

IN THE MATTER between **GH**, Applicant, and **SL**, 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:

GH

Applicant/Landlord

-and-

SL

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: June 26, 2018

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: GH, applicant
SL, respondent

Date of Decision: August 4, 2018

REASONS FOR DECISION

An application to a rental officer made by GH as the applicant/landlord against SL as the respondent/tenant was filed by the Rental Office April 13, 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 April 23, 2018.

The applicant alleged the respondent had repeatedly failed to pay rent in full when due, had accumulated rental arrears, had permitted a pet dog at the rental premises without prior written approval of the landlord, and had failed to pay the pet security deposit. An order was sought for payment of rental arrears, payment of the pet security deposit, compliance with the obligation not to cause disturbances, termination of the tenancy agreement, and eviction.

A hearing was scheduled for June 26, 2018, by three-way teleconference. GH appeared as applicant. SL appeared as respondent.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them commencing December 1, 2015. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Rental arrears

The applicant submitted spreadsheet ledgers accounting for rental arrears accumulated as of December 31, 2016, and rents charged and payments received for January 2017 to April 2018. The applicant testified to additional payments received in April, May, and June 2018.

The respondent submitted her own spreadsheet ledger summarizing payments made between January 2017 and June 2018, as well as Interac e-Transfer receipts for payments made by the respondent and Income Assistance financial case reports identifying payments made directly to the applicant on behalf of the respondent's authorized occupant. The respondent did not dispute the applicant's oral submission respecting three payments received in May and June which were not reflected in her own spreadsheet.

The parties agreed that the respondent carried rental arrears in the amount of \$4,050 as of December 31, 2016. The parties agreed that the respondent has not consistently paid the full amount of rent when due. The parties disagreed about whether or not the respondent currently carries rental arrears.

A thorough review of the ledgers, receipts, and reports entered into evidence by the parties revealed to me that neither of the parties' ledgers agreed with either each other or with the submitted receipts and case reports. Being satisfied that the E-Transfer receipts and case reports are the only documents which can be relied upon, I have calculated the rent account using those documents, as well as the agreed cash payment from February 2017 of \$3,475, and the agreed payments received May 4, June 11, and June 22, 2018, as follows:

Date	Rent	Payment	Balance
December 31, 2016			\$4,050.00
January 1, 2017	\$1,550.00		\$5,600.00
January 6, 2017		\$2,100.00	\$3,500.00
January 20, 2017		\$1,200.00	\$2,300.00
February 1, 2017	\$1,550.00		\$3,850.00
February 6, 2017		\$900.00	\$2,950.00
February 2017		\$3,475.00	(\$525.00)
March 1, 2017	\$1,550.00		\$1,025.00
March 4, 2017		\$3,900.00	(\$2,875.00)
March 5, 2017		\$350.00	(\$3,225.00)
April 1, 2017	\$1,550.00		(\$1,675.00)
April 28, 2017		\$1,250.00	(\$2,925.00)
May 1, 2017	\$1,550.00		(\$1,375.00)
May 2017		\$350.00	(\$1,725.00)
June 1, 2017	\$1,550.00		(\$175.00)
June 9, 2017		\$1,000.00	(\$1,175.00)
June 23, 2017		\$550.00	(\$1,725.00)

July 1, 2017	\$1,550.00		(\$175.00)
July 7, 2017		\$800.00	(\$975.00)
July 21, 2017		\$750.00	(\$1,725.00)
August 1, 2017	\$1,550.00		(\$175.00)
August 4, 2017		\$1,500.00	(\$1,675.00)
August 18, 2017		\$750.00	(\$2,425.00)
September 1, 2017	\$1,550.00		(\$875.00)
September 2017		\$775.00	(\$1,650.00)
October 1, 2017	\$1,550.00		(\$100.00)
October 13, 2017		\$750.00	(\$850.00)
October 27, 2017		\$750.00	(\$1,600.00)
November 1, 2017	\$1,550.00		(\$50.00)
December 1, 2017	\$1,550.00		\$1,500.00
December 8, 2017		\$1,000.00	\$500.00
January 1, 2018	\$1,550.00		\$2,050.00
January 5, 2018		\$1,000.00	\$1,050.00
January 19, 2018		\$1,000.00	\$50.00
February 1, 2018	\$1,550.00		\$1,600.00
March 1, 2018	\$1,550.00		\$3,150.00
March 2, 2018		\$1,000.00	\$2,150.00
April 1, 2018	\$1,550.00		\$3,700.00
April 13, 2018		\$1,000.00	\$2,700.00
April 26, 2018		\$775.00	\$1,925.00
April 27, 2018		\$575.00	\$1,350.00
May 1, 2018	\$1,550.00		\$2,900.00
May 2018		\$775.00	\$2,125.00
June 1, 2018	\$1,680.00		\$3,805.00
June 8, 2018		\$800.00	\$3,005.00
June 22, 2018		\$500.00	\$2,505.00

As can be seen above, there was a period between March and November 2017 when the respondent in fact carried a credit balance to her rent account. However, that changed in December 2017, after which the respondent accumulated rental arrears. Rent has been paid late in three of the last 12 months of the tenancy, and either insufficient payments or no payments have been made in nine of the last 12 months of the tenancy.

I find the respondent has repeatedly failed to pay the full amount of rent when due, and has accumulated rental arrears in the amount of \$2,505.

Disturbances

The parties agree that approximately six or seven months ago the respondent permitted her daughter's dog onto the premises. The respondent's daughter subsequently left the community, leaving the dog behind with the respondent. The respondent testified that she did not ask for the dog, she did not intend to get a dog, and frankly she does not actually want the dog.

Paragraph 13(8) of the written tenancy agreement specifies that pets are not permitted on or around the rental premises without the advance written approval of the landlord. The parties agree that the respondent did not obtain the landlord's advance written approval to permit the dog on the rental premises.

The applicant testified that the dog always barks at people, and he claims the dog leaves his messes in the yard. The applicant claims the dog's presence has disturbed his possession and enjoyment of the residential complex, where he also resides.

The respondent disputed that the dog's messes are left behind, claiming that she always cleans up after the dog. She does not dispute that the dog does bark a lot, which can be very annoying and disruptive. The respondent has been trying to learn how to train the dog, but as previously mentioned she does not actually want the dog and intends to find it a new home.

I am satisfied that the presence of the dog at the rental premises has caused disturbances to the landlord's enjoyment of the rental premises or residential complex.

Pet security deposit

After learning of the presence of the dog, the landlord reasonably requested a \$200 pet security deposit from the respondent, which he claims has never been paid. The respondent claims that she did pay the pet security deposit in February, however, no proof of payment was provided.

I am not satisfied the respondent paid the requested pet security deposit, and I find the respondent carries an outstanding pet security deposit in the amount of \$200.

Kitchen sink repair

The respondent raised the issue of a leaking kitchen sink. She claims she repeatedly notified the applicant that the kitchen sink needed to be repaired since June 2017. The sink has not been repaired to date. The notices the respondent refers to were brief requests entered in the message field of 13 of her E-Transfer rent payments between June 23, 2017, and June 22, 2018.

The applicant made no submissions regarding the kitchen sink.

Section 71 of the Act and section 4 of the *Residential Tenancies Regulations* (the Regulations) set out recognized methods of service of notices and documents as either by personal service, registered mail, fax, or email. E-Transfers are none of those things, and therefore are not a recognized method of service of notices. While one would hope individuals read such transaction documents fully, it is easy to see how a message containing an actual request could be overlooked by the recipient. If the landlord was not directly notified of the broken kitchen sink other than through the E-Transfer messages, which I am not certain at this point whether or not he was, then the landlord may reasonably not have noticed the messages in the E-Transfers on the matter and, therefore, the landlord would not have known there was an issue. Since that issue has now been identified at hearing, I expect the landlord to effect the necessary repairs, but I cannot yet find him in breach of his obligation to do so because I am not satisfied he was made aware of the issue.

Termination of the tenancy agreement and eviction

The respondent's repeated failure to pay the full amount of rent when due cannot be ignored, and to my mind it does justify termination of the tenancy agreement and eviction. However, under the circumstances that neither party accurately accounted for the payments received, and considering that the applicant concedes the respondent is otherwise a good tenant, I am satisfied that conditional termination of the tenancy agreement and eviction are justified dependent on the respondent paying the rental arrears in full and paying future rent on time.

Orders

An order will issue:

- requiring the respondent to pay rental arrears in the amount of \$2,505;
- requiring the respondent to pay future rent on time;
- requiring the respondent to pay the pet security deposit in the amount of \$200;
- requiring the respondent to comply with the obligation not to permit pets at the rental premises without the prior written approval of the applicant;
- requiring the respondent to comply with the obligation not to disturb the landlord's or other tenants' possession or enjoyment of the rental premises or residential complex;
- terminating the tenancy agreement November 30, 2018, unless the rental arrears are paid in full and the rents for September, October, and November are paid on time; and
- evicting the respondent from the rental premises December 1, 2018, if the termination of the tenancy agreement becomes effective.

Adelle Guigon
Rental Officer