

IN THE MATTER between **NTHC**, Applicant, and **RG and LAG**, 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:

**NTHC**

Applicant/Landlord

-and-

**RG and LAG**

Respondents/Tenants

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>January 10, 2019</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>YD, representing the Applicant ER, representing the Applicant RG, Respondent LAG, Respondent</b>
<b><u>Date of Decision:</u></b>	<b>January 10, 2019</b>

### **REASONS FOR DECISION**

An application to a rental officer made by PHA on behalf of the NTHC as the Applicant/Landlord against RG and LAG as the Respondents/Tenants was filed by the Rental Office November 15, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Paulatuk, Northwest Territories. The filed application was personally served on the Respondents December 10, 2018.

The Applicant alleged the Respondents had repeatedly failed to pay rent, had accumulated rental arrears, had failed to comply with a rental officer order to pay future rent on time, and had repeatedly failed to report household income as required. An order was sought for payment of rental arrears, termination of the tenancy agreement, eviction, and compensation for use and occupation of the rental premises.

A hearing was scheduled for January 10, 2019, by three-way teleconference. YD and ER appeared representing the Applicant. RG and LAG appeared as Respondents.

#### *Tenancy agreement*

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing commencing April 1, 2012. 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 20-13630 issued October 22, 2013, required the Respondents to pay rental arrears in the amount of \$67,434.42, and required the Respondents to pay future rent on time.

#### *Reporting of household income*

Subsection 45(1) of the Act requires tenants to comply with the terms of any additional obligations that are included in a written tenancy agreement which do not contradict or are inconsistent with the Act.

Section 6 of the written tenancy agreement requires tenants in subsidized housing programs to report their total household income as and when directed by the landlord.

The Applicant requires annual reporting of the total household income in the form of filed tax returns for the previous calendar year. For example, the 2015 filed tax returns would be required to establish the total household income to calculate the rent subsidies for the June 2016 to July 2017 rent period. This requirement does not contradict the requirements of the Act, nor is it inconsistent with the intent of the Act as it relates to subsidized housing.

The parties agreed and the Respondents acknowledged that they had not filed their taxes for the 2015, 2016, and 2017 calendar years, despite repeated reminders and requests from the Applicant to do so, or to at least report their household income in some other acceptable form. The Respondents testified that they had attempted to seek assistance from one accounting firm last year to prepare and file their tax returns, but they could not afford the fees requested in advance by that firm. The Respondents were able to secure the assistance of a different accounting professional in October 2018, and they have been assured by him that all three of their outstanding returns will be completed and filed within the next month.

When asked, the Respondents estimated that their household income has likely decreased since the last time they were assessed for rent subsidies, despite their now-adult children's income becoming assessable. The Applicant confirmed that they have received the adult children's income information, and the parties agreed that the adult children do not have enough income to affect any rent subsidy for which the Respondents might be eligible.

I am satisfied that the Respondents have failed to report their household income for the 2015, 2016, and 2017 calendar years. I find the Respondents have repeatedly failed to comply with their obligation to report the total household income as required under section 6 of the written tenancy agreement.

#### *Rental arrears*

The lease balance statements entered into evidence represent the Landlord's accounting of monthly assessed rents and payments received against the Respondents' rent account. All rents have been assessed subsidies based on reported household income, meaning the last month that rent subsidies were applied was for June 2016 resulting in an assessed rent at that time of \$790. The rents for July 2016 to January 2019 have all been assessed at the maximum monthly rent of \$1,445 due to the Respondents' failure to report their household income as referenced above.

The lease balance statements included a charge of \$5,032.55 for old tenant damages which have already been denied by the Rental Officer under Rental Officer Order Number 20-13630. That amount was deducted from the lease balance statement balance total, resulting in an adjusted balance \$85,762.38.

The lease balance statements also included the previously ordered rental arrears of \$67,434.42 and multiple (on-going) garnishments received against those ordered rental arrears. To date, the garnishments total \$49,029.54, resulting in a remaining balance of previously ordered rental arrears of \$18,404.88. That remaining balance was deducted from the adjusted lease balance statement total to arrive at an amount of rental arrears accumulated since the last rental officer order was issued at \$67,357.50.

Given the Respondents commitment to have their 2015, 2016, and 2017 taxes filed within a months' time, and their recent efforts to make payments towards their rent account, and the likelihood that the once the income is reported the Respondents will retroactively be assessed for eligible subsidies which will reduce the accumulated rental arrears somewhat, the Rental Officer proposed adjusting the monthly rents charged since July 2016 to the last assessed rent amount of \$790. It was recognized and acknowledged that the \$790 per month would strictly be an estimated subsidized rent amount, and that the actual subsidized rents since July 2016 could be very different. The parties agreed this temporary adjustment for the purposes of an order to be issued today would be reasonable in the circumstances. The rents for July 2016 to January 2019 were adjusted accordingly, resulting in an adjusted balance of rental arrears accumulated since the last rental officer order was issued in the amount of \$47,052.50.

I am satisfied the adjusted lease balance statements adequately reflect the current status of the Respondents' rent account. I find the Respondents have repeatedly failed to pay rent in full and when due, have failed to comply with a rental officer order to pay future rent on time, and have accumulated substantial rental arrears since the last rental officer order was issued in the amount of \$47,052.50. Those newly accumulated rental arrears represent approximately 54 months' (4.5 years') subsidized rent.

*Termination of the tenancy agreement and eviction*

The Respondents' repeated failure to report their household income as required, repeated failure to pay rent, and the substantial amount of subsidized rental arrears accumulated since the last rental officer order was issued cannot be ignored or diminished. I am satisfied termination of the tenancy agreement and eviction are justified. However, by agreement with the parties, terms of conditional termination and eviction orders were agreed to which would require the Respondents to ensure their total household income for the 2015, 2016, and 2017 calendar years is reported by February 28, 2019, and that their subsidized rents are paid in full and on time in February, March, April, May, and June.

*Orders*

An order will issue:

- requiring the Respondents to pay rental arrears in the amount of \$47,052.50 (p. 41(4)(a));
- requiring the Respondents to pay their rent on time in the future (p. 41(4)(b));
- requiring the Respondents to comply with their obligation to report their total household income as required under section 6 of the written tenancy agreement, and not to breach that obligation again (p. 45(4)(a), p. 45(4)(b));
- terminating the tenancy agreement February 28, 2019, unless the total household income for the calendar years of 2015, 2016, and 2017 are reported to the Applicant, and evicting the Respondents from the rental premises March 1, 2019, if the termination of the tenancy agreement becomes effective February 28, 2019 (p. 45(4)(e), p. 63(4)(a), ss. 83(2)); and
- terminating the tenancy agreement June 30, 2019, unless the subsidized rents for February to June are paid in full and on time, and evicting the Respondents from the rental premises July 1, 2019, if the termination of the tenancy agreement becomes effective June 30, 2019 (p. 41(4)(c), p. 63(4)(a), ss. 83(2)).

---

Adelle Guigon  
Rental Officer