

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

SM

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: March 20, 2019

Place of the Hearing: Hay River, Northwest Territories

Appearances at Hearing: AS, representing the Applicant

Date of Decision: March 20, 2019

REASONS FOR DECISION

An application to a rental officer made by HRHA on behalf of the NTHC as the Applicant/Landlord against SM as the Respondent/Tenant was filed by the Rental Office January 30, 2019. The application was made regarding a residential tenancy agreement for a rental premises located in Hay River, Northwest Territories. The filed application was served on the Respondent by registered mail deemed served March 11, 2019, pursuant to subsection 71(5) of the *Residential Tenancies Act* (the Act).

The Applicant alleged the Respondent had repeatedly failed to pay rent when due, had accumulated rental arrears, had caused damages to the rental premises, had failed to pay for costs of repairs in a reasonable time, and had failed to comply with a rental officer order to pay future rent on time. An order was sought for payment of rental arrears, payment of costs for repairs, termination of the tenancy agreement, and eviction.

A hearing was scheduled for March 20, 2019, in Hay River. The Rental Officer appeared by telephone. AS appeared representing the Applicant. SM was served notice of the hearing by registered mail deemed served March 11, 2019. 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 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 January 19, 2016. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Previous order

Rental Officer Order Number 15857 issued February 27, 2018: required the Respondent to pay unsubsidized rental arrears in the amount of \$11,950; required the Respondent to pay future rent on time; required the Respondent to comply with the obligation to report household income and not breach that obligation again; terminated the tenancy agreement May 31,

2018, unless the 2016 household income had been reported, the subsidized rental arrears had been paid in full, and the subsidized rents for March, April, and May were paid on time; and evicted the Respondent from the rental premises June 1, 2018, if the termination of the tenancy agreement became effective. The monetary and reporting conditions were not complied with by the ordered due dates, however, the parties subsequently entered into agreements which reinstated the tenancy agreement effective June 1, 2018.

Rental arrears

The statements of rent account, lease ledger, and lease balance statements (rent 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 nine of the last 12 months of the tenancy.

I am satisfied the rent statements accurately reflect the current status of the Respondent's rent account. I find the Respondent has repeatedly failed to pay the rent when due, has failed to comply with a rental officer order to pay future rent on time, and has accumulated rental arrears in the amount of \$210. That amount represents approximately three months' subsidized rent.

Damages

The Applicant's representative testified and evidence was presented establishing that someone had set fire to the Respondent's rental premises some time around Midnight on October 20, 2018. The Respondent was not home at the time, which attending RCMP, Fire, and maintenance officers confirmed. RCMP conducted an arson investigation and had a suspect in mind, however, the Respondent has refused to cooperate with the investigation. There are apparent indications that the fire was set as retribution against the Respondent in relation to drug related activities.

Based on the RCMP's inability to hold the arsonist accountable for the criminal activity and resulting damages due to the Respondent's refusal to cooperate with the investigation, the Applicant's representative was directed to seek compensation for the costs of repairing the damages to the rental premises from the Respondent.

Section 42 of the Act holds the tenant responsible for repairing damages to the rental premises "caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant." There is no dispute that the Respondent was not at the rental premises when the fire occurred, and therefore not only did she not cause the fire, she also could not have permitted anyone on the premises who might have caused the fire. Whether or not the fire was started as an act of retribution (or warning, as the case may be) has no bearing on whether or not the tenant is responsible for causing the damages.

I am not satisfied the Respondent is responsible for causing the fire to the rental premises. The Applicant's claim for costs to repair the damages caused by the fire are denied.

Termination of the tenancy agreement and eviction

In light of the Respondent's repeated failure to pay the rent when due, the Respondent's failure to comply with a rental officer order to pay future rent on time, and the amount of subsidized rental arrears accumulated, I am satisfied termination of the tenancy agreement and eviction are justified.

The Applicant's representative testified and provided evidence establishing that the Respondent has in fact been promising for several weeks to voluntarily vacate the premises. The Respondent has been convicted for criminal offences for which she is expecting to receive a custodial sentence. Her sentencing hearing was postponed from a late February date to April 15, 2019. She has promised to vacate before she goes to jail, but the Applicant's representative has concerns as to the likelihood that the Respondent will do as she says given the numerous vehicles and other equipment currently sitting in the yard to the rental premises. It was agreed at hearing to delay the termination date only to the date she is scheduled to be sentenced.

Orders

An order will issue:

- requiring the Respondent to pay rental arrears in the amount of \$210 (p. 41(4)(a));
- terminating the tenancy agreement April 15, 2019 (p. 41(4)(c));
- evicting the Respondent from the rental premises on or after April 16, 2019 (p. 63(4)(a));
and
- requiring the Respondent to pay compensation for use and occupation of the rental premises at a rate of \$53.12 for each day she remains in the rental premises after April 15, 2019, to a maximum of \$1,625 per month (p. 63(4)(b)).

Adelle Guigon
Rental Officer