

IN THE MATTER between **NPRLP**, Applicant, and **CM**, 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:

NPRLP

Applicant/Landlord

-and-

CM

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 12, 2019

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: CDL, representing the Applicant

Date of Decision: November 12, 2019

REASONS FOR DECISION

An application to a rental officer made by NPRLP as the Applicant/Landlord against CM as the Respondent/Tenant was filed by the Rental Office September 24, 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 email deemed received October 3, 2019, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The Applicant alleged the Respondent 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, termination of the tenancy agreement, and eviction.

A hearing was scheduled for November 12, 2019, in Yellowknife. CDL appeared representing the Applicant. CM was served notice of the hearing by email deemed received October 3, 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 commencing March 15, 2019. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

The lease ledger entered into evidence represents the Landlord's accounting of monthly rent, late payment penalties, and payments received against the Respondent's rent account. Rent was established at \$2,510 per month. The late payment penalties were calculated in accordance with the Act, and late payment penalties for August, September, October, and November 2019 were added to the ledger balance. Insufficient payments were received in four of the nine months of the tenancy.

Pet fees

The lease ledger also included monthly charges for “pet fees”. The written tenancy agreement does include a condition for monthly pet fees without reference to whether or not the pet fees are refundable and whether or not there is a maximum amount that will be collected. The Act provides for a pet security deposit to a maximum value of 50 percent of one month’s rent. In my opinion, the monthly pet fees as described in the written tenancy agreement are contrary to the Act and therefore invalid. While I see no reason why the landlord could not collect the pet security deposit in monthly installments, the landlord would be prohibited from collecting more than 50 percent of one month’s rent as allowed for in the Act. Additionally, the landlord would be required to return or retain the pet security deposit at the end of the tenancy in accordance with the Act. It is not clear that this requirement is understood by either the Landlord or the Tenant in the way the “Monthly Pet Fees” condition is described in the written tenancy agreement.

Given that the imposition of the “pet fees” is contrary to the Act and therefore invalid, and given that the Landlord did not make an application for any outstanding pet security deposit amount, the \$200 in “pet fees” that were charged to date were deducted from the ledger balance. The Applicant’s representative was again warned about the invalidity of imposing “pet fees” as they are described in their written tenancy agreement. The Applicant’s representative was further cautioned that continuing to require a non-refundable “pet fee” instead of the permitted refundable pet security deposit may be considered a summary offence under section 91 of the Act.

I am satisfied the adjusted lease ledger accurately reflects the current status of the Respondent’s rent account. I find the Respondent has repeatedly failed to pay the full amount of rent when due and has accumulated rental arrears in the amount of \$2,690. That amount represents approximately 1.5 months’ rent.

Termination of the tenancy agreement and eviction

In light of the Respondent’s repeated failure to pay the full amount of rent when due and the amount of rental arrears that have accumulated, I am satisfied termination of the tenancy agreement and eviction are justified. By agreement with the Applicant’s representative, the termination and eviction orders will be conditional on the Respondent paying the rental arrears in full and paying future rent on time.

Orders

An order will issue:

- requiring the Respondent to pay rental arrears in the amount of \$2,690 (p. 41(4)(a));
- requiring the Respondent to pay future rent on time (p. 41(4)(b));
- terminating the tenancy agreement December 31, 2019, unless the rental arrears are paid in full and the rent for December is paid on time (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondent from the rental premises January 1, 2020, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

Adelle Guigon
Rental Officer