

IN THE MATTER between **NTHC**, Applicant, and **AM**, 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:

NTHC

Applicant/Landlord

-and-

AM

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: June 20, 2018

Place of the Hearing: Hay River, Northwest Territories

Appearances at Hearing: AS, representing the applicant

Date of Decision: June 20, 2018

REASONS FOR DECISION

An application to a rental officer made by HRHA on behalf of the NTHC as the applicant/landlord against AM as the respondent/tenant was filed by the Rental Office April 6, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Hay River, Northwest Territories. The filed application was personally served on the respondent June 1, 2018.

The applicant alleged the respondent had repeatedly failed to pay rent, had accumulated rental arrears, had repeatedly disturbed the landlord's enjoyment or possession of the rental premises, and had failed to pay call-out fees and costs of replacing keys. An order was sought for payment of rental arrears, payment of costs for repairs, termination of the tenancy agreement, and eviction.

A hearing was scheduled for June 20, 2018, in Hay River. The Rental Officer appeared by telephone. AS appeared representing the applicant. AM was personally served notice of the hearing June 1, 2018. The respondent did not appear at the hearing, nor did anyone appear on the respondent's behalf. The hearing proceeded in the respondent's absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The applicant's representative testified and evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing September 1, 2015. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

The statements of account and client aged details (rent documents) entered into evidence represent the landlord's accounting of monthly assessed rents and payments received against the respondent's rent account. All rents have been subsidized and are currently assessed at \$80 per month. Either insufficient payments or no payments have been received in nine of the last 12 months of the tenancy.

When the application was filed, the rental arrears had accumulated to \$281.50. Since then, the respondent has made sufficient payments to reduce his rental arrears to \$80, which represents the rent for June 2018.

I am satisfied the rent documents accurately reflect the current status of the respondent's rent account. I find the respondent has repeatedly failed to pay the full amount of his rent when due.

Disturbances and damages

Since commencement of the tenancy, the respondent has lost the keys to the rental premises and residential complex seven times. The respondent has called either the building caretaker or maintenance personnel after hours to let him into the rental premises 16 times – eight of which just occurred within the last two months. The respondent was charged \$20 each time the keys needed to be replaced and \$50 each time he called out for after hours access to the rental premises.

All except the last set of keys (this morning) and the last five call-outs have been paid in full, amounting to remaining costs of repairs owing of \$260.

I am satisfied that the respondent's failure to keep track of his keys has resulted in a repeated pattern of disturbing the landlord's enjoyment or possession of the rental premises and residential complex as a consequence of the repeated and constant after hours call-outs to gain access to the rental premises. The after-hours call-out fees constitute a loss suffered as a direct result of the respondent's failure to comply with his obligations not to cause a disturbance, in that each time the staff are called out the landlord must pay the staff for their time in accordance with their employment contract and labour laws. The loss of keys to the rental premises and residential complex constitute damages caused by the respondent's negligence, and as such the costs to replace the keys represent the costs to 'repair' those damages.

I find the respondent liable to the applicant for outstanding call-out fees and costs to replace the keys in the amount of \$260.

Termination of the tenancy agreement and eviction

The disturbances and damages by themselves normally would not justify consideration of termination of the tenancy agreement. However, in this case the constant repetition of the same behaviour is becoming unconscionable, to the point that termination of the tenancy agreement must be considered.

Despite there being no substantive rental arrears at this time, the repeated pattern of failing to pay the rent in full when due throughout the tenancy alone would be justification for termination of the tenancy agreement.

In consideration of both the repeated failure to pay the rent when due and the repeated pattern of disturbances and damages, I am satisfied conditional termination of the tenancy agreement is justified. By agreement with the applicant's representative, the termination will be for an extended period of time and conditional on the respondent making no further after hours call-outs for access to the rental premises to the applicant, and on the respondent paying future rent on time. An eviction order will not issue at this time.

Orders

An order will issue:

- requiring the respondent to pay the rent on time in the future;
- requiring the respondent to comply with the obligation not to disturb the landlord's enjoyment or possession of the rental premises or residential complex, and not to breach that obligation again;
- requiring the respondent to pay outstanding after hours call-out fees and costs of replacing keys in the amount of \$260; and
- terminating the tenancy agreement December 31, 2018, unless no further after hours call-outs for access to the rental premises by the respondent are received by the applicant, and the rents for July to December are paid on time.

Adelle Guigon
Rental Officer