

IN THE MATTER between **NPRLP**, Applicant, and **NT**, 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-

**NT**

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 NT 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 4, 2019, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The Applicant alleged the Respondent had failed to pay rent 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. NT was served notice of the hearing by email deemed received October 4, 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 August 1, 2017. 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 rents, late payment penalties, and payments received against the Respondent's rent account. Rent was established at \$2,400 per month until October 1, 2019, when an increase to \$2,520 per month took effect in accordance with the Act. The last payment received against the rent account was recorded July 31, 2019, in the amount of \$2,400 for the August 2019 rent.

#### Late payment penalties

Until September 2019, the majority of the Respondent's monthly rent was paid in advance or on time. There have been only three months between August 2017 and August 2019 when the

rent was paid late, and then the rents for September, October, and November 2019 have not been paid at all; the late payment penalties were calculated for each of those months in accordance with the Act. The Applicant charged late payment penalties that they were not entitled to for an additional seven months during the period between August 2017 and August 2019. Consequently the total overcharged amount of \$130 was deducted from the lease ledger balance.

#### Electricity bills

The lease ledger included 10 sets of charges between September 6, 2017, and September 28, 2018, for electricity bills. Section 4 of the written tenancy agreement includes the obligation for the Tenant to take responsibility for the electricity account to the rental premises. The fact of the recovery charges being applied to the Tenant's account establishes on a balance of probabilities that the Respondent failed to comply with her obligation to take responsibility for the electricity account until September 14, 2018. The electricity bills generated before the Tenant transferred the electricity account to her own name remained in the Landlord's name, resulting in the Landlord receiving the bills and presumably paying them on the Tenant's behalf. Given the Tenant's obligation to take responsibility for the electricity account was not complied with by the Tenant, the payment by the Landlord of the resulting electricity bills for that period constitutes losses suffered by the Landlord as a direct result of the Tenant's breach. No payments were recorded in the Respondent's rent account for any of the electricity bills that were charged back to the Respondent.

While I can make a finding that the Respondent had failed to comply with her obligation to take responsibility for the electricity account for the rental premises, the Respondent remedied that breach by transferring the electricity account to her own name in September 2018. The Applicant did not include in their application a request for compensation for losses suffered as a direct result of the Tenant's failure to comply with the obligation, and even if they had the time period for making such an application expired in March 2019, six months after the last electricity bill was issued to the Landlord instead of the Tenant. Additionally, despite the charges themselves being reflected in the lease ledger, the individual electricity bills and proof that the Landlord had in fact paid them was not provided. Given the expiration of the time limitation for making an application to a rental officer and the failure to specifically claim the losses as part of the application to a rental officer, I denied the Applicant's representative's request to provide the necessary evidence and consider the claim as it would be unfair to the

Respondent. The total amount of the charges related to the electricity bills of \$1,713.81 was deducted from the lease ledger balance.

#### Tenant damages

The lease ledger included three additional charges which were not referenced in the reasons for the application and for which no evidence was provided. No payments were received against the Respondent's account other than specifically for the monthly rent. The three additional charges were for: a replacement parking pass in November 2017 for \$25.00; a replacement apartment key in October 2018 for \$25.00; and repairs of damages from an apparent freeze-up in March 2019 for \$3,335. Given that there have been no payments received against any of these three charges and that none of them were specifically claimed in the filed application, I denied the Applicant's representative's request to provide the necessary evidence and consider the claim as it would be unfair to the Respondent. In the case of the freeze-up damages, given that the costs of repairs were not invoiced to the Tenant until July 2019, the Applicant still has time to file a new application to a rental officer to make a claim for the costs of those repairs. The total amount of the three tenant damages charges of \$3,385 was deducted from the lease ledger balance.

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 rent when due and has accumulated rental arrears in the amount of \$6,305. That amount represents approximately three months' rent.

#### *Termination of the tenancy agreement and eviction*

Considering the findings regarding the rental arrears only, in light of the Respondent's recent repeated failure to pay the rent 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 \$6,305 (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