

IN THE MATTER between **NTHC**, Applicant, and **GN and LN**, 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-

GN and LN

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: July 17, 2019

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: KAF, representing the Applicant

Date of Decision: July 17, 2019

REASONS FOR DECISION

An application to a rental officer made by WHA on behalf of the NTHC as the Applicant/Landlord against GN and LN as the Respondents/Tenants was filed by the Rental Office May 29, 2019. The application was made regarding a residential tenancy agreement for a rental premises located in Whati, Northwest Territories. The filed application was served on the Respondents by email deemed received July 5, 2019, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The Applicant alleged the Respondents had caused damages to the rental premises and failed to comply with their obligation to pay for the costs of repairs within a reasonable time. An order was sought for payment of the outstanding costs of repairs, termination of the tenancy agreement, and eviction.

A hearing was scheduled for July 17, 2019, by three-way teleconference. KAF appeared representing the Applicant. GN and LN were served notice of the hearing by email deemed received July 5, 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

Evidence was presented establishing a residential tenancy agreement between the parties for subsidized housing under the Applicant's Homeownership Entry Level Program (HELP) commencing April 1, 2014. Although the Respondents are attending school in another community, they have not given up possession of the rental premises. The Applicant agrees that the Respondents' tenancy agreement remains in effect while they are attending school. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Damages

The Applicant's representative testified and evidence was presented establishing that one of the Respondents has been attending school in another community since some time before February 2018; the other Respondent has been commuting to a mine rotation and staying with the Student Respondent at school during his two weeks out. The Respondents did not notify the Applicant that they would be leaving the rental premises unoccupied for a lengthy period of time, contrary to paragraph 18 of the written tenancy agreement. The Respondents did not arrange for anyone to care for the rental premises during their absence.

On February 2, 2018, the Applicant's local maintenance personnel was notified that there was no one staying at the rental premises. He attended the rental premises and discovered that the furnace was not functioning. The maintenance personnel confirmed that the premises was already completely frozen, including the water in the water tank which was three-quarter full. The maintenance personnel was unable to get the furnace working again.

The premises was secured against unauthorized entry and requests were made of contractors for quotes to restore heat to the rental premises and effect the necessary repairs of the damages caused by the freeze-up.

The Applicant contacted the Respondents and confirmed that they were in fact aware of the freeze-up and accepted responsibility for the associated costs to repair the damages. When asked if anyone would be staying in the rental premises while the Respondents were away, the Applicant was told the Respondents would ask their brother to stay there. The brother did not end up staying at the premises, but did facilitate making rent payments and , eventually, payments towards the costs of repairs. In the interim, the Applicant arranged for their local maintenance personnel to monitor the rental premises in the Respondents' absence.

The costs to restore the heat, assess damages, and effect the necessary repairs resulting from the freeze-up totalled \$20,919.68. The Respondents were invoiced for that amount April 1, 2018. The Respondents entered into a last chance agreement with the Applicant on August 22, 2018, agreeing to pay \$250 by August 27, 2018, and \$225 per month thereafter towards the costs of repairs. No payments were received against the costs of repairs until November 7, 2018, at which time \$250 was paid. Since then there have been semi-regular monthly payments made against the costs of repairs of at least \$250. In total, the Respondents have paid \$3,125 towards the costs of repairs to date.

The Applicant's representative's request for an order for payment of the remaining balance of the costs of repairs in minimum monthly installments of \$225 to remain consistent with the terms of the last chance agreement is reasonable.

I am satisfied the Respondents are responsible for the rental premises freezing up in February 2018. I find the Respondents liable to the Applicant for the outstanding costs of repairs in the amount of \$17,794.68.

Termination of the tenancy agreement and eviction

While the damages caused to the rental premises due to the Respondents' negligent conduct is substantial, as are the costs associated with repairing the damages, I am not satisfied that termination of the tenancy agreement and eviction are justified given all other obligations under the Respondents' tenancy have been complied with and no further damages have been caused. The Applicant's request for an order for termination of the tenancy agreement and eviction is denied.

Order

An order will issue requiring the Respondents to pay costs of repairs in the amount of \$17,794.68 in minimum monthly installments of \$225 starting in August 2019.

Adelle Guigon
Rental Officer