

IN THE MATTER between **NPRLP**, Applicant, and **RB and TB**, 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:

NPRLP

Applicant/Landlord

-and-

RB and TB

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: July 30, 2019

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: CDL, representing the Applicant
RB, Respondent

Date of Decision: July 30, 2019

REASONS FOR DECISION

An application to a rental officer made by NPRLP as the Applicant/Landlord against RB and TB as the Respondents/Tenants was filed by the Rental Office May 28, 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 June 22, 2019, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations).

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

A hearing was scheduled for July 30, 2019, in Yellowknife. CDL appeared representing the Applicant. RB appeared as Respondent. TB was served notice of the hearing by email deemed received June 22, 2019, and RB confirmed that she had reminded TB about the hearing. TB did not appear at the hearing, nor did anyone appear on her behalf. RB did not represent or speak on behalf of TB. The hearing proceeded in TB's absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The parties agreed and evidence was presented establishing a joint residential tenancy agreement commencing July 1, 2017. The Respondents had a falling out, and RB moved out of the rental premises in July 2018. Attempts to assign the joint tenancy agreement to a sole tenancy agreement with TB were met with various hurdles over several months resulting in no change to the joint tenancy agreement. While she was on medical leave outside the community, RB tried to further communicate with TB regarding the tenancy agreement without success. She described the situation as an on-going battle. Given the failure to cooperate with regard to the obligation to pay the rent under the joint tenancy agreement, when RB returned to the community TB agreed to move out of the rental premises and RB moved back into the rental premises in June 2019. The tenancy agreement has not been amended and remains a joint tenancy agreement with both RB and TB. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Termination of the tenancy agreement

The parties present at the hearing agreed that RB had given proper written notice to terminate the tenancy agreement as of July 31, 2019. That being the case, the Applicant's representative withdrew their request for an order to terminate the tenancy agreement.

Rental arrears

The lease ledger entered into evidence represents the Landlord's accounting of monthly rents, late payment penalties, and payments received against the Respondent's rent account. Rent was established for the months prior to and including June 2019 at \$1,695; the rent was increased effective July 1, 2019, to \$1,813.65. Late payment penalties were calculated in accordance with the Act and Regulations, and \$34 in late payment penalties for July was added to the lease ledger balance at hearing.

The lease ledger balance included five \$50 charges for NSF fees recorded in December 2018 and January, February, March, and May 2019. Section 13 of the Act prohibits penalties other than late payment penalties provided for under section 41 of the Act, and section 41 of the Act does not provide for losses suffered as a direct result of a tenant's failure to pay the rent. As a result, the Applicant is not entitled to the claimed NSF fees. The total NSF fees charged of \$250 was deducted from the lease ledger balance.

RB did not dispute the accuracy of the Landlord's accounting, acknowledging the debt that had accumulated. She also acknowledged that because she remained equally responsible as a joint tenant for the accumulated arrears, she requested consideration of the reality that she is not in fact entirely responsible for the full amount of rental arrears. RB agreed to accept responsibility for the rental arrears that had accumulated since June 1, 2019, citing the remaining balance as arrears that TB accumulated during her tenure at the rental premises.

The Applicant's representative did not express a problem with dividing the arrears specifically between the two Tenants, given the Landlord's primary concern is simply that the arrears are paid.

I am satisfied the adjusted lease ledger accurately reflects the current status of the Respondents' rent account. I find the Respondents have repeatedly failed to pay the rent in full when due and have accumulated rental arrears in the total amount of \$4,512.65. Of that amount, I find that TB is responsible for \$2,699 representing the rental arrears accumulated as of May 31, 2019, including associated late payment penalties. I find RB responsible for \$1,813.65 representing rental arrears accumulated since June 1, 2019.

Orders

An order will issue requiring RB to pay rental arrears in the amount of \$1,813.65 and requiring TB to pay rental arrears in the amount of \$2,699.

Adelle Guigon
Rental Officer