

IN THE MATTER between **NTHC**, Applicant, and **UA and LAA**, 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 **Janice Laycock**, Rental Officer,

BETWEEN:

NTHC

Applicant/Landlord

-and-

UA and LAA

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: November 6, 2019

Place of the Hearing: Tulita, Northwest Territories

Appearances at Hearing: SD, representing the Applicant

Date of Decision: November 6, 2019

REASONS FOR DECISION

An application to a rental officer made by the THA on behalf of the NTHC as the Applicant/Landlord against UA and LAA as the Respondents/Tenants was filed by the Rental Office September 27, 2019. The application was made regarding a residential tenancy agreement for a rental premises located in Tulita, Northwest Territories. The filed application was served on the Respondents by personal service on October 23, 2019.

The Applicant claimed that the Respondent had rental arrears and owed for tenant damages. An order was sought for payment of rental arrears and tenant damages arrears, as well as for termination of the tenancy agreement and eviction.

A hearing was scheduled for November 6, 2019, and both parties were provided notice of the hearing. Janice Laycock, Rental Officer, appeared by telephone. SD appeared representing the Applicant. No one appeared for the Respondents. As the Respondents had received notice by personal service on October 23, 2019, the hearing proceeded in their absence under section 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

Evidence was presented establishing a joint tenancy agreement under the Homeownership Entry Level Program (HELP) beginning on April 1, 2014, and continuing month to month. I am satisfied that a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

The lease balance statement entered into evidence provides information on charges and payments on the rental account. According to the statement, as of September 1, 2019, the subsidized rent was \$300 per month and the arrears totalled \$2,870. The balance included two NSF (Non-sufficient funds) charges of \$10.00 each. At the hearing, the Applicant testified that an updated lease balance statement was available for November 1, 2019, and according to that statement the rent of \$300 for October and November was not paid and arrears are now \$3,470.

The Applicant also testified that the Respondents had signed a last chance agreement on October 23, 2019, agreeing to pay their arrears. I requested that copies of these documents be provided to the Rental Office so that I could examine them prior to making a decision on this application. I also requested confirmation that the Respondents had received these documents as well.

Immediately after the hearing, I received the updated lease balance statement up to November 1, 2019, a copy of the last chance agreement dated October 23, 2019, signed by the parties, and confirmation that the Respondents had received a copy of the statement. These documents confirm the information provided in testimony, that the total arrears are currently \$3,470 and no payments were made (despite the last chance agreement) in either October or November.

I am satisfied that the lease balance statement accurately reflects the current status of the Respondents' rental account. I find that the rental arrears currently owing are \$3,470.

Tenant damages

The Applicant provided evidence of two charges related to tenant damages. The first charge of \$153.96 dated April 30, 2019, was to repair a door and jamb that were damaged as a result of a forced entry. The Applicant testified that Respondents had reported the damages and had been advised to report the forced entry to the RCMP but did not do so. The Applicant believed that the damages may have been caused by a relative of the Respondents', but they were not able to positively testify who was responsible.

The second charge of \$246.17 dated May 14, 2018, was for the replacement of a working stove. The Applicant explained that the Respondents had requested a call out on the weekend to replace their cooking stove which was not working. Maintenance staff attended the rental premises and replaced the stove only to find out later that the stove was okay, but because a limiter had been put on the rental unit due to overdue electrical payments there was not sufficient power to run the stove. The Applicant testified that the charges were for the labour and for a call out on a weekend to do this work.

Under subsection 42(1) of the Act the tenant is responsible for repair of damages “caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant”. I am satisfied that due to the negligent conduct of the Respondents (not meeting their obligation to pay for power), the Applicant in good faith accrued costs (\$246.17) associated with replacing a working stove. However, I am not satisfied that the Respondents are responsible for the damages to the door as a result of the forced entry. It is not clear who caused the damages and even though damages might have been caused by someone known to the Respondents, it seems obvious that they had not been allowed into the premises by the Respondents.

Termination and eviction

Based on the evidence and testimony of the Applicant, it is clear that the Respondents have a history of not paying rent when due. According to the lease balance statements, no rent was paid for the last eleven months (January to November 2019) and as a result rental arrears have accrued. The Applicant testified that no payments were made even after the last chance agreement was signed on October 23, 2019.

For these reasons I am satisfied that termination and eviction are justified. However, the Applicant has indicated that they are willing to continue to work with the Respondents and give them another chance to pay off their arrears. Considering this, termination and eviction will be conditional on the Respondents paying at least \$900 of their rental arrears and paying the rents for December 2019, and January and February 2020 on time. I do not believe that the tenant damages are significant enough to be included in the conditions for termination and eviction.

Orders

An order will be issued:

- requiring the Respondents to pay rental arrears in the amount of \$3,470 and to pay their rent on time in the future (p. 41(4)(a), p. 41(4)(b));
- requiring the Respondents to pay expenses associated with the repairs of damages to the rental premises totalling \$246.17 (p. 42(3)(e));

- terminating the tenancy agreement February 29, 2020, unless at least \$900 is paid towards the rental arrears and the rents for December 2019, and January and February 2020 are paid on time (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondents from the rental premises on March 1, 2020, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

Janice Laycock
Rental Officer