

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

RK

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: May 13, 2020

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: SW, representing the Applicant

Date of Decision: May 13, 2020

REASONS FOR DECISION

An application to a rental officer made by the FMHA on behalf of the NTHC as the Applicant/Landlord against RK as the Respondent/Tenant was filed by the Rental Office on February 10, 2020. The application was made regarding a residential tenancy agreement for a rental premises located in Fort McPherson, Northwest Territories. The filed application was sent to the Respondent by registered mail signed for on April 22, 2020.

The Applicant claimed the Respondent had rental arrears and had caused damages to the rental premises. An order was sought for payment of rental arrears, and payment of costs to repair damages, as well as for termination of the tenancy agreement, eviction, and compensation for use and occupancy after termination of the tenancy agreement.

On May 12, 2020, one day prior to the hearing, the Applicant sent an email to the Rental Office stating that a new tenancy agreement with RK and DR had been entered into effective February 1, 2020. Along with the email was an updated lease balance statement with charges and payments to May 1, 2020, and a copy of the new joint tenancy agreement.

A hearing was held May 13, 2020, by three-way teleconference. Appearing at the hearing were Janice Laycock, Rental Officer, and SW, representing the Applicant. No one appeared for the Respondent. As the Respondent failed to appear after receiving sufficient notice, the hearing proceeded in their absence under subsection 80(2) of the *Residential Tenancies Act* (the Act).

Preliminary matters

At the hearing the Applicant sought to amend the Application to include the tenancy of DR and the arrears under the joint tenancy agreement. They also sought an order for termination of the tenancy agreement, eviction, and compensation for use and occupancy after termination of the tenancy agreement. Neither RK nor DR had been served with notice of this change to the Application. The Applicant testified that a copy of the updated lease balance statement and the new tenancy agreement had been previously provided to the them.

I denied the Applicant's request to amend the application. The application filed with the Rental Office had been for the tenancy with RK alone and although amendments to an application are possible, neither the Respondent nor prospective Respondent was aware of the change in the application or had been properly served with the appropriate documents in advance of the hearing.

Tenancy agreement

The Applicant testified and evidence was provided establishing a residential tenancy agreement between the Applicant and Respondent for subsidized public housing beginning on July 1, 2019. The subsidized rent was \$70 per month. According to the testimony of the Applicant, a new tenancy agreement was signed with RK and DR on February 1, 2020. I am satisfied that during the period July 1, 2019, to January 31, 2020, a valid tenancy agreement was in place in accordance with the Act.

Rental arrears

The lease balance statements entered into evidence represent the landlord's accounting of monthly assessed rents and payments on the Respondent's rental account. According to the updated lease balance statement, showing charges and payments as at May 1, 2020, at the end of the sole tenancy (January 31, 2020) the Respondent had rental arrears of \$140.40. I am satisfied that the rent statements accurately reflect the status of the Respondent's rental account and I find the Respondent has rental arrears totalling \$140.40.

Repair of tenant damages

According to the evidence and testimony of the Applicant, the Respondent owes \$177.06 for repair of damages to an exterior door that happened during her tenancy. Work Order #223773 was provided as evidence and details the work required to repair the door. According to the Work Order, "Late one night, someone kicked open the door at this unit." The total cost claimed to repair and reinstall the door, including GST, is \$177.06. I believe the claim is reasonable but question who is responsible for the damages.

Under subsection 42(1) of the Residential Tenancies Act the Tenant is responsible for repairing damages "caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant." In this case, the Applicant's evidence states that the damages were caused by "someone." During the hearing the Applicant testified they thought the Respondent was responsible, although they had no direct knowledge of the incident. As the Applicant does not have evidence supporting their claim that the Respondent is responsible for the damages, I am denying the Applicant's claim for costs of repairs.

Termination and eviction

As discussed previously the Applicant testified that the sole tenancy agreement with the Respondent was replaced on February 1, 2020, with a joint tenancy agreement with RK and DR. As the tenancy agreement that was the subject of this application is no longer in effect, I am denying the Applicant's request for termination and eviction orders.

Orders

An order will be issued requiring the Respondent to pay rental arrears in the amount of \$140.40 (p. 41(4)(a)).

Janice Laycock
Rental Officer