

IN THE MATTER between **NTHC**, Applicant, and **AM and FT**, 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-

**AM and FT**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** September 10, 2019

**Place of the Hearing:** Yellowknife, Northwest Territories

**Appearances at Hearing:** JS, representing the Applicant  
TC, witness for the Applicant

AM, Respondent  
FT, Respondent

**Date of Decision:** September 20, 2019

### **REASONS FOR DECISION**

An application to a rental officer made by YHA on behalf of the NTHC as the Applicant/Landlord against AM and FT as the Respondents/Tenants was filed by the Rental Office May 3, 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 registered mail signed for May 31, 2019.

The Applicant alleged the Respondents had accumulated rental arrears, had caused damages to the rental premises, and had left the rental premises in an unclean condition. An order was sought for payment of rental arrears and payment of costs for repairs and cleaning.

A hearing scheduled for July 3, 2019, was postponed at the request of, and peremptory on, the Respondents. The hearing was re-scheduled to September 10, 2019, in Yellowknife. JS appeared representing the Applicant, with TC appearing as a witness for the Applicant. AM and FT 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, 2012. The Respondents vacated the rental premises and returned possession to the Applicant on February 4, 2019. I am satisfied a valid tenancy agreement was 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 were subsidized and last assessed at \$610 per month. The last payment received against the rent account was recorded November 20, 2018, in the amount of \$610. The security deposit of \$1,204.55 was retained at the end of the tenancy against the accumulated rental arrears.

The Respondents did not dispute the accuracy of the landlord's accounting with exception to the pro-rated charge of \$87 for rent for February 1<sup>st</sup> to 4<sup>th</sup>. The Respondents testified that they were prepared to return possession of the rental premises to the Applicant on February 1<sup>st</sup> and believed they had made arrangements to do so. Due to an apparent miscommunication, the Landlord was not available to conduct the exit inspection on February 1<sup>st</sup>, resulting in the exit inspection and return of the keys not occurring until February 4<sup>th</sup>. In my opinion, the Respondents did vacate the rental premises on February 1<sup>st</sup> and as such are not liable for the rent for February 1<sup>st</sup> to 4<sup>th</sup>. The pro-rated rent of \$87 was deducted from the lease balance statement.

I am satisfied the adjusted lease balance statement accurately reflects the current status of the Respondents' rent account. I find the Respondents have rental arrears in the amount of \$15.45.

*Repairs and cleaning*

The Applicant submitted the entry and exit inspection reports, photographs, and a tenant damages statement in support of their claims for the following repairs and cleaning:

Cleaning throughout	\$575.00
Patching and painting throughout	\$5,000.00
Replace two interior door trims	\$160.00
Replace fridge	\$930.00
Replace/reinstall three light fixtures	\$72.50
Replace one window pane	\$425.00
Freeze-up repairs	\$936.74
Sub-total	\$8,099.24
10% Admin Fee	\$809.92
5% GST	\$445.46
<b>Total</b>	<b>\$9,354.62</b>

The Applicant's witness confirmed at hearing that the costs of patching and painting are for those walls and portions of the ceiling that were actually damaged and/or required repair after the freeze-up repairs were effected. I am satisfied those costs are reasonable given the extent of damages that were documented, and I am satisfied that the Respondents are responsible for the damages.

The costs claimed to replace the fridge were based on the full replacement cost. The evidence presented established that the fridge had not been cleaned, and had been left unplugged for a lengthy period of time resulting in extensive amounts of mold and unpleasant odours. While I accept that the condition of the fridge left it unlikely to be recoverable, the Applicant's representative conceded that they did not actually try to clean the fridge and instead chose to dispose of it and replace it. The Applicant's representative and witness were uncertain of the age of the fridge at the hearing, believing it was new when the rental premises was renovated. They could not confirm when the rental premises was renovated.

The Applicant was given an opportunity after the hearing to produce evidence establishing the age of the fridge. The Applicant was not successful. Consequently, I am not satisfied the Respondents are liable for the full replacement cost of the fridge given I am unable to determine a depreciated value. The Applicant's claim of \$930 to replace the fridge is denied. I am satisfied that the Respondents failed to clean the fridge, and for that I find the Respondents liable for cleaning costs in the amount of \$50.

The Respondents disputed their liability for the damaged window pane. The window pane in question had cracked when the Respondents asked a maintenance officer to look into the frozen window during a service call for another issue. When the maintenance officer attempted to open the window to inspect the seal and it immediately cracked from the pressure. The Respondents claimed that the window always had a gap which would result in ice buildup every winter. Upon further inquiry, the Respondents admitted that they had never actually reported the problem to the Landlord. Given that the Respondents failed to mitigate the issue with the window by notifying the landlord to have it repaired, I am satisfied that the resulting damage to the window pane could have been avoided and consequently I find the Respondents responsible for the cracked window pane. The Applicant's claim of \$425 to replace the window pane is allowed.

The Respondents had ceased occupying the rental premises some time prior to actually vacating the rental premises. When the Applicant learned this, their maintenance personnel installed a 'watchman' light in the kitchen. A 'watchman' light is a red light on an extension cord attached to a temperature sensor which is programmed to turn the light on when the temperature in the room drops below a certain temperature, in this case 10 degrees Celsius. The 'watchman' light was hung in the kitchen window, and the Applicant's witness testified that they drive by the rental premises with these 'watchmen' twice a day to monitor whether or not the light is on. If it is, then they know they need to enter the premises to investigate the reason for the drop in temperature as a means of avoiding any freeze-ups.

The Respondents admitted that when they were in the rental premises on February 1<sup>st</sup> they had unplugged and put aside the 'watchman' light so they could do some cleaning. When they learned the exit inspection could not be conducted that afternoon, they left the premises and forgot to put the 'watchman' light back up. By the time the parties returned to the premises on February 4<sup>th</sup>, the furnace had failed causing the water meter, circ pump, and water and sprinkler pipes to freeze and split. Had the Respondents remembered to put the 'watchman' light back up, the maintenance personnel would have been notified of the heating problem before any significant damages could occur. Consequently, the freeze-up damages were caused by the Respondents' negligence in failing to put the 'watchman' light back up. I find the Respondents liable for the costs of repairing the freeze-up damages in the amount of \$936.74.

The remainder of the claims were acknowledged and accepted by the Respondents, and I am satisfied they are responsible for the associated costs of repairs and cleaning. The allowed claims for costs of repairs and cleaning are as follows:

Cleaning throughout	\$575.00
Patching and painting throughout	\$5,000.00
Replace two interior door trims	\$160.00
Clean fridge	\$50.00
Replace/reinstall three light fixtures	\$72.50
Replace one window pane	\$425.00
Freeze-up repairs	\$936.74
Sub-total	\$7,219.24
10% Admin Fee	\$721.92
5% GST	\$397.06
<b>Total</b>	<b><u>\$8,338.22</u></b>

#### *Orders*

An order will issue requiring the Respondents to pay rental arrears in the amount of \$15.45 and requiring the Respondents to pay costs of repairs and cleaning in the amount of \$8,338.22.

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Adelle Guigon  
Rental Officer