

IN THE MATTER between **XY**, Applicant, and **KS**, 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 **Hal Logsdon**, Rental Officer,

BETWEEN:

XY

Applicant/Landlord

-and-

KS

Respondent/Tenant

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
KS, respondent

Date of Decision: February 6, 2018

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondent to pay the alleged rent arrears, terminating the tenancy agreement and evicting the respondent. The applicant provided a copy of the resident ledger in evidence which indicated a balance owing in the amount of \$8130.36. The monthly rent for the premises is \$1960.

The tenancy agreement commenced on June 1, 2015 and was made for a one-year term and automatically renewed on a monthly basis on July 1, 2016. The tenancy agreement obligates the tenant to pay for electricity, water and fuel during the term. A security deposit of \$980 was required and was paid in full at the commencement of the tenancy.

The tenancy agreement is not in the approved form and does not contain any provision for a pet deposit. Instead, it sets out a monthly pet fee of \$25 for the privilege of keeping a dog on the premises.

The ledger also indicates that the monthly pet fee has been charged to the tenant during each month of the term amounting to \$800. The *Residential Tenancy Act* permits a landlord to demand a pet deposit where the tenant is permitted to keep a pet on the premises. This deposit cannot exceed 50% of the monthly rent and must be returned to the tenant, with interest, at the end of the tenancy provided there are no arrears of rent or repair costs related to damages. Clearly, the “pet fee” is not a pet deposit. Neither is the “pet fee” rent, consisting of a separate charge for a service, facility, privilege accommodation or thing provided by the landlord to the tenant.

Amounts required from a tenant are limited to rent, as defined in the Act, a security deposit and, if applicable, a pet security deposit. Section 14.2 prohibits any other amounts.

14.2. (1) A landlord shall not require or receive from a tenant or prospective tenant any amount as a deposit for damages or for arrears of rent, or any other amount as a condition of entering a tenancy agreement, other than a security deposit and, if applicable, a pet security deposit.

Therefore I find the pet fees of \$800 included on the resident ledger are not in accordance with the Act and shall be denied.

Also included on the ledger are charges for water totalling \$842.26 and electrical charges of \$98.61. As noted previously, the tenancy agreement obligates the tenant to pay these costs during the term. The charges do not appear to have been charged consistently; only some months appear on the ledger. The landlord failed to provide any evidence as to why these costs were charged to the tenant or evidence that they were paid by the landlord. After the hearing, the landlord advised that they believed the charges for water and electricity were an accounting error. The charges for water and electricity are denied.

Throughout the tenancy, the landlord has charged the tenant for fuel. The respondent testified that they had applied for an account with the supplier and notified the landlord but the application appears to have been lost and consequently the landlord has been billed each month and has re-billed the respondent for the charges plus a 15% administration fee and the applicable GST. It doesn't appear that either party has taken any concerted action to remedy the situation. Nevertheless, in my opinion, the charges are reasonable and have been acknowledged by the respondent. It would be in the best interest of both parties to ensure the respondent is billed directly by the fuel supplier.

The respondent did not dispute the rent arrears or the fuel costs. He stated that he could pay make the following payments:

January 21	\$2000
February 6	\$4500
February 21	\$2500

The applicant agreed to the continuation of the tenancy provided the above payments were made toward the retirement of the debt.

Deducting the pet fees, water charges and electrical charges from the balance shown on the resident ledger and applying payment first to the fuel charges, I find rent arrears of \$6389.49, calculated as follows:

Balance as per ledger	\$8130.36
Less pet fees charged	(800.00)
Less water charges	(842.26)
Less electrical charges	<u>(98.61)</u>
Rent arrears	\$6389.49

The payments suggested by the respondent are in excess of the rent arrears found to be owing after the deduction of the denied pet fees, electrical and water charges. Therefore an order shall issue requiring the respondent to pay the adjusted rent arrears of \$6389.49 and terminating the tenancy agreement on February 28, 2018 unless the rent arrears and the rent for February, 2018 are paid in full. The eviction order shall be effective on March 1, 2018 unless the adjusted rent arrears and the February, 2018 rent have been paid in full on or before February 28, 2018.

Hal Logsdon
Rental Officer