

IN THE MATTER between **MH and DH**, Applicants, and **PDL**, Respondent.

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:

**MH and DH**

Applicants/Tenants

-and-

**PDL**

Respondent/Landlord

**REASONS FOR DECISION**

**Date of the Hearing:**           **October 16, 2019**

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

**Appearances at Hearing:**   **MH, Applicant**  
   **DH, Applicant**

**Date of Decision:**           **October 16, 2019**

**REASONS FOR DECISION**

An application to a rental officer made by MH and DH as the Applicants/Tenants against PDL as the Respondent/Landlord was filed by the Rental Office August 27, 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 Respondent by registered mail signed for September 6, 2019.

The Applicants alleged the Respondent had entered the rental premises without advance written notice of intent and had failed to return the security deposit in accordance with the *Residential Tenancies Act* (the Act). An order was sought for losses suffered as a direct result of the landlord's entry without notice and for the return of the security deposit.

A hearing was scheduled for October 16, 2019, in Yellowknife. MH and DH appeared as Applicants/Tenants. PDL was served notice of the hearing by registered mail signed for September 6, 2019. No one appeared at the hearing on behalf of the Respondent/Landlord. The hearing proceeded in the Landlord's absence pursuant to subsection 80(2) of the Act.

*Tenancy agreement*

Evidence was presented establishing a residential tenancy agreement between the parties commencing September 1, 2018. The Tenants vacated the rental premises after giving written notice in accordance with the Act, ending the tenancy August 31, 2019. I am satisfied a valid tenancy agreement was in place in accordance with the Act.

*Security deposit*

Given that the Landlord has since returned the security deposit in full, the Tenants withdrew their request for an order for the return of their security deposit.

*Improper entry*

The Tenants testified that they were doing a slow move out of the rental premises throughout the month of August, having secured alternate accommodations as of August 1, 2019. They acknowledged their responsibility for the rental premises to August 31, 2019, the end of their fixed-term tenancy agreement, and expressed a willingness to co-operate with the Landlord to prepare and show the rental premises to prospective tenants. At no time did the Tenants waive the Landlord's obligation to give them 24 hours written notice of the Landlord's intention to enter the premises.

The Tenants returned to the rental premises approximately August 23, 2019, to discover evidence that someone had entered the premises: appliances had been moved away from the walls, as had their remaining personal belongings. The Tenants had not received any advance notice from the Landlord of their intention to enter the premises. The Tenants were disappointed and concerned for the integrity of their property and of the premises given their continued responsibility for it. They sent an email to the Landlord expressing their concern and requesting an explanation, to which they did not receive a reply.

The Tenants confirmed that no damages had occurred either to their property or to the premises, and they clarified that they were not really interested in any monetary compensation. The Tenants were simply seeking to hold the Landlord accountable for their inappropriate actions.

Paragraphs 26(2)(a) and (d) of the Act establish the Landlord's right to enter the rental premises to perform their obligations under the Act and the written tenancy agreement, and to show the rental premises to prospective tenants where the tenancy agreement has been terminated in accordance with the Act. Paragraph 26(3) of the Act requires the Landlord to give the Tenant at least 24 hours advance written notice of their intention to enter the rental premises, including the purpose, days, and hours of entry.

I am satisfied that the Landlord failed to comply with their obligation to give the Tenants advance written notice of their intention to enter the rental premises. Under the circumstances, I am also satisfied that the Landlord disturbed the Tenants enjoyment and possession of the rental premises, contrary to subsection 34(1) of the Act.

Remedies available to the Tenants under section 28 of the Act for failing to give notice of intent to enter the rental premises include either requiring the Landlord not to breach the obligation again or requiring the Landlord to compensate the Tenant for losses suffered as a direct result of the breach.

Remedies available to the Tenants under subsection 34(2) of the Act for disturbing the Tenants' possession or enjoyment of the rental premises include: requiring the Landlord to comply with their obligation not to cause disturbances and not to breach that obligation again, requiring the Landlord to compensate the Tenants for losses suffered as a direct result of the breach, or terminating the tenancy agreement.

The tenancy has already been terminated in accordance with the Act. The Tenants have admitted that they have not suffered any demonstrable monetary losses as a direct result of the Landlord either failing to give them notice of their intent to enter or the Landlord disturbing their enjoyment and possession of the rental premises.

The only remaining remedy available is an order requiring the Landlord to comply with their obligations to give at least 24 hours' advance written notice of their intention to enter and requiring the Landlord to comply with their obligation not to disturb the Tenants' enjoyment or possession of the rental premises and not to breach that obligation again. However, there is effectively no point to issuing such an order in this case because the Tenants are no longer occupying the rental premises, which means there is no tenancy agreement currently in place for the Landlord to comply with their obligations to.

Instead of issuing an ineffective order against the Landlord, I decided instead to express my findings of the Landlord's breaches in these written reasons for decision to ensure the Landlord was made fully aware of them and the potential consequences should a similar situation arise under other existing tenancy agreements.

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Adelle Guigon  
Rental Officer