

IN THE MATTER between **NTHC**, Applicant, and **DR and DR**, Respondents.

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-

**DR & DR**

Respondents/Tenants

**REASONS FOR DECISION**

Date of the Hearing: June 3, 2020

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: AS, representing the Applicant

Date of Decision: June 3, 2020

### **REASONS FOR DECISION**

An application to a rental officer made by the HRHA on behalf of the NTHC as the Applicant/Landlord against DR and DR as the Respondents/Tenants was filed by the Rental Office on April 9, 2020. The application was made regarding a residential tenancy agreement for a rental premises located in Hay River, Northwest Territories. The filed application was sent to the Respondent by registered mail delivered on May 11, 2020.

The Applicant claimed that the Respondent had accumulated rental arrears, had occupied the rental premises after the tenancy was terminated in accordance with the *Residential Tenancies Act* (the Act), and had caused damages to the rental premises. An order was sought for payment of the rental arrears, payment of overholding rent, and payment of costs for repairs and cleaning.

A hearing was held May 13, 2020, by three-way teleconference. Appearing at the hearing were Janice Laycock, Rental Officer, and AS, representing the Applicant. No one appeared for the Respondents. As the Respondents had received sufficient notice, the hearing proceeded in their absence under subsection 80(2) of the Act.

#### *Previous order*

Rental Officer Order #16420 was issued by a Rental Officer on March 28, 2019, ordering payment of rental arrears of \$255, payment of future rent on time, compliance with the obligation not to disturb other tenants and not breach that obligation again. This order also included conditional termination of the tenancy agreement for August 31, 2019, and conditional eviction as of September 1, 2019, dependent on the Respondents paying the rental arrears, paying their future rent on time, and not causing further disturbances.

According to the lease balance statement entered into evidence, the Respondents had satisfied the order to pay the rental arrears as they had a \$0 balance on May 29, 2019. However, the Applicant testified that the Respondents continued to cause disturbances rendering the termination of the tenancy agreement effective, and the Respondents were subsequently evicted September 19, 2019.

#### *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 continuing month to month. Under the authority of Rental Officer Order #16420, the tenancy agreement was terminated on August 31, 2019, because of continued disturbances. The Respondents did not voluntarily vacate the rental premises and were evicted on September 19, 2019.

I am satisfied that a valid tenancy agreement was in place and that this tenancy was terminated on August 31, 2019, 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 received against the Respondents' rental account. As of April 27, 2020, the Respondents had rental arrears of \$160 at the end of their tenancy.

I am satisfied that the lease balance statements accurately reflect the status of the Respondents' rental account. I find the Respondents carried rental arrears at the end of their tenancy totalling \$160.

*Overholding rental arrears*

The tenancy agreement between the parties was terminated on August 31, 2019, however the Respondents did not vacate the rental premises until they were evicted by the Sheriff on September 19, 2019.

Under subsection 67(1) of the Act "a landlord is entitled to compensation for a former tenant's use and occupation of the rental premises after the tenancy has been terminated." The Applicant has claimed compensation of \$1,029 for the 19 days that the Respondents continued to occupy the rental premises after the tenancy was terminated. This is based on market rent for the unit of \$1,625.

I am satisfied that the Respondents occupied the rental premises for 19 days after their tenancy was terminated and that the Applicant's claim for overholding rental arrears is in accordance with the Act. I find the Respondents liable to the Applicant for overholding rental arrears in the amount of \$1,029.

*Repair of tenant damages*

According to the evidence and testimony of the Applicant, the Respondents owe \$4,839.20 for repairs of damages to the rental premises and cleaning. Entry and exit inspection reports, and copies of work orders, were provided as evidence of the condition of the rental premises when the Respondents moved in and moved out.

According to the inspection reports, when the Tenants first occupied this unit in July 2008 there were no deficiencies or damages noted. After the Tenants were eviction, there were extensive damages to all areas of the unit and it was reported to be "filthy."

The Applicant testified that the Respondents were given time to collect their property and work did not begin until after they had retrieved their possessions. According to the work orders provided as evidence damages and cleaning after the Respondents were evicted were as follows:

# 1. Repair of tenant damages

Work Order	Description (Labour and Materials)	Claim
TD238571 TD238041*	Repair exterior door frame front and back, replace window in door	\$172.70 \$83.50 <hr/> <b>\$256.20</b>
TD238189 TD238187 TD238114 TD238188 TD238186 TD238113 TD238393 TD238045	Repair drywall living room, dining room, front entry, kitchen, laundry and storage areas, hallways, rear entrance, master bedroom, second bedroom (2 WOs), repair large holes with plywood throughout.	\$43.60 \$82.35 \$27.85 \$27.85 \$55.65 \$106.70 \$111.30 \$230.45 <hr/> <b>\$685.75</b>
TD238042 TD238039 TD238038	Replace missing light bulbs, missing light bulb and light cover third bedroom, replace damaged outlet covers	\$54.50 \$84.55 \$34.05 <hr/> <b>\$173.10</b>
TD238463 TD238460	Replace missing and damaged kitchen cabinet hardware, and window hardware	\$27.85 \$27.85 <hr/> <b>\$55.70</b>
TD238298	Replace all missing and damaged screens	<b>\$83.50</b>
TD 238293	Replace missing and damaged heat diffusers (in floor)	<b>\$89.20</b>
TD238437 TD238451 TD238456 TD238459 TD238449	Pick up new interior doors to replace damaged ones Replace master bedroom door, second bedroom door, third bedroom door, bathroom door	\$27.85 \$221.00 \$191.60 \$221.00 \$194.95 <hr/> <b>\$856.40</b>
TD238462	Replace bathroom ceiling tiles	<b>\$83.50</b>
TOTAL		<b>\$2,283.35</b>

\*The Applicant was asked if the damages to the exterior door were caused by the Tenants. The Applicant confirmed that the Tenants had not reported the damages when they occurred as required under the written tenancy agreement, and that the damages were only discovered when the exit inspection was conducted. The Applicant confirmed that if the Tenants had reported the damages as being caused by someone else they would not have claimed the costs of repairs against the Tenants.

## 2. Cleaning

Work Order	Description	Claim
TD237220**	Cleaning services, removal of garbage in unit, shed and grounds.	<b>\$1,605.35</b>
TD238685***	Rental of bin and dump tipping fees	<b>\$393.75</b>
TD238043	Remove tape, posters, pins and pictures from walls	<b>\$83.50</b>
TD242758	Cleaning of unit	<b>\$236.25</b>
TOTAL		<b>\$2,318.85</b>

\*\*The Applicant testified that protective gear was required because the unit was so filthy.

\*\*\*The total of \$551.25 including GST claimed in the application included \$150 for clearing trees to get a garbage bin onto the property. It was agreed at the hearing the \$150 charge is not the responsibility of the Tenant as it did not constitute damages caused by the Tenant. Consequently, the amount of \$157.50 including GST was deducted from the amount originally claimed resulting in the referenced charge of \$393.75.

In addition to repairs of damages and cleaning after eviction, the Applicant also claimed costs for repairs of damages that occurred in May 2019 prior to the Respondents tenancy being terminated. This single charge of \$79.50 is for the repair of an interior door jamb, and is supported by work order TD213593.

Under subsection 42(1) of the Act, the Tenant is responsible for repair of damages “caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant.” Also, under subsection 45(2), “a tenant shall maintain the rental premises and all services and facilities provided by the landlord of which the tenant has exclusive use in a state of ordinary cleanliness.”

After reviewing the inspection reports, work orders, and material invoices provided, I find the Respondents were in breach of their obligations under subsections 42(1) and 45(2) of the Act. I am satisfied that the charges for repairs and cleaning claimed by the Applicant are reasonable and justified. According to the Applicant's documentation the total costs for repairs is \$2,362.85 and the total costs for cleaning is \$2,318.85. I find the Respondents liable to the Applicant for the costs of repairs and cleaning in the total amount of \$4,681.70.

### *Security deposit*

On April 27, 2020, amongst other documents, the Applicant sent to the Rental Office an updated lease balance statement and a copy of the "Damage Deposit - Statement of Interest Earned" dated March 31, 2020. The Applicant testified that these documents were also provided to the Respondents. The Applicant stated that the statement for the security deposit was not provided earlier, as required under subsection 18(7), because of the condition of the rental premises and difficulty securing staff to do the repairs. The repairs and cleaning were completed by March 12, 2020, and a statement was provided to the Respondents soon after.

According to the statement, the Respondents paid a security deposit of \$100 on August 1, 1978. Interest earned between then and the termination of the tenancy agreement was \$156.41 giving a total of \$256.41 that can be applied against the rental arrears and costs of repairs and cleaning.

I am satisfied that the interest accredited to the rental account was calculated according to the Act and the *Residential Tenancies Regulations* (the Regulations). Applying the security deposit to the rental arrears of \$160 results in a remaining security deposit credit of \$96.41 which can be applied against the costs of repairs and cleaning. I find the amount owing by the Respondents to the Applicant for costs of repairs and cleaning after applying the security deposit credit to be \$4,485.29.

### *Orders*

An Order will be issued:

- requiring the Respondents to pay to the Applicant compensation for overholding rental arrears in the amount of \$1,029 (ss. 67(4)); and
- requiring the Respondents to pay to the Applicant compensation for costs of repairs and cleaning in the amount of \$4,485.29 (p. 42(3)(e), p. 45(4)(d)).

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Janice Laycock  
Rental Officer