

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

**JBC**

Respondent/Tenant

**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>Fort Smith, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>AH, representing the Applicant</b>
<b><u>Date of Decision:</u></b>	<b>January 10, 2019</b>

### **REASONS FOR DECISION**

An application to a rental officer made by FSHA on behalf of the NTHC as the Applicant/Landlord against JBC as the Respondent/Tenant was filed by the Rental Office November 15, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Fort Smith, Northwest Territories. The filed application was served on the Respondent by registered mail signed for December 19, 2018.

The Applicant alleged the Respondent had repeatedly failed to pay rent when due, had accumulated rental arrears, and had caused damages to the rental premises. An order was sought for payment of rental arrears, payment of future rent on time, and payment for costs of repairs.

A hearing was scheduled for January 10, 2019, in Fort Smith. The Rental Officer appeared by telephone. AH appeared representing the Applicant. JBC was served notice of the hearing by registered mail signed for December 19, 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 October 4, 2017. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

#### *Rental arrears*

The lease balance statements 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. No payments were received in five of the last 12 months of the tenancy. Since filing of the application, the Respondent has successfully resolved the accumulated rental arrears, leaving only the rent for January 2019 currently outstanding.

I am satisfied the lease balance statements accurately reflect the current status of the Respondent's rent account. I find the Respondent has repeatedly failed to pay the rent in full when due, but I do not find the Respondent has any current rental arrears.

*Damages, disturbances, and uncleanliness*

The Applicant's representative testified and provided evidence supporting allegations of damages to the rental premises, of disturbances being caused by the Respondent or persons permitted on the premises by the Respondent, and of general uncleanliness at the rental premises.

During a unit inspection conducted in July 2018 a fire extinguisher was identified as missing. The Respondent was charged \$65.49 to replace the fire extinguisher, of which \$32.75 was paid on or about November 8, 2018, leaving a remaining balance owing of \$32.74.

Warning notices dated January 24, 2018, and November 5, 2018, were sent to the Respondent regarding disturbances which were reported to and observed by the Applicant's staff. The former involved complaints of multiple people being excessively loud late at night and disturbing neighbouring tenants' sleep. The latter involved two days in a row of partying, loud people, and loud music. The Applicant's representative and other staff also observed at least one minor being let into the party; they reported the observation to the local RCMP detachment, who refused to investigate the incident potentially involving a minor, citing it as a landlord matter.

No less than three notices – dated August 10, 15, and 21, 2018 – were sent to the Respondent regarding appliances which had been left out on the curb as garbage. The Respondent was repeatedly requested to dispose of the appliances due to the eyesore they created and the complaints the Applicant had been receiving from neighbouring tenants. This matter was not discussed at the hearing, so it is unclear whether or not the appliances have been disposed of. However, failing to dispose of them in a timely manner apparently disturbed the neighbouring tenants' enjoyment of the area.

A warning notice dated September 26, 2018, was sent to the Respondent requesting the repair of holes in the yard to the rental premises caused by the Respondent's dog. This matter was not discussed at the hearing, so it is unclear whether or not the holes were repaired. However, the holes themselves constitute damages to the rental premises for which the Respondent is responsible.

On or about November 27, 2018, the Respondent reported that two windows in the rental premises had been broken, that he would like them repaired, and that he would accept responsibility for the costs to repair the windows. The Applicant's maintenance staff attended the rental premises to board up the windows until the replacement windows could be purchased and installed, and while they were there they observed numerous additional damages to the rental premises. Photographs were taken at that time of numerous large holes in several walls and of a missing door frame from the exterior door. Incidentally, those photographs also showed those areas as being in a substantially less than ordinary state of cleanliness. The windows were repaired on or about December 12, 2018, at a cost of \$559.38, and the Respondent paid those costs in full on December 14, 2018.

I am satisfied the Respondent is responsible for the missing fire extinguisher. I find the Respondent liable to the Applicant for the remaining balance of the costs to replace the fire extinguisher in the amount of \$32.74.

I am satisfied the Respondent is responsible for the reported disturbances. I find the Respondent has failed to comply with the obligation not to disturb the landlord's or other tenants' enjoyment or possession of the rental premises or residential complex.

I am satisfied the Respondent is responsible for the damages to the walls and the exterior door frame. I find the Respondent has failed to comply with the obligation to notify the landlord of any damages to the rental premises.

I am satisfied the rental premises has been kept in a less than ordinary state of cleanliness. I find the Respondent has failed to comply with the obligation to maintain the rental premises in an ordinary state of cleanliness.

I am in agreement with the Applicant that the damages constitute the issue of greatest concern, and that prohibiting further damages is in the best interest of all parties.

### *Termination of the tenancy agreement and eviction*

Although the Applicant did not initially apply for termination of the tenancy agreement and eviction, the incidents occurring after November 1, 2018, resulted in the Applicant issuing a notice to terminate the tenancy agreement pursuant to subsection 51(5) of the Act. That subsection provides for a landlord of subsidized public housing to give a tenant at least 30 days' written notice to terminate a tenancy agreement. In this case, the notice was given January 4, 2019, to terminate the tenancy agreement February 28, 2019, due to the Respondent's failure to maintain the ordinary cleanliness of the rental premises, the significant amount of damage caused to the rental premises, and the number and nature of disturbances.

At hearing, the Applicant's representative requested that instead of terminating the tenancy agreement in accordance with the valid section 51(5) notice, that conditional termination and eviction orders be issued dependent on the Respondent paying future rent on time and on no further damages being caused to the rental premises. Under the circumstances, I am satisfied the proposed conditional termination and eviction orders are justified and reasonable.

### *Orders*

An order will issue:

- requiring the Respondent to pay future rent on time (p. 41(4)(b));
- requiring the Respondent to pay costs of repairs in the amount of \$32.74 (p. 42(3)(e));
- prohibiting the Respondent from causing further damages to the rental premises (p. 42(3)(b));
- terminating the tenancy agreement March 31, 2019, unless the subsidized rents for February and March are paid in full and on time and no further damages are caused to the rental premises by the Respondent or by persons permitted on the rental premises by the Respondent (p. 41(4)(c), p. 42(3)(f), ss. 83(2)); and
- evicting the Respondent from the rental premises April 1, 2019, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

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Adelle Guigon  
Rental Officer