

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

CG

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 CG 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, deemed served on March 6, 2020.

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

A hearing was scheduled for February 25, 2020, in Yellowknife. This hearing was cancelled as the filed application was not served on the Respondent prior to the hearing. The hearing was rescheduled for May 6, 2020, and both parties were provided notice by email. The hearing proceeded by 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 on May 13, 2020 along with proof that the information had been served on the Respondent by email on May 12, 2020 (deemed served on May 15, 2020).

Previous orders

Rental Officer Order Number 15838 issued July 11, 2018, ordered:

- the Respondent to pay rental arrears of \$3,510;
- the Respondent to pay future rent on time;
- the Respondent to pay costs of repairs and cleaning of \$5,355.75;

- the termination of the tenancy agreement on October 31, 2018, unless at least \$600 was paid towards the rental arrears and the rent for August, September, and October were paid on time; and
- if tenancy was terminated under this order, then the Respondent would be evicted on November 1, 2018.

According to the evidence provided, the Respondent did not fulfill the conditions of Rental Officer Order #15838. The tenancy was terminated and the tenant was evicted by the Sheriff on September 18, 2019.

According to the lease balance statement, the Respondent made one payment of \$230.34 on December 20, 2018, against the tenant damages, leaving a balance of \$5,125.41 owing that still can be enforced under Rental Officer Order #15838. The lease balance statement does not show any payments made against the previously ordered rental arrears of \$3,510. This amount can also still be enforced by the Applicant under Rental Officer Order #15838.

Rental Officer Order Number 10-14580 issued March 11, 2015, ordered:

the Respondent to pay rental arrears in the amount of \$2,746.91 in minimum monthly installments of \$229.53 starting in March 2015;

the Respondent to pay rent on time in the future; and

the Respondent to comply with their obligation to report household income as required under the tenancy agreement.

According to the lease balance statement the ordered payment of rental arrears was satisfied by March 3, 2017, when the balance was zero.

Tenancy agreement

The Applicant testified and evidence was provided establishing a residential tenancy agreement between the parties for subsidized public housing beginning on April 1, 2012, and terminating on September 18, 2019, when the Respondent was evicted by the Sheriff. Other documents show that the Respondent had been a tenant prior to this agreement, starting on May 22, 1997.

The tenancy was terminated and the eviction was carried out when the Respondent did not fulfill the conditions set out in Rental Officer Order #15838. The Applicant testified that there was a delay in proceeding with the eviction because of their approval process. I am satisfied that a valid tenancy agreement was in place and the tenancy was terminated on September 18, 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:

- the previous order (#15838) for payment of rental arrears has not been enforced and the full amount of \$3,510 is still owing;
- the subsidized rent was \$610 per month until July 2019 when it was increased to \$1,625 per month. The Applicant testified that the Respondent did not provide their household income as required under the tenancy agreement, resulting in the rent increase; and
- at the end of the tenancy the Respondent owed \$6,125 in rental arrears that had accrued since the previously ordered amount. This balance included rent for the entire month of September 2019. As the tenant had been evicted on September 18th, rent should have been prorated for September and rent from September 19th to 30th (\$663.36) should not have been charged. This reduces the rental arrears to \$5,461.64.

I am satisfied that the rent documents accurately reflect the status of the Respondent's rental account and at the end of the tenancy the Respondent owed \$5,461.64 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 July 24, 2017. The Respondent was evicted by the Sheriff on September 18, 2019, and an exit inspection was carried out on September 30, 2019. The Respondent was notified by email on September 18, 2019, that they could make arrangements to pack and clean the unit and that the final inspection would be at 10:00 am on September 30, 2019. The Respondent did not participate in the inspection. A final statement, copy of the exit inspection report, list of tenant damages claimed, and photos showing the damages was sent to the Respondent on October 25, 2019.

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

- Why was an inventory of abandoned property not completed?
- What appliances were left by the tenant and why were they disposed of?
- Further substantiation relating to the claim of \$2,790 for patching and painting damaged areas, including work order.

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 228569 detailing materials and labour, and an email with further information from the Maintenance Manager.

Cleaning

According to the photos, exit inspection report, and the testimony of the Applicant, the Respondent left garbage and a number of personal items including a small deep freeze and washing machine in the rental premises. According to the Applicant's Maintenance Manager (May 12, 2020, email) despite requests and opportunities to remove the items as well as a warning that they would be disposed of at the tenant's cost if they weren't removed, the Respondent did not remove the items from the rental premises.

From the photos provided as evidence and the testimony of the Applicant, the majority of the items were considered unsanitary or unsafe to store or worthless and could be disposed of as provided for under paragraph 64(2)(a) and (b) of the Act. However, I am not satisfied that the deep freeze and washer disposed of were also unsanitary, unsafe or worthless.

According to section 64 of the Act, if the property is not unsanitary or unsafe or worthless, then "the landlord shall, at the earliest reasonable opportunity give a rental officer an inventory of the property in an approved form, and where the address of the tenant is known to the landlord, the landlord shall give the tenant a copy of the inventory." The Rental Officer may permit the Landlord to sell or dispose of the item. The Applicant did not claim that the deep freeze or washer were unsanitary, unsafe or worthless, but made the decision to dispose of them anyway.

The Applicant has claimed costs of \$200 to dispose of the appliances and other items left in the unit. According to their web site the City of Yellowknife charges a \$53 tipping fee for each appliance. Based on that I will deny \$106 of the disposal costs. I am satisfied that the remaining amount of \$94 (plus GST and administrative fees) to dispose of the garbage and other unsanitary, unsafe or worthless items is reasonable.

Also included in the Applicant's claim is \$650 for cleaning the rental premises. The Applicant provided as evidence photographs documenting the condition of the unit and areas needing cleaning. However, according to Work Order TD 228569 the total cost for cleaning (before GST and administrative fees) was \$450, not \$650 as claimed.

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 \$450 (plus GST and administrative fees) is a reasonable cost for that work.

Repair of tenant damages

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

- \$100 to change a lock
- \$2,790 to patch and paint damaged areas
- \$150 to repair/replace 3 screens on windows
- \$16 to replace 2 electrical covers
- \$100 to reinstall and replace 2 curtain rods
- \$8 to replace door stopper
- \$50 to replace a passage set
- \$62 to clean the fan in the bathroom
- \$62 to repair a window lock

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 the claim of \$2,790 to patch and paint damaged areas.

At the hearing the Applicant testified that the work was just to repair damages to the walls and not to paint the unit. The photos provided as evidence show damage in a variety of areas. The Work Order TD 228569 provided after the hearing on May 12, 2020, includes a charge of \$41.47 for painting supplies and labour of 45 hours at the rate of \$60 per hour for the carpenter to repair the walls. Based on these amounts the total cost (before GST and administrative fees) to repair the walls was \$2,741.47. I find that the repairs to the walls are justified and compensation of \$2,741.47 (plus GST and administrative fees) is reasonable.

Based on the above, I find that the total revised costs for cleaning and repair of damages is \$3,833.47. After factoring in a 10% admin fee \$383.35 and GST (5%) \$191.67 claimed by the Applicant, I find that the Respondent owes \$4,408.49 for repair of damages and cleaning.

Security deposit

The Applicant's statement sent to the Respondent on October 25, 2019, included a calculation of the interest earned on the security deposit of \$1,670 paid on May 22, 1997. According to the Applicant, the interest earned was \$563.27. I reviewed this calculation, and based on section 2 of the *Residential Tenancies Regulations* (the Regulations) I find that the interest earned is \$790.89 for the period May 22, 1997, to September 18, 2019, on the security deposit of \$1,670, resulting in a total security deposit credit of \$2,460.89.

At the hearing the Applicant expressed their desire to apply the security deposit against the rental arrears accumulated since the last Rental Officer order was issued.

Orders

An Order will be issued:

- requiring the Respondent to pay rental arrears of \$3,000.75 (p. 41(4)(a)); and
- requiring the Respondent to pay the costs of repairs and cleaning in the amount \$4,408.49 (p. 42(3)(e); p. 45(4)(d)).

Janice Laycock
Rental Officer