

IN THE MATTER between **NRLP**, Applicant, and **CB and BB**, 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:

NRLP

Applicant/Landlord

-and-

CB and BB

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: March 7, 2019

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: CDL, representing the Applicant

Date of Decision: March 7, 2019

REASONS FOR DECISION

An application to a rental officer made by NRLP as the Applicant/Landlord against CB and BB as the Respondents/Tenants was filed by the Rental Office January 29, 2019. 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 February 14, 2019, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The Applicant alleged the Respondents had repeatedly failed to pay rent 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 March 7, 2019, in Yellowknife. CDL appeared representing the Applicant. CB and BB were served notice of the hearing by email deemed received February 14, 2019. 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 them commencing April 15, 2018. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

The lease ledger entered into evidence represents the Landlord's accounting of monthly rents, late payment penalties, and payments received against the Respondents' rent account. The rent was established at \$1,540 per month. The late payment penalties were calculated in accordance with the Act and Regulations. Either insufficient payments or no payments were received in six of the 12 months of the tenancy, and the rent was paid late in eight of the 12 months of the tenancy.

The Applicant's representative identified that due to a problem with their accounting software the late payment penalties for December through March do not appear in the lease ledger. The late payment penalties for those months were calculated and added to the lease ledger balance at the hearing.

The lease ledger also included monthly charges for "pet fees". The written tenancy agreement does include a condition for monthly pet fees without reference to whether or not the pet fees are refundable and whether or not there is a maximum amount that will be collected. The Act provides for a pet security deposit to a maximum value of 50 percent of one month's rent. In my opinion, the monthly pet fees as described in the written tenancy agreement are contrary to the Act and therefore invalid. While I see no reason why the landlord could not collect the pet security deposit in monthly installments, the landlord would be prohibited from collecting more than 50 percent of one month's rent as allowed for in the Act. Additionally, the landlord would be required to return or retain the pet security deposit at the end of the tenancy in accordance with the Act.

In this case, the maximum pet security deposit the landlord could collect is \$770. Over the course of the tenancy to date, the applicant charged \$275 in "pet fees" and of that the respondent paid \$75. The unpaid balance of what I will deem as the pet security deposit charges totalling \$200 was deducted from the lease ledger balance at hearing.

I am satisfied the amended lease ledger accurately reflects the current status of the Respondents' rent account. I find the Respondents have repeatedly failed to pay the full amount of rent when due and have accumulated rental arrears in the amount of \$3,914. That amount represents approximately three months' rent.

Termination of the tenancy agreement and eviction

In light of the Respondents' repeated failure to pay the rent when due and the amount of rental arrears that have accumulated, I am satisfied termination of the tenancy agreement and eviction are justified. By agreement with the Applicant's representative, the termination and eviction orders will be conditional on the Respondents paying the rental arrears in full by the end of April and paying April's rent on time.

Orders

An order will issue:

- requiring the Respondents to pay rental arrears in the amount of \$3,914 (p. 41(4)(a));
- requiring the Respondents to pay the rent on time in the future (p. 41(4)(b));
- terminating the tenancy agreement April 30, 2019, unless the rental arrears are paid in full and the rent for April is paid on time (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondents from the rental premises May 1, 2019, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

Adelle Guigon
Rental Officer