

IN THE MATTER between **NPRLP**, Applicant, and **JM and LF**, 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-

JM and LF

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: July 26, 2018

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: CDL, representing the applicant

Date of Decision: July 26, 2018

REASONS FOR DECISION

An application to a rental officer made by NPRLP as the applicant/landlord against JM and LF as the respondents/tenants was filed by the Rental Office May 29, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served on the respondents by email deemed received June 15, 2018, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The applicant alleged the respondents had repeatedly failed to pay rent in full when due and had accumulated rental arrears. An order was sought for payment of the rental arrears, termination of the tenancy agreement, and eviction.

A hearing was scheduled for July 26, 2018, in Yellowknife. CDL appeared representing the applicant. JM and LF were served notice of the hearing by email deemed received June 15, 2018, pursuant to subsection 4(4) of the Regulations. The respondents did not appear at the hearing, nor did anyone appear on the respondents' behalf. The hearing proceeded in the respondents' 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 commencing March 17, 2017. The applicant's representative confirmed that the respondents are still occupying the rental premises. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

The resident ledgers entered into evidence represent the landlord's accounting of monthly rents, late payment penalties, and payments received against the respondent's rent account. Rent was established at \$2,010 per month up to and including for June 2018, after which the rent increased to \$2,050 per month. The late payment penalties have been calculated in accordance with the Act. Either insufficient payments or no payments were received in 13 of the 16 months of the tenancy.

The resident ledgers also included charges for 'pet fees' in the amount of \$50 per month. Paragraph 6 of the written tenancy agreement speaks to a pet fee, however, it is in contradiction to the Act given that the Act provides for a pet security deposit. The implication in the written tenancy agreement is that the pet fee charged is non-refundable, whereas the Act specifies that the pet security deposit is refundable at the end of the tenancy. The written tenancy agreement also does not specify a maximum total amount to be collected, whereas the Act specifies that the maximum amount of pet security deposit which can be requested by the landlord is the equivalent of 50 percent of the one month's rent.

If the applicant wishes to collect the pet security deposit (not pet fee) in monthly installments I see no issue with that. However, the applicant must be cautious and ensure that the tenant is not charged for more than the equivalent of 50 percent of one month's rent. Additionally, it should be made clear that the pet security deposit is refundable at the end of the tenancy and may only be retained against rental arrears or damages to the rental premises at the end of the tenancy.

In this case, the monthly pet security deposit did not begin until July 2017. The respondents have never paid enough in a given month to cover both the rent, rental arrears, and monthly pet security deposit. In other words, the respondents have not carried a zero balance on the rent account since April 2017 and, therefore, have never paid the pet security deposit. Additionally, this application to a rental officer was not made requesting the payment of the pet security deposit. That being the case, the unpaid pet security deposit charges totalling \$650 to date will not be included in any order to pay coming from this hearing.

I am satisfied the resident ledgers accurately reflect the current status of the respondents' rent account. I find the respondents have repeatedly failed to pay the rent and have accumulated rental arrears in the amount \$11,047.99.

Termination of the tenancy agreement and eviction

In light of the respondents' repeated failure to pay the rent and the substantial amount of rental arrears accumulated, I am satisfied termination of the tenancy agreement and eviction are justified.

Orders

An order will issue:

- requiring the respondents to pay rental arrears in the amount of \$11,047.99;
- terminating the tenancy agreement July 31, 2018;
- evicting the respondents from the rental premises August 15, 2018; and
- requiring the respondents to pay compensation for use and occupation of the rental premises at a rate of \$67.40 for each day they remain in the rental premises after July 31, 2018, to a maximum of \$2,050 per month.

Adelle Guigon
Rental Officer