

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

BETWEEN:

NTHC

Applicant/Landlord

-and-

MJR

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 8, 2020

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: WM, representing the Applicant
TM, representing the Applicant
MJR, Respondent

Date of Decision: January 21, 2020

REASONS FOR DECISION

An application to a rental officer made by the BKGK on behalf of the NTHC as the Applicant/Landlord against MJR as the Respondent/Tenant was filed by the Rental Office November 22, 2019. The application was made regarding a residential tenancy agreement for a rental premises located in Behchoko, Northwest Territories. The filed application was personally served on the Respondent on December 6, 2020.

A hearing was scheduled for January 8, 2020 by three-way teleconference. Both parties were provided notice of the hearing. WM and TM, representatives for the Applicant, and the Respondent, MJR, appeared.

In the application, the Applicant had claimed that the Respondent had rental arrears of \$6,890.00 and owed \$519.52 for tenant damages and cleaning. At the hearing the Applicant withdrew their claim for rental arrears in light of previously ordered arrears.

Previous Orders

Rental officer order #16003 dated May 4, 2018, required the Respondent to pay rental arrears of \$15,648, to pay future rent on time, to report household income, and to notify the landlord of any changes in the people occupying the rental unit.

Rental officer order #16355 dated February 9, 2019, required the Respondent to pay rental that had accrued since the previous rental officer order in the amount of \$13,905, to pay future rent on time, to report household income, and provided for termination of the tenancy agreement on February 28, 2019, and eviction on or after March 1, 2019, unless February's rent paid was paid on time and income was reported for 2016 and 2017.

Tenancy agreement

Evidence was presented establishing a tenancy agreement for subsidized public housing beginning on April 1, 2012. This tenancy terminated on February 28, 2019, with eviction carried out by the Sheriff's office on June 27, 2019, as provided for in Rental Officer Order #16355. I am satisfied that a valid tenancy agreement was in place and that this agreement was terminated in accordance with the *Residential Tenancies Act* (the Act).

Tenant damages and cleaning

Evidence including the condition rating report and pictures taken at the end of the tenancy were presented by the Applicant to document tenant damages and cleaning that was required to the rental premises totalling \$1,675.

Tenant Damages - Under subsection 42(1) of the Act, tenants are responsible for the repair of damages to the rental premises caused by the wilful or negligent conduct of the tenant or persons permitted on the premises by the tenant.

In this application the claimed repairs include replacing two broken windows in the living room (\$280) and one broken window in the kitchen(\$175), fixing holes in the living room and bedroom walls (\$270), and painting (\$450). At the hearing the Respondent testified that they did accept responsibility for the holes in the wall, but questioned the charges for painting as the paint was already chipping. They also testified that they were not responsible for the broken windows - two windows were broken by someone else and there were police reports on these events, and one window was broken when they moved in.

I adjourned the hearing and reserved my decision on this matter pending receipt of further information from the Applicant to support their claim for damages including the entry inspection report and clarification on the charges for painting. On January 17, 2020, a copy of the entry report (signed by the Respondent) and exit reports (not signed) and an email from the Maintenance Foreman was provided to the Rental Office by the Applicant. This additional information was also provided to the Respondent on January 17, 2020, by personal service.

According to the entry inspection report for the rental unit signed on May 14, 2010, none of the windows was broken at that time. Also, according to the Maintenance Foreman there are no RCMP file numbers in their records for the broken windows. The Maintenance Foreman also explained that the cost to paint the entire unit is estimated to be \$3,000; only 15% of that cost or \$450 was charged to the Respondent to paint the repaired walls.

After considering the testimony at the hearing and all the evidence provided by the Applicant, I am satisfied that the Respondent is responsible for the cost to repair and repaint the walls but I am not satisfied that they are responsible for all of the broken windows. Only two photos were included as evidence of the broken windows in the living room and both appear to be broken from the outside.

As previously mentioned, under the Act the tenant is only responsible for damages cause by the tenant or someone they permitted on the premises. So despite the lack of a police report on the Applicant's record, the pictorial evidence provided by the Applicant shows damages on two windows and in both cases the damage appears to be from the outside. The Respondent has testified that the damages were caused by someone else and the pictures seem to support that testimony.

The other broken window was in the kitchen and, although no picture was included, the tenant agreed that it was broken but testified that it was broken when they moved in. The entry inspection provided by the Applicant and signed by the Respondent does not include any mention of a broken window in the kitchen.

Considering the evidence and testimony, I find that the Respondent is not responsible for damages relating to the repair of the broken living room windows but is responsible for costs related to the repair of the kitchen window (\$175), and repair and painting of the walls (\$450), totalling \$625.

Cleaning - Evidence was provided by the Applicant including the conditions rating report and pictures which document the condition of the unit and cleaning carried out. At the hearing the Respondent did not dispute the Applicant's assessment of the condition of the unit but testified that they did not have an opportunity to clean the unit because they were evicted without any notice. If they had been given time they would have cleaned the unit.

Under subsection 45(2) of the Act a tenant is required to maintain the rental premises in a state of ordinary cleanliness. It is obvious from the evidence that the Respondent did not conform to this requirement, and despite their claim that they had no notice they would also have been aware of the previous Rental Office Order #16355 terminating their tenancy on February 28, 2019. I find that the tenant is responsible for the cost of cleaning the rental premises in the amount of \$500.

Conclusion - The total costs for repair of damages and cleaning the unit is \$1,125. According to the evidence provided by the Applicant in the lease balance statement, the security deposit with interest is \$1,155.48; the security deposit was retained against the tenant damages and cleaning. This would leave a credit on the security deposit of \$30.48. As a result I am denying the Applicants claim for further costs for tenant damages and cleaning.

Order

As the request from the Applicant is denied, no order will be issued.

Janice Laycock
Rental Officer