

-and-

SM and PC

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: November 29, 2017

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: NC, applicant
LC, applicant

Date of Decision: November 29, 2017

REASONS FOR DECISION

An application to a rental officer made by NC and LC as the applicants/landlords against SM and PC as the respondents/tenants was filed by the Rental Office September 5, 2017. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was personally served on the respondents September 12, 2017.

The applicant alleged the respondents had accumulated rental arrears, had failed to give notice to terminate the tenancy agreement in accordance with the *Residential Tenancies Act* (the Act), and had lost the keys to the rental premises. An order was sought for payment of rental arrears, payment of lost future rent, and payment of costs of replacing locks to the rental premises.

A hearing was scheduled for November 29, 2017, by three-way teleconference. NC and LC appeared as applicants. SM and PC were personally served notices of the hearing September 12, 2017. Neither respondent appeared at hearing, nor did anyone appear on their behalf. The hearing proceeded in the respondents' absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The applicants testified and evidence was presented establishing a residential tenancy agreement between the parties commencing March 30, 2017, for a fixed-term to March 30, 2018. The tenancy ended when the respondents vacated the rental premises August 31, 2017. I am satisfied a valid tenancy agreement was in place in accordance with the Act.

Rental arrears and lost future rent

The applicants testified that the respondents had failed to give proper notice of their intention to vacate the rental premises. They received a text message from the respondents on August 8, 2017, that they were going to leave on September 23rd. The applicants then received a second text message from the respondents on August 9, 2017, that they were going to leave on August 31st. The respondents did vacate the rental premises August 31st. The applicants listed the rental premises for rent on August 8th, but were unable to secure new tenants until October 1st.

Subsection 51(1) of the Act specifies that a fixed-term tenancy agreement may only be terminated by a tenant for the last day of the fixed-term period, and that notice of termination must be made in writing to the landlord at least 30 days before the last day of the fixed-term.

Text messages are not recognized in the Act or *Residential Tenancies Regulations* (the Regulations) as an acceptable form of writing.

Subsection 5(2) of the Act requires a landlord to rent the rental premises again as soon as is practicable and at a reasonable rent in order to mitigate their losses where a tenant has terminated a tenancy agreement, or vacated or abandoned the rental premises other than in accordance with the Act or tenancy agreement.

I am satisfied the respondents failed to give written notice to the applicants of their intention to vacate the rental premises in accordance with paragraph 51(1) of the Act. I am satisfied the applicants made reasonable efforts to rent the rental premises again as soon as practicable in accordance with paragraph 5(2) of the Act. I find the respondents liable to the applicants for lost future rent for the month of September 2017 in the amount of \$2,200.

The applicants testified and provided a rent statement establishing that the respondents had only paid \$1,000 towards the rent for August 2017. The rent statement also established that the rents for April, July, and August were paid late. The applicants requested payment of the outstanding rent of \$1,200 for August and late payment penalties in the amount of \$115.42.

The security deposit of \$1,000 was retained by the applicants against the rental arrears, although the applicants failed to account for the interest of \$0.23.

I am satisfied the rent statement accurately reflects the current status of the respondents' rent account. I am satisfied the late payment penalties have been calculated in compliance with the Act and Regulations. I find the respondent liable to the applicant for rental arrears including late payment penalties in the total amount of \$1,315.42. The security deposit and interest of \$1,000.23 will be accounted for in an order to pay.

Damages - lost keys

The applicants claimed that the respondents had lost the key FOBs and therefore did not return them at the end of the tenancy. As a result, the applicants were required have the lost key FOBs de-activated and replaced to ensure the rental premises and residential complex remained secure against unauthorized entry. The applicants claimed the costs of replacing the key FOBs in the amount of \$125.

I am satisfied the respondents are responsible for the lost key FOBs. I find the respondents liable to the applicants for the costs of replacing the key FOBs in the amount of \$125.

Orders

An order will issue requiring the respondents to pay rental arrears, lost future rent, and late payment penalties in the total amount of \$2,515.19, and requiring the respondents to pay costs of repairs in the amount of \$125.

Adelle Guigon
Rental Officer