

IN THE MATTER between **NPRLP**, Applicant, and **DS and TN**, 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:

NPRLP

Applicant/Landlord

-and-

DS and TN

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	December 6, 2017
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	BL, representing the applicant HC, representing the applicant CDL, representing the applicant TN, respondent
<u>Date of Decision:</u>	January 30, 2018

REASONS FOR DECISION

An application to a rental officer made by NPRLP as the applicant/landlord against DS and TN as the respondents/tenants was filed by the Rental Office September 13, 2017. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served on DS by email deemed received September 25, 2017, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations), and was served on TN by email confirmed received October 18, 2017.

The applicant alleged the respondents had repeatedly failed to pay rent, had accumulated rental arrears, had caused damages to the rental premises, and had failed to adequately clean the rental premises upon vacating. An order was sought for payment of rental arrears and payment of costs for repairs and cleaning.

A hearing was scheduled for December 6, 2017, in Yellowknife. BL, HC, and CDL appeared representing the applicant. TN appeared by telephone as respondent on his own behalf. DS was served notice of the hearing by email deemed received September 25, 2017, pursuant to subsection 4(4) of the Regulations. DS did not appear at the hearing, nor did anyone appear on his behalf. The hearing proceeded in DS's absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

A written tenancy agreement dated January 19, 2017, was entered into evidence naming Tervor (sic) Nelmes and DS as joint tenants. It was agreed at hearing that notice could be taken that TN's first name was misspelled on the tenancy agreement. Also entered into evidence was a completed offer to lease form dated January 12, 2017.

TN testified and submitted a sworn affidavit denying that he entered into this tenancy agreement. He claimed that he never saw or signed either the offer to lease or the tenancy agreement, and that DS had forged his signature on those documents. TN testified that he lives in a residence he owns and is the owner/operator of a business located in Kelowna, British Columbia. He has never been to Yellowknife. He only learned of the existence of the tenancy agreement when he was served with the filed application to a rental officer. TN disputes any liability for the terms of the tenancy agreement.

The applicant's representatives argued for TN to be held jointly accountable with DS for the terms of the tenancy agreement. They argued that there is insufficient evidence to conclude that TN's signature was forged or that he was unaware of the contract. They cited similarities in the signatures on the tenancy agreement, offer to lease, and TN's own affidavit. They also relied on TN's initial response to the applicants when notified of the rental arrears claimed as acceptance of the debt. That response was alleged to have included inquiries as to why he was only being notified of the arrears now, why it took so long to get in touch with him about the matter, and how to "fix it." The applicant's representatives also questioned how DS could have obtained personal information regarding both TN and his wife which were included in the offer to lease.

TN denied that any of his initial responses were admissions of being aware of the tenancy agreement, rather they were shocked utterances made while still processing the seriousness of the situation he was faced with. Once the initial shock wore off he became upset and communicated with DS, who admitted that he had forged TN's signature in the tenancy documents. This admission was evidenced at hearing by emails and text messages from DS to TN.

TN acknowledged that DS is a former employee whose employment ended in December 2016. During his employment with TN, DS would have had access to TN' personal information as it was all available in his wallet, which he would often leave in his company vehicle. He clarified that the only information on the offer to lease regarding TN' wife is her name and telephone number, and that his gross monthly income referenced is incorrect given that he does not pay himself a salary as the owner/operator of his business. TN also testified that he filed a complaint with the RCMP, who initiated an investigation. Emails from the RCMP indicate charges have been laid against DS and a warrant for arrest has been issued in this regard.

With respect to the signatures on the tenancy agreement and offer to lease as compared to TN' affidavit, to my admittedly inexperienced eye the signatures do not appear sufficiently similar to satisfy me that they were made by the same hand. With respect to the responses attributed to TN, I do not believe they can be associated with being an admission that he was aware of the tenancy agreement and therefore had entered into it. I am not convinced, on a balance of probabilities, that TN knowingly and willingly entered into a joint tenancy agreement with NPRLP for a residential rental premises in Yellowknife, and therefore I am not prepared to hold him accountable for the claimed breaches. Going forward this matter will be treated as regarding a sole tenancy agreement with DS.

Rental arrears

The resident ledger entered into evidence represents the landlord's accounting of monthly rent, late payment penalties, and payments received against the respondent DS's rent account. Rent was established at \$2,500 per month. The late payment penalties were calculated in accordance with the Act and Regulations. The last payment received against the rent account was recorded March 1, 2017 in the amount of \$2,039.23. The security deposit of \$1,250.45 was retained against the accumulated rental arrears.

I am satisfied the resident ledger accurately reflects the current status of the respondent DS's rent account. I find the respondent DS has accumulated rental arrears in the amount of \$16,916.55.

Repairs and cleaning

The respondent DS vacated the rental premises and returned possession to the applicant October 5, 2017. An exit inspection was conducted which identified that the respondent had failed to adequately clean the rental premises, that a light fixture in the hallway was damaged, that there was a hole in the master bedroom closet door, that one master bedroom wall required patching and painting, that the burners and rings were missing from the stove, and that the carpet in one room was damaged. The total claimed for repairs and cleaning amounted to \$1,540. Both the entry and exit inspection reports were entered into evidence, as were photographs supporting the applicant's claims.

I am satisfied the claimed cleaning and damages to the rental premises were caused by the respondent DS's negligent or wilful conduct, and therefore he is responsible for them. I find the respondent DS liable to the applicant for costs of repairs and cleaning in the amount of \$1,540.

Orders

An order will issue requiring the respondent DS to pay rental arrears in the amount of \$16,916.55 and to pay costs of repairs and cleaning in the amount of \$1,540.

Adelle Guigon
Rental Officer