

IN THE MATTER between **NTHC**, Applicant, and **DM**, 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:

NTHC

Applicant/Landlord

-and-

DM

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 13, 2019

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: KO, representing the Applicant

Date of Decision: November 13, 2019

REASONS FOR DECISION

An application to a rental officer made by FSHA on behalf of the NTHC as the Applicant/Landlord against DM as the Respondent/Tenant was filed by the Rental Office August 15, 2019. The application was made regarding a residential tenancy agreement for a rental premises located in Fort Simpson, Northwest Territories. The filed application was personally served on the Respondent September 3, 2019.

The Applicant alleged the Respondent had failed to pay rent and had failed to vacate the rental premises after his employment was terminated. An order was sought for payment of rental arrears and eviction.

A hearing originally scheduled for October 8, 2019, was postponed at the request of the Respondent in order for him to seek legal counsel. The hearing was rescheduled for November 13, 2019, by three-way teleconference. KO appeared representing the Applicant. DM was served notice of the hearing by email deemed received October 25, 2019. The Respondent did not appear at the hearing, nor did anyone appear on the Respondent's behalf. The hearing proceeded in the Respondent's 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 market rental housing provided as a benefit of employment commencing August 6, 2018. The Applicant's representative testified that the Respondent's first year of employment was probationary, and that employment was terminated without cause effective July 19, 2019. The Respondent did not vacate the rental premises until approximately October 30, 2019. Given the Respondent has vacated the rental premises, the Applicant withdrew their request for an eviction order, seeking instead only an order for payment of rental arrears. I am satisfied a valid tenancy agreement was in place in accordance with the Act.

Rental arrears

The lease balance statement entered into evidence represents the Landlord's accounting of monthly rents and payments received against the Respondent's rent account. Rent was established at \$1,280 per month. The last payment received against the rent account was recorded June 10, 2019, in the amount of \$1,280. The Applicant claimed the rent for July and overholding rent for August, September, and October.

Paragraph 56(1)(a) of the Act says that a tenancy provided as a benefit of employment ends of the day on which the employment of the Tenant is lawfully terminated. The Applicant's representative confirmed, as previously mentioned, that the Respondent's employment had been terminated within the one-year probationary period of the employment contract as of July 19, 2019. I am satisfied on a balance of probabilities that the Respondent's employment was lawfully terminated and as such the Respondent's tenancy was terminated on July 19, 2019.

Subsections 56(2) and 56(3) of the Act require the Tenant to vacate the rental premises within one week after the employment is lawfully terminated and prohibits the Landlord from charging rent for that one-week period. I am satisfied that the Respondent did not vacate the rental premises within the one-week period stipulated under subsection 56(2) and remained in overholding occupancy of the rental premises until October 30, 2019.

Subsection 67(1) of the Act entitles the Landlord to compensation for a former tenant's use and occupation of the rental premises after the tenancy has been terminated – in other words, the Tenant who remains in the rental premises after the tenancy has ended is still required to pay rent for the days they remain in the rental premises after the termination date of the tenancy. In this case, that compensation would be excepting the one-week period referenced under section 56. I am satisfied the Applicant is entitled to overholding rent accumulated to the end of October 2019.

The lease balance statement did not account for the one-week rent-free period after the tenancy was terminated. One week's rent was calculated by multiplying \$1,280 by 12 months and then dividing by 52 weeks. The resulting amount of \$295.38 for one week's rent was deducted from the statement balance.

I am satisfied the adjusted lease balance statement accurately reflects the current status of the Respondent's rent account. I find the Respondent has accumulated rental arrears (including overholding rent) in the amount of \$4,824.62.

Order

An order will issue requiring the Respondent to pay rental arrears in the amount of \$4,824.62.

Adelle Guigon
Rental Officer