

IN THE MATTER between **NTHC**, Applicant, and **NCA and TH**, 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-

NCA and TH

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	April 11, 2019
<u>Place of the Hearing:</u>	Fort Simpson, Northwest Territories
<u>Appearances at Hearing:</u>	KK, representing the Applicant NCA, Respondent TH, Respondent
<u>Date of Decision:</u>	April 11, 2019

REASONS FOR DECISION

An application to a rental officer made by FSHA on behalf of the NTHC as the Applicant/Landlord against NCA and TH as the Respondents/Tenants was filed by the Rental Office December 12, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Fort Simpson, Northwest Territories. The filed application was served on the Respondents by registered mail signed for February 28, 2019.

The Applicant alleged the Respondents had repeatedly failed to pay rent when due and had accumulated rental arrears. An order was sought for payment of rental arrears, payment of future rent on time, termination of the tenancy agreement, and eviction.

A hearing originally scheduled for February 7, 2019, was cancelled due to the Applicant's failure to prove service of the filed application and notices of attendance on the Respondents in advance of the hearing date. The hearing was re-scheduled to April 10, 2019, in Fort Simpson. The Rental Officer appeared by telephone. KK appeared representing the Applicant. NCA appeared as Respondent and on behalf of TH. Given that TH was only just returning from work that afternoon, it was agreed by all parties to adjourn the hearing to the afternoon of April 11, 2019, to provide him with the opportunity to participate in the hearing. The hearing continued on April 11, 2019, by three-way teleconference with all mentioned parties present.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing August 22, 2014. Despite not having signed the written tenancy agreement, TH accepted joint responsibility for the tenancy agreement having been named as a tenant with NCA. I am satisfied a valid joint tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Rental arrears

The lease balance statement entered into evidence represents the Landlord's accounting of monthly assessed rents and payments received against the Respondents' rent account. All rents have been assessed for subsidies based on reported household income. The monthly subsidized rents for July 2016 to June 2017 were assessed at \$160. The monthly subsidized rents for July 2017 to June 2018 were at \$890. All rents since July 2018 have been assessed at the maximum monthly rent of \$1,625 due to the Respondents' total household income for 2017 exceeding the income threshold to be eligible for subsidies. Either insufficient payments or no payments were made in 21 of the last 24 months of the tenancy, with the last payment being recorded August 9, 2018, in the amount of \$1,835.

The Respondents did not dispute the accuracy of the Landlord's accounting. They explained that they are both seasonal employees, but are not always eligible for employment insurance income during the off-season. They claimed they were not aware that their subsidies would not be re-assessed seasonally as it used to be, however, the lease balance statement reflects consistent unchanged annual subsidized rent amounts since July 2016 and the Applicant's representative testified that policy is not new.

The Respondents further explained that 50 percent of each of TH's income is garnished for child maintenance, which is not expected to end until late July or early August. The Respondents are literally living paycheck to paycheck even without paying anything towards their rent. TH is expected to return to his seasonal employment the week of April 15th; after two maternity leaves, NCA is expecting to return to her seasonal employment May 6th, but she is also actively looking for permanent full-time year-round employment.

The Respondents committed to putting their child tax payment towards the rental arrears, making another payment April 26th, and then consistently every two weeks after that. They also committed to being able to make larger payments starting in August, after TH's child maintenance garnishments stop. They agreed to pay at least \$100 per month over and above the monthly assessed rent.

I am satisfied the lease balance statement accurately reflects the current status of the Respondents' rent account. I find the Respondents have repeatedly failed to pay the rent and have accumulated rental arrears in the amount of \$21,195. That amount represents approximately 16 months of both subsidized and unsubsidized rent.

Termination of the tenancy agreement and eviction

In light of the Respondents' repeated failure to make any payments towards their rent account and the substantial amount of rental arrears, I am satisfied termination of the tenancy agreement and eviction are justified. The parties agreed that tiered conditional termination and eviction orders would be appropriate in the circumstances, structured to hold the Respondents accountable for consistently meeting their rent payment obligations both before and after TH's child maintenance garnishments end.

Orders

An order will issue:

- requiring the Respondents to pay rental arrears in the amount of \$21,195 (p. 41(4)(a));
- requiring the Respondents to pay their rent on time in the future (p. 41(4)(b));
- terminating the tenancy agreement:
 - (a) July 31, 2019, unless at least \$100 is paid per month towards the rental arrears and the monthly subsidized rents for May, June, and July are paid on time; and
 - (b) October 31, 2019, unless at least \$100 is paid per month towards the rental arrears and the monthly subsidized rents for August, September, and October are paid on time (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondents from the rental premises:
 - (a) August 1, 2019, if the tenancy agreement between the parties is terminated July 31, 2019; and
 - (b) November 1, 2019, if the tenancy agreement between the parties is terminated October 31, 2019 (p. 63(4)(a), ss. 83(2)).

Adelle Guigon
Rental Officer