

IN THE MATTER between **NTHC**, Applicant, and **KB**, 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-

KB

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: February 6, 2020

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: JM, representing the Applicant
AW, representing the Applicant

Date of Decision: March 13, 2020

REASONS FOR DECISION

An application to a rental officer made by NWHHA on behalf of the NTHC as the Applicant/Landlord against KB as the Respondent/Tenant was filed by the Rental Office January 7, 2020. The application was made regarding a residential tenancy agreement for a rental premises located in Norman Wells, Northwest Territories. The filed application was served on the Respondent by registered mail signed for January 22, 2020.

The Applicant alleged the Respondent had accumulated rental arrears, caused damages to the rental premises, and left the rental premises in an unclean condition. An order was sought for payment of the rental arrears and payment of the costs for repairs and cleaning.

A hearing was held February 6, 2020, by three-way teleconference. JM and AW appeared representing the Applicant. KB was served notice of the hearing by registered mail signed for January 22, 2020. 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 a market rental unit commencing April 1, 2016, and ending July 2, 2019. I am satisfied a valid tenancy agreement was in place in accordance with the Act.

Previous order

Rental Officer Order #15961 was issued May 29, 2018, and ordered: the Respondent to pay rental arrears in the amount of \$8,150; the Respondent to pay future rent on time; termination of the tenancy agreement September 30, 2018, unless at least \$1,200 was paid towards the rental arrears and the rents for June, July, August, and September were paid in full; and ordered the eviction of the Respondent from the rental premises October 1, 2018, if the termination of the tenancy agreement became effective.

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 December 4, 2018, in the amount of \$3,000.

The lease balance statement included six charges of \$10 each for NSF fees. NSF fees are not recoverable by the Landlord under the Act because section 41(4) does not provide a remedy for the recovery of losses suffered as a direct result of the Tenant failing to pay the rent. The lease balance statement was adjusted by deducting \$60 from the balance.

Paragraph 1 of Rental Officer Order #15961 regarding the payment of rental arrears remains enforceable if the Applicant files that order with the Supreme Court by May 2021. There is no evidence that the Applicant has exercised the garnishment options available to them to satisfy that monetary order as yet, but as indicated, that order currently remains valid and enforceable. Consequently, the \$8,150 in rental arrears ordered paid under Rental Officer Order #15961 was deducted from the lease balance statement to arrive at an amount of rental arrears accumulated since that order was issued.

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 additional rental arrears since the last Rental Officer order was issued in the amount of \$7,392.58.

Repairs and cleaning

Evidence presented in support of the Applicant's claim for costs of repairs and cleaning included: the entry inspection report; 14 photographs of the rental premises taken August 1, 2019; a "Request for Quote" listing the scope of work and marked as awarded "Friday October 25th"; a Buffalo Express freight receipt; two invoices from GTS; one invoice from CCS; and two invoices from the Applicant to the Respondent. An exit inspection report was not completed. The referenced photographs were taken after the abandoned personal property and discarded items were removed from the rental premises.

The scope of work that GTS invoiced the Applicant for was described as being to: replace the front exterior door, brickmold, insulation, and trim; repair and paint damaged drywall; replace damaged interior door trim; replace two interior doors; and remove and dispose of carpets and replace them with new laminate flooring. The invoice also included charges for freight and for truck rental. The total cost for these repairs invoiced to the Applicant and charged back in full to the Respondent was \$11,100.44.

The photographs, being the only evidence of the condition of the rental premises when the tenancy ended, did not show damages to the exterior door or to a second interior door.

The Respondent is only responsible for the demonstrable monetary losses suffered by the Landlord to effect repairs to damages caused by the Tenant's wilful or negligent conduct. To my mind, this does not include a separate cost for the contractor to rent a truck to provide the service they are in business to provide. The costs claimed by the Applicant for the contractor's truck rental in the amount of \$1,312.50 are denied.

The freight receipt did not identify what items were included in the shipment. Supplementary information provided by GTS identified those things, but did not identify their weight or what the proportional shipping costs were for each item. To my mind it is unfair to charge the Respondent the full costs of shipping items when the Respondent is not responsible for damaging all of those items. The Applicant's claim for costs of shipping in the amount of \$886.95 are denied.

Drywall

The photographs showed a large piece of the drywall next to one of the exterior doors was torn. That section of wall was not damaged when the tenancy began. I am satisfied the Respondent is responsible for damaging that section of drywall.

Supplementary information provided by GTS confirmed the cost of one sheet of drywall at \$73.45. I am assuming that amount includes GST. GTS invoice did not identify how many hours were spent on each item of repair listed in the scope of work. Supplementary information was provided identifying their hourly rate for labour at \$110. Estimating two hours to replace, tape, and paint the damaged piece of drywall, at \$110 per hour, I am satisfied reasonable costs for the labour are \$220, not including GST.

Door trim

The photographs showed part of the inside door trims for both exterior doors had been damaged. Those trims were not damaged when the tenancy began. I am satisfied the Respondent is responsible for damaging the referenced door trims.

Supplementary information provided by GTS confirmed the cost of trim at \$35.72. I am assuming that amount includes GST. Estimating 1.5 hours to replace and paint the referenced door trims, at \$110 per hour, I am satisfied reasonable costs for the labour are \$165, not including GST.

Interior door

The photographs showed one interior door with a hole punched into it. None of the interior doors were damaged when the tenancy began. I am satisfied the Respondent is responsible for damaging one interior door.

Supplementary information provided by GTS confirmed the cost of one 36" hollow core six-panel colonial door at \$390.15. I am assuming that amount includes GST. Estimating 1.5 hours to replace one interior door, at \$110 per hour, I am satisfied reasonable costs for the labour are \$165, not including GST.

Carpets

The photographs showed the carpets had not been vacuumed and were visibly dirty. The Applicant's representative confirmed that the 'visible dirt' was in fact dog faeces, and that the carpets and underlay had been soaked through with both urine and faeces, necessitating the removal and replacement of the carpets. I am satisfied the Respondent is responsible for damaging the carpets.

Supplementary information provided by GTS confirmed it took them 20 hours at \$110 per hour to remove and dispose of the carpet, clean and prepare the floor, and install underlay and laminate flooring. The laminate flooring was product already in the Applicant's stock.

Given the Respondent's responsibility for the damages to the carpets, I find the Respondent liable for 100 percent of the costs of removing and disposing of the carpet and underlay. GTS did not provide a further breakdown of how many of the 20 hours was for the removal and disposal of the carpet and how much was for the preparation and installation of the laminate flooring. It seems to me a fair estimate would be one-third of the time was spent on the removal and disposal of the carpet, which amounts to 6.7 hours at \$110 for a total cost of \$737, not including GST.

The entry inspection report documented the carpets as being new when the tenancy began in April 2016, making the carpets 3.3 years old when the tenancy ended in July 2019. The average useful life of carpets in a residential tenancy setting is 10 years, so in this case the Landlord only benefited from 33% of the carpets' useful life. I find the Respondent liable for 77 percent of the costs for preparing the flooring and installing the laminate flooring and underlay. The remaining 13.3 hours claimed by GTS for that work at \$110 per hour amounts to \$1,463, of which 77 percent equals \$1,126.5, not including GST.

Cleaning

The photographs clearly showed that the Respondent did not clean the rental premises before leaving. I am satisfied the Respondent is responsible for the uncleanliness of the rental premises.

CCS' invoice for \$800 detailed the cleaning that needed to be completed, all of which was supported in the provided photographs. I find the costs claimed by the Applicant of \$800 for cleaning the rental premises reasonable. That amount does not include GST.

In summary, I am satisfied the Respondent is responsible for the following damages and uncleanliness and is liable to the Applicant for the referenced costs. The security deposit of \$1,282.08 was retained by the Applicant and will be applied against the allowed costs of repairs and cleaning.

Cleaning throughout	\$800.00
Removal and disposal of carpets	\$737.00
Installation of laminate flooring	\$1,126.51
Repair section of drywall	\$289.95
Replace and paint door trims	\$199.02
Replace one interior door	\$536.57
Sub-total	\$3,689.05
5% GST	\$184.45
Total allowed costs of repairs and cleaning	\$3,873.50
Less security deposit	\$1,282.08
Remaining balance of arrears	<u>\$2,591.42</u>

Orders

An order will issue requiring the Respondent to pay rental arrears in the amount of \$7,392.58 (p. 41(4)(a)) and requiring the Respondent to pay costs of repairs and cleaning in the amount of \$2,591.42 (p. 42(3)(e), p. 45(4)(d)).

Adelle Guigon
Rental Officer