

IN THE MATTER between **NTHC**, Applicant, and **CG**, 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-

CG

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: May 31, 2018

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: JS, representing the applicant
CG, respondent

Date of Decision: July 11, 2018

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of the NTHC as the applicant/landlord against CG as the respondent/tenant was filed by the Rental Office October 24, 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 respondent November 22, 2017.

The applicant alleged the respondent had repeatedly failed to pay rent, had accumulated rental arrears, had caused damages to the rental premises, and had failed to maintain the ordinary cleanliness of the rental premises. An order was sought for payment of rental arrears, payment of costs for repairs and cleaning, termination of the tenancy agreement, and eviction.

A hearing originally scheduled for January 25, 2018, was postponed at the request of the applicant. The hearing re-scheduled to May 3, 2018, was postponed at the request of the respondent. The hearing was re-scheduled to May 31, 2018, in Yellowknife. JS appeared representing the applicant. CG appeared as respondent.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing commencing October 1, 2006. The respondent occupied two rental premises under this tenancy agreement. She was transferred from the first premises to the second premises under the provisions of paragraph 3 of the tenancy agreement on July 24, 2017. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Previous order

Rental Officer Order Number 10-14580 issued March 11, 2015, required the respondent to pay rental arrears in the amount of \$2,746.91 in minimum monthly installments of \$229.53 starting in March 2015, required the respondent to pay her rent on time in the future, and required the respondent to comply with her obligation to report the household income as required under paragraph 6 of the written tenancy agreement.

Rental arrears

The lease balance statements and statements of account (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 \$610 per month. Either insufficient payments or no payments have been made in seven of the last 12 months of the tenancy.

The respondent did not dispute the accuracy of the landlord's accounting respecting rental arrears, acknowledging her debt and accepting responsibility for it.

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 rent when due, has failed to comply with a rental officer order to pay future rent on time, and has accumulated rental arrears in the amount of \$3,510.

Repairs and cleaning

Following the respondent's transfer from the first rental premises to the second rental premises, an exit inspection was conducted August 2, 2017, with one of the respondent's authorized occupants, RN. A written listing of damages and uncleanliness was prepared, read to RN, and signed by RN acknowledging the claim and accepting responsibility for the claim. A tenant check in/out condition report was also prepared dated October 17, 2006, at entry and August 2, 2017, at exit.

The written listing signed by RN identified the following:

"Entire Unit: Complete P &P
Complete clean
R & R all rugs (kit, stairs, entire up)
Frt Ent: Replace furn room door (hole)
Bath dn: Remove & repl door (split edge)
Removal of garb on back deck
Hall dn: Rem & replace lght sw cover
Repl & ins 1 globe
Kitchen: Fridge - replace handle
- rem & repla 2 int door bars

Draws - repl 1 draw front
Remove crayon fr cup next to fridge
Replace 1 blind

Din Room: Rep & instal screen

L.R.: Repair 1 screen
Replace blinds on ext back door
Repl & inst B slats
Replace 1 screen

B1 L of stairs: Closet doors - replace M
Replace blinds M
Replace window B
Replace 1 elec cover M

B2: Replace door (hole)
Replace blinds M
Replace set of bi-fold doors (holes)
Replace 1 lgt switch cover M

B3: Replace door (hole)
Replace 2 bifold closet doors (holes)
Repl 1 elec cover B

Hall Up: Repl bi-fold closet doors M
Repl lgt switch B
Repl elec cover B

B4: Replace door (hole)
Replace on L side B
Replace bifold closet doors M
Replace complete plug in
Replace blinds M
Replace screen M

Bath Up: Elec cover B - replace
Remove felt pen markings fr cupboards
Rem & repl 2 bulbs
Replace 2 bulbs
Repair sink stopper"

The applicant claimed costs for repairs and cleaning as follows:

Patching and painting walls throughout	\$1,750.00
Removing all carpets	\$650.00
Disposal of debris left on deck	\$150.00
Replace 7 switch covers and 1 receptacle	\$76.00
Replace 1 light fixture	\$40.00
Repair fridge door	\$170.00
Replace 1 kitchen drawer cover	\$50.00
Replace and repair 6 window blinds	\$674.00
Replace and repair 4 window screens	\$200.00
Replace and re-install 10 closet doors	\$1,200.00
Replace 1 cracked window pane	\$500.00
Replace three interior doors	\$600.00
Repair 1 interior door trim	\$40.00
Replace 4 light bulbs	\$40.00
Repair bathroom sink stopper	\$10.00
Cleaning throughout	\$650.00
Sub-total	\$6,800.00
10% Admin fee	\$680.00
5% GST	\$374.00
Total	<u>\$7,854.00</u>

All of the above tabled claims are supported by both RN's list, the entry/exit inspection reports, and the submitted photographs, except for the removal of the carpets and the replacement of the window.

Carpets

The respondent argued that she was not given sufficient notice of her requirement to move to fully clean the rental premises, and she was aware that the rental premises was meant to undergo renovations including the replacement of the carpets and flooring. As a result of the anticipated renovations, she believe that it was unnecessary to clean the carpets. Additionally, she claimed that the carpets were old, some areas were stained when she moved in, and there was a recurring mold problem that the applicant never addressed.

The entry inspection report from 2006 supports the respondent's claim that there were pre-existing stains in the carpet when she moved in. The applicant did not supply any evidence to establish the actual age of the carpet. Nor was any evidence supplied regarding the issues with mold. The photographs do show the areas of the carpet where mold is growing, but the respondent clearly had not vacuumed any of the carpeted areas in an extremely long time. Despite the condition of the carpets depicted in the photographs, no evidence was presented indicating whether or not attempts to return the carpets to an ordinary state of cleanliness by vacuuming and/or steam cleaning were undertaken by the applicant after the respondent vacated the rental premises before resorting to removing the carpets.

Whether the applicant intended to renovate the rental premises, including replacing the flooring, or not, the respondent remains liable only for maintaining the ordinary cleanliness of the rental premises and for any demonstrable damages caused by the respondent's wilful or negligent conduct. Certainly there appears to be an element of both of these things where the carpets are concerned. However, without attempting to clean the carpets first it cannot be properly determined whether or not any damages to the carpet remained to justify the removal of the carpet for anything other than its age, which at the very least I can determine as being greater than 11 years.

I am satisfied that the respondent failed to maintain the ordinary cleanliness of the rental premises during the tenancy and that such negligence contributed to the deplorable condition of the carpets. Due to the applicant failing to make reasonable efforts to determine the actual condition of the carpets by at least vacuuming and/or steam cleaning them, I cannot be satisfied that the respondent caused damages to the carpets to such degree that it justified removal of the carpets. The applicant's claim of \$650 to remove the carpets is denied.

Window

The respondent testified that the window that was broken had been broken from the outside by unknown individuals. The photograph depicting the broken window supports the respondent's claim that the window had been broken from the outside. There being no evidence to suggest that the action was taken by the respondent or persons permitted on the premises by the respondent, I am not satisfied the respondent is responsible for the damaged window. The applicant's claim of \$500 to replace the broken window is denied.

Cleaning

As previously indicated, the respondent is responsible for maintaining the ordinary cleanliness of the rental premises. Despite acknowledging that she did not clean the rental premises upon vacating, the respondent argued that she should not be held responsible for the full costs of cleaning because she was only given two weeks' notice of her transfer to a different rental premises. Given the extent of the uncleanliness of the rental premises as represented in the exit inspection report and photographs, it seems to me that if the respondent had complied with her obligation to maintain the rental premises in an ordinary state of cleanliness during her occupancy she would not have been faced with such a daunting task at the end of her occupancy. I am satisfied the respondent failed to maintain the ordinary cleanliness of the rental premises and I am satisfied the \$650 claimed by the applicant for cleaning this 4-bedroom rental premises is reasonable under the circumstances.

Patching and painting of walls

The applicant's tenant damage statement identified "complete patch & paint" costs of \$1,750. The applicant's representative clarified in supplementary documents and at hearing that the cost claimed of \$1,750 only represents the patching of damages to walls throughout the premises. No claim was made against the respondent for painting.

The exit inspection report and the photographs support the applicant's claim regarding damages to the walls, and RN's written list accepts responsibility for those damages. I am satisfied the respondent is responsible for the damages caused to the walls and that the costs claimed to patch those damages is reasonable.

In summary, I find the respondent liable to the applicant for costs associated with repairs and cleaning as follows:

Patching walls throughout	\$1,750.00
Disposal of debris left on deck	\$150.00
Replace 7 switch covers and 1 receptacle	\$76.00
Replace 1 light fixture	\$40.00
Repair fridge door	\$170.00
Replace 1 kitchen drawer cover	\$50.00
Replace and repair 6 window blinds	\$674.00
Replace and repair 4 window screens	\$200.00
Replace and re-install 10 closet doors	\$1,200.00
Replace three interior doors	\$600.00
Repair 1 interior door trim	\$40.00
Replace 4 light bulbs	\$40.00
Repair bathroom sink stopper	\$10.00
Cleaning throughout	\$650.00
Sub-total	\$5,650.00
10% Admin fee	\$565.00
5% GST	\$310.75
Total	\$6,525.75
Less payments made to date	\$1,170.00
Remaining Balance Owing	\$5,355.75

Termination of the tenancy agreement and eviction

In light of the respondent's repeated failure to pay her rent, the respondent's failure to comply with a rental officer order to pay her future rent on time, and the substantial amount of rental arrears accumulated, I am satisfied termination of the tenancy agreement and eviction is justified. I am not satisfied termination of the tenancy agreement and eviction is justified due to the uncleanliness and damages caused to the first rental premises from which the respondent was transferred, given that there is no evidence to suggest that the behaviours causing those issues have continued at the second (current) rental premises. The termination of the tenancy agreement and eviction will be conditional on the respondent paying at least \$600 towards the rental arrears and paying her future rent on time.

Orders

An order will issue:

- requiring the respondent to pay rental arrears in the amount of \$3,510;
- requiring the respondent to pay rent on time in the future;
- requiring the respondent to pay costs of repairs and cleaning in the amount of \$5,355.75;
- terminating the tenancy agreement October 31, 2018, unless at least \$600 is paid towards the rental arrears and the rents for August, September, and October are paid on time; and
- evicting the respondent from the rental premises November 1, 2018, if the termination of the tenancy agreement becomes effective.

Adelle Guigon
Rental Officer