

IN THE MATTER between **NTHC**, Applicant, and **VM and JM**, 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-

VM and JM

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: April 18, 2019

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: AL, representing the Applicant
VM, Respondent
JM, Respondent

Date of Decision: April 18, 2019

REASONS FOR DECISION

An application to a rental officer made by YDFNHD on behalf of the NTHC as the Applicant/Landlord against VM and JM as the Respondents/Tenants was filed by the Rental Office October 9, 2018. 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 registered mail signed for November 13, 2018.

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

A hearing scheduled for December 12, 2018, was adjourned *sine die* at the request of the Applicant so that they could provide evidence of the tenancy commencing prior to October 2015. A hearing re-scheduled for April 2, 2019, was postponed at the request of the Respondents due to unexpected medical travel. The hearing was re-scheduled to April 18, 2019, in Yellowknife. AL appeared representing the Applicant. VM and JM 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, 2008. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Previous orders

Rental Officer Order Number 10-12102 issued May 12, 2011, required the Respondents to pay rental arrears in the amount of \$62,246.28, and required the Respondents to pay future rent on time. This order has been filed with the Supreme Court of the Northwest Territories, but the monetary order has not to date been enforced.

Rental arrears

The lease balance statement and statement of account (rent statements) entered into evidence represent the Landlord's accounting of monthly assessed rents and payments received against the Respondents' rent account. All rents appear to have been subsidized and are currently assessed at \$75 per month. Either insufficient payments or no payments have been made in 15 of the last 24 months of the tenancy.

The rent statements included a Simply Accounting adjustment charge of \$1,946.50 recorded March 31, 2015, and NSF charges totalling \$140. No evidence was provided explaining the Simply Accounting Charge. NSF charges are disallowed under the Act. The total of \$2,086.50 was deducted from the rent statements balance.

The Respondents did not dispute the accuracy of the Landlord's accounting, acknowledging the continued debt and accepting responsibility for it.

It was noted at the hearing that the payments received against the rent account since the last rental officer order was issued collectively exceed the monthly subsidized rents charged between May 2011 and April 2019. In fact, the total payments are of such an amount that there is over \$4,000 that has been applied against the rental arrears ordered paid in Rental Officer Order Number 10-12102. In effect, despite not having paid enough to cover the rent in certain months or not paying anything at all in certain months, the Respondents have paid substantially more than the monthly subsidized rent in the other months since the last rental officer order was issued. This also means that the Respondents do not have any new rental arrears accumulated since the last rental officer order was issued.

I am satisfied the adjusted rent statements accurately reflect the current status of the Respondents' rent account. I find the Respondents have repeatedly failed to pay the full amount of rent when due, have failed to comply with a rental officer order to pay future rent on time, and have a continuing balance of rental arrears in the amount of \$58,114.22. Given that the continuing balance of rental arrears is made up entirely of the rental arrears ordered paid under Rental Officer Order Number 10-12102, and given that Rental Officer Order Number 10-12102 remains enforceable through the Supreme Court of the Northwest Territories, and given that I do not have any authority under the Act to rescind previous rental officer orders, no order for payment of rental arrears will be issued under this file.

Termination of the tenancy agreement and eviction

In light of the Respondents' repeated failure to pay the rent in full when due, the Respondents' failure to comply with a rental officer order to pay future rent on time, and the substantial amount of subsidized rental arrears that remains outstanding, I am satisfied that termination of the tenancy agreement and eviction are justified. The Applicant's representative confirmed their request for lengthy conditional termination and eviction orders dependent on the Respondents making regular monthly payments towards the rental arrears and paying future rent on time. The Respondents committed to paying at least \$300 per month towards the rental arrears and to paying the monthly subsidized rents on time.

Orders

An order will issue:

- requiring the Respondents to pay future rent on time (p. 41(4)(b));
- terminating the tenancy agreement October 31, 2019, unless at least \$300 is paid each month towards the outstanding rental arrears of \$58,114.22 and the monthly subsidized rents for May to October are paid on time (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondents from the rental premises November 1, 2019, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

Adelle Guigon
Rental Officer