

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

SM

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing:	May 6, 2020
Place of the Hearing:	Yellowknife, Northwest Territories
Appearances at Hearing:	AB, representing the Applicant
Date of Decision:	May 19, 2020

REASONS FOR DECISION

An application to a rental officer made by the YHA on behalf of the NTHC as the Applicant/Landlord against SM as the Respondent/Tenant was filed by the Rental Office on November 4, 2019. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was sent to the Respondent by registered mail on February 28, 2020, and deemed served on March 6, 2020.

The Applicant claimed the Respondent had rental arrears, had caused damages to the rental premises, and had failed to maintain the rental premises in a state of ordinary cleanliness. An order was sought for payment of the rental arrears and payment of the costs to repair damages and clean the rental premises.

A hearing scheduled for December 19, 2019, was postponed at the request of the Applicant. A hearing re-scheduled for January 13, 2020, was adjourned due to the unsuccessful service of the notice of attendance on the Applicant. A hearing re-scheduled for February 25, 2020, was adjourned upon receiving confirmation that the Applicant had not yet served the filed application on the Respondent.

The hearing was re-scheduled and held May 6, 2020, by three-way teleconference. Appearing at the hearing were Janice Laycock, Rental Officer, and AB, representing the Applicant. No one appeared for the Respondent. As the Respondent failed to appear after receiving sufficient notice of this hearing, the hearing proceeded in their absence under subsection 80(2) of the *Residential Tenancies Act* (the Act).

Additional information on the claims made by the Applicant relating to tenant damages were requested at the hearing and my decision was reserved pending receipt of that information. This additional information was provided by email to the Rental Office and to the Respondent on May 12, 2020. The Respondent is deemed served 3 days after the information was sent by email (May 15, 2020).

Tenancy agreement

The Applicant testified and evidence was provided establishing a residential tenancy agreement between the parties for subsidized public housing beginning on February 21, 2019. The Respondent provided as evidence a notice of termination dated August 28, 2019, detailing breaches of the tenancy agreement leading to the termination. The Applicant testified that staff visited the rental premises on September 9, 2019, and found the Respondent had vacated the rental premises taking most but not all of their possessions. I am satisfied that a valid tenancy agreement was in place and the tenancy was terminated on September 9, 2019, in accordance with the Act.

Rental arrears

The lease balance statements and statement of account (rent documents) entered into evidence represent the Landlord's accounting of monthly assessed rents and payments received on the Respondent's rental account. According to the statements dated October 29, 2019, the Tenant's subsidized rent was \$80 per month until July 2019 when it was increased to \$160 per month. At the end of the tenancy on September 9, 2019, the Respondent owed \$48 in rental arrears.

I am satisfied the rent documents accurately reflect the status of the Respondent's rental account when the tenancy was terminated and I find the Respondent owed \$48 in rental arrears.

Repairs and cleaning

According to testimony and evidence provided by the Applicant, an entry inspection report was completed and signed by the parties on February 21, 2019. On September 12, 2019, a letter was sent by the Applicant to the Respondent asking them to arrange to have the unit cleared out so an exit inspection could be carried out. According to the Applicant there was no response from the Respondent and on September 17, 2019, an exit inspection was carried out. The Respondent did not attend the exit inspection. A final statement, a copy of the exit report, and list of tenant damages being claimed was sent to the Respondent on October 25, 2019.

At the hearing additional information was requested and the Applicant's representative committed to provide the following by May 13, 2020:

- Was the exterior door replaced as well as the jamb for a cost of \$1,200?
- What was included in the \$100 charge for replacing the bedroom 3 curtain rod?
- Further substantiation relating to the claim of \$1,405.92 for patching and repairing walls.

Further information in response to this request was provided to the Rental Office and the Respondent by email on May 12, 2020, including Work Order TD 227974 detailing materials and labour, and an email with further information from the Maintenance Manager.

Cleaning

According to the photos, the exit inspection report, and the testimony of the Applicant the Respondent left garbage and a number of personal items in the rental premises. As these items were believed to be worthless they were removed from the premises and disposed of as provided for under paragraph 64(2)(b) of the Act.

I am satisfied the Respondent's claim of \$397.27 (plus GST and administrative fees) to dispose of the garbage is reasonable.

Included in the list of tenant damages was the Applicant's claim of \$650 for cleaning the rental premises. The Applicant provided as evidence photographs documenting the condition of the unit and areas needing cleaning. According to Work Order TD 227974 the total cost for cleaning (before GST and administrative fees) was \$450. In their email, the Applicant's Maintenance Manager clarified that the claim in the list of tenant damages of \$650 was a typographical error and the charge should have been \$450 (plus GST and administrative fees).

Under subsection 45(2) of the Act a tenant shall maintain the rental premises in a state of ordinary cleanliness. I am satisfied that the Respondent breached their obligation to maintain the rental premises in a state of ordinary cleanliness and that the Applicant's claim of \$450 (plus GST and administrative fees) is reasonable.

Repair of tenant damages

The claim for compensation related to tenant damages is accompanied by photos documenting the damages. The claim includes the following:

- \$100 for a lock change
- \$35.50 to refill a fire extinguisher
- \$1,405.92 to patch and repair damaged walls, and to replace some trim
- \$75 to replace 3 missing smoke detectors
- \$100 to install 3 screens on windows
- \$50 to replace or repair 2 window latches
- \$480 to replace one window broken from the inside
- \$150 to reinstall and replace 2 curtain rods (bedroom 3 = \$100)
- \$1,200 to replace/install one entrance door and door jamb/frame
- \$16 to replace 2 door stops
- \$50 to replace one passage set

The inspection reports and photos document the damages claimed, and I found the majority of the claims reasonable. As mentioned previously the Applicant was asked to provide further information to substantiate their claims for: replacing the entrance door and jamb, replacing the curtain rod in the third bedroom, and patching and repairing walls.

Entrance Door

In the May 12, 2020, email the Applicant's Maintenance Manager clarified that the claim of \$1,200 to replace the entrance door included both the replacement of the frame (jamb) and the door itself. He reported that "the door was dented and the door skin punctured. The frame was cracked where the hinge mounts, both of these issues were not repairable." The Work Order does not include information on labour and material costs for the door.

The photos provided with the application show damages to the entrance door and the jamb, including to the exterior of the door. The entry inspection report notes that at move-in the door was damaged and had several "dings" on the interior. However, unlike the later damages these did not require the replacement of the door.

Based on the evidence and the testimony of the Applicant's representatives I am satisfied that the entrance door and jamb were damaged and needed to be replaced. However, it was not clear to me that the Respondent was responsible. Under subsection 42(1) of the Residential Tenancies Act the Tenant is responsible for the repair of damages "caused by the wilful or negligent conduct of the tenant or parties who are permitted on the premises by the tenant." At the hearing, when asked, the Applicant testified that they hadn't received a complaint from the Respondent about the incident and were not aware of the damages until the exit inspection.

Under part 4 of the "Addendum to Tenancy Agreement (The Terms and Conditions of Occupancy/House Rules)" provided by the Applicant as evidence it says:

"4. MAINTENANCE:

- c. It is the Tenant's responsibility to promptly notify the Landlord of any repairs needed to the equipment or premises. If the problems are not reported, the tenant may be held responsible for any additional cost involved in the repairs."*

Considering that the Respondent agreed to the terms of the tenancy agreement, including the Addendum, and did not report the damages, in the absence of the Respondent's testimony at this hearing, I believe that the Applicant is justified in claiming \$1,200 for the replacement/installation of the exterior door and jamb and that the claimed costs are reasonable.

Curtain rod

In the May 12, 2020, email the Applicant's Maintenance Manager clarified that the cost for replacing the curtain rod includes \$40 for the rod and \$60 for labour, totalling \$100. Based on this information I am satisfied that the claim for replacement and installation of the curtain rod is reasonable.

Patch and repair walls

At the hearing the Applicant testified that the work included only that required to repair damages to the walls. The photos provided as evidence show damage in a variety of areas. In the May 12, 2020, email the Applicant's Maintenance Manager explained that approximately 18 hours had been spent on this work by the carpenter.

The work order shows charges for paint supplies of \$69.45 (before GST and administrative fee), but does not include details of the labour associated with repairing the damaged walls. Based on the rate of \$60 per hour for the carpenter's labour as referenced in the work order, the costs for labour amounts to \$1,080, plus the costs for materials of \$69.45, results in total costs of \$1,149.45 rather than \$1,405.92 as claimed. I find that the repairs are justified and compensation of \$1,149.45 (plus GST and administrative fees) is reasonable.

Based on the above, I find the total revised costs for repairs of damages and cleaning is \$4,253.22, plus a 10 percent admin fee of \$425.32 and the 5 percent GST of \$233.93. I find the Respondent owes the Applicant a total of \$4,912.47 for the costs of repairs and cleaning.

Security deposit

The Applicant's statement to the Respondent dated October 25, 2019, details the security deposit paid of \$1,625 and interest earned of \$0.42, totalling \$1,625.42. I find that the interest was calculated in accordance with the Act.

At the hearing the Applicant expressed their desire to apply the security deposit against arrears owing and then towards the costs of repairs and cleaning, calculated as follows:

\$1,625.42 security deposit - \$48 rental arrears = \$1,577.42 security deposit credit

\$4,912.47 repairs and cleaning - \$1,577.42 security deposit credit = \$3,335.05 balance owing for costs of repairs and cleaning

Orders

An Order will be issued requiring the Respondent to pay the costs of repairs and cleaning in the amount \$3,335.05 (p. 42(3)(c), p. 45(4)(d)).

Janice Laycock
Rental Officer