

IN THE MATTER between **SJ**, Applicant, and **NTHSSA-BDR**, 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:

**SJ**

Applicant/Tenant

-and-

**NORTHWEST TERRITORIES HEALTH AND SOCIAL SERVICES AUTHORITY  
-BDR**

Respondent/Landlord

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>February 27, 2018</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>SJ, applicant RI, representing the respondent</b>
<b><u>Date of Decision:</u></b>	<b>March 13, 2018</b>

**REASONS FOR DECISION**

An application to a rental officer made by SJ as the applicant/tenant against Beaufort-Delta Health and Social Services as the respondent/landlord was filed by the Rental Office November 10, 2017. The application was made regarding a residential tenancy agreement for a rental premises located in Paulatuk, Northwest Territories. The filed application was served on the landlord by facsimile sent January 22, 2018.

The tenant alleged the landlord had failed to provide and maintain the rental premises in a good state of repair and fit for habitation. An order was sought for compensation for cleaning costs, for a period without a stove, for a period without a toilet, and an abatement of the rent in full.

A hearing was scheduled for February 27, 2018, by three-way teleconference. SJ appeared as applicant/tenant. RI appeared representing the respondent/landlord.

*Preliminary matter*

The application to a rental officer identified the landlord as B-DHSS. The written tenancy agreement identified the landlord as NTHSSA-BDR. Relying on the written tenancy agreement providing the correct legal name for the landlord, the style of cause going forward will identify the respondent/landlord as NTHSSA-BDR.

*Tenancy agreement*

The parties agreed and evidence was presented establishing a residential tenancy agreement between them commencing May 3, 2017. This tenancy provided a rental premises for occupancy by the tenant during her six- to eight-week rotations in the community for her employment. A new tenancy agreement for the same rental premises is entered into for each rotation.

Subsection 6(2) of the *Residential Tenancies Act* (the Act) lists the types of tenancies that are exempt from the Act. Subsections 6(2)(g) and 6(2)(l) were considered in determining jurisdiction. They state:

6. (2) This Act does not apply to

...

(g) living accommodation provided by a hospital, a nursing home or a home for the aged to its staff unless the living accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time staff or members of their household;

...

(l) living accommodation situated in a building used for non-residential purposes where the occupancy of the living accommodation is necessarily connected with the employment of the occupant in, or the performance by the occupant of services related to, a non-residential business or enterprise carried on in the building; ...

The rental premises is a self-contained unit intended for year-round occupation by the landlord's staff. It is located within the same building as the health care centre where the tenant is employed. The rental premises is provided by the employer to its staff, but occupancy is not necessarily connected with the tenant's employment or performance of their duties; if other premises were available in the community the tenant could choose to reside elsewhere during her rotations in the community. I am satisfied this tenancy agreement is not exempt from the Act.

I am satisfied that three valid tenancy agreements for the same rental premises have been entered into by the parties in accordance with the Act for the following fixed-term periods: May 3 to June 27, 2017; August 23 to October 17, 2017; and December 15, 2017, to January 29, 2018.

*Condition of the rental premises*

Section 30 of the Act speaks to the landlord's obligation to provide and maintain the rental premises in a good state of repair, fit for habitation, and in compliance with all health, safety, occupancy, and maintenance standards required by law. It also sets out the landlord's obligation to remedy any substantial breaches within 10 days of being notified of the breach.

When the tenant moved into the premises on May 3, 2017, she found the premises in a deplorable state of uncleanliness, the stove did not work, and the toilet was not functioning. The nurse-in-charge who was tasked with ensuring the premises was in a good condition had failed to do an exit inspection with the outgoing tenant and did not do an entry inspection with the applicant/tenant. She did confirm in subsequent emails to her superiors the issues identified by the tenant. That information did not reach the landlord's representative until this application was received in his office.

A substantial amount of the previous tenant's personal belongings had been left behind throughout the premises, the fridge/freezer was full of outdated food items, and all surfaces, appliances, and dishes were dirty with dust, grease, grime, etcetera. The tenant was left to her own devices to pack up and move the previous tenant's personal belongings to storage and to thoroughly clean the premises. The tenant estimates it took her four eight-hour days to accomplish this work. After complaining repeatedly to the nurse-in-charge, who in turn repeatedly brought the issue to her supervisors, a representative of the landlord eventually acknowledged the condition of the premises and gave the tenant a \$200 credit against her rent account as compensation for her cleaning efforts. The tenant disputes that this amount is adequate compensation. Frankly, I agree. The average rate charged for cleaning services in the Northwest Territories is \$25 per person per hour. Based on the description of the condition of the premises as provided by the tenant and endorsed by the nurse-in-charge, I accept that it took the tenant at least 32 hours to clean the rental premises that was supposed to

be provided by the landlord in an ordinary state of cleanliness at commencement of the tenancy. Adequate compensation to the tenant for cleaning the premises would reasonably be calculated by multiplying 32 hours by \$25 per hour, which amounts to \$800. The tenant has already received \$200 of that as a credit against her rent account. I find the tenant entitled to additional compensation for cleaning the rental premises in the amount of \$600.

The stove was damaged beyond safe usage and was not replaced by the landlord until September 8, 2017. The tenant consequently suffered without a functioning stove for 70 days of her occupancy of the rental premises. To my mind an abatement of rent for those 70 days is appropriate compensation given that the tenant was not provided with an appliance forming part of the tenancy agreement. I am satisfied the tenant is entitled to an abatement of rent of 5 percent for 70 days without a stove. The rent amounts to \$32.26 per day for a total of \$2,258.20 for 70 days from which 5 percent is \$112.91. I find the tenant entitled to an abatement of rent for going without a stove in the amount of \$112.91.

When the tenant first moved into the rental premises in May the toilet would not flush. She reported the deficiency and the landlord did effect that repair approximately seven days later. By effecting that repair within 10 days of being notified of the damage, the landlord complied with their obligation under section 30 of the Act. However, the landlord still failed to provide a necessary component of the rental premises in a good state of repair at commencement of the tenancy. As a result, I am satisfied the tenant is entitled to compensation for the period she went without a toilet in the form of a 25 percent abatement of rent. The tenant was without a toilet for seven days. The daily rental rate was established at \$32.26. I find the tenant entitled to an abatement of rent in the amount of \$56.46 for going without a toilet for seven days.

The tenant identified additional issues with the rental premises, such as kitchen cabinet doors falling off, counter tops lifting, and old flooring. It is unclear whether or not the landlord was properly notified of these deficiencies, however, the responsibility for rectifying them remains with the landlord. Given the generalized nature of the submissions in this regard and that there are no demonstrable monetary losses claimed as a result of these particular issues I am not

prepared to grant compensation to the tenant. Should the landlord fail to effect repairs to the premises to return it to a good state of repair the tenant has leave to make another application to a rental officer. In any future application the tenant will be required to provide sufficient evidence to establish the actual condition of the rental premises in order to identify what, if any, specific damages remain.

#### *Rental arrears*

The statement of account provided by the landlord represents the landlord's accounting of monthly pro-rated rents, payments received, and credits applied against the tenant's rent account. The tenancy agreement specified the monthly rent at \$1,000 and the daily pro-rated rent at \$32.26. This distinction was necessary due to the fixed-term periods of each tenancy (rotation).

The tenant was charged rent for 28 days in May against which she was credited \$225.82 for having to share the premises with another employee for 13 days. The tenant was charged rent for 26 days in June. The total rent for the tenant's first rotation (May 3 to June 27) was \$1,516. Two travel claims made by the tenant totalling \$663.09 were credited to the rent account. No rent payments were received from the tenant. The rental arrears for the first rotation amount to \$853.13.

The tenant was charged rent for 8 days in August, 30 days in September, and 17 days in October, against which the previously mentioned \$200 cleaning credit was applied. The total rent for the tenant's second rotation (August 23 to October 17) was \$1,574.24. No other credits were applied and no rent payments were received from the tenant. The rental arrears for the second rotation amount to \$1,574.24.

The tenant was charged rent for 16 days in December and 28 days in January. The total rent for the tenant's third rotation (December 15 to January 29) was \$1,419.44. No credits were applied and no rent payments were received from the tenant.

The tenant acknowledged that she had not made any rent payments during her tenancies. She chose not to considering the condition of the rental premises she was provided with, claiming \$1,000 per month for the premises was unreasonable. Whether or not \$1,000 per month is reasonable, the tenant is obligated to pay the rent for the periods she occupied the rental premises. There are no regulations in the Northwest Territories governing how much a landlord can ask for rent.

I am satisfied the landlord's statement of account accurately reflects the current status of the tenant's rent account. I find the tenant has accumulated rental arrears in the total amount of \$3,846.81.

*Order*

An order will issue requiring the tenant to pay to the landlord rental arrears in the amount of \$3,077.44. This amount is calculated by deducting from the rental arrears of \$3,846.81 the cleaning costs of \$600 and the abatements of rent for the stove and toilet in the amounts of \$112.91 and \$56.46.

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Adelle Guigon  
Rental Officer