

IN THE MATTER between **NPRLP**, Applicant, and **TR and CR**, 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:

NPRLP

Applicant/Landlord

-and-

TR and CR

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: August 19, 2020

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: CDL, representing the Applicant

Date of Decision: August 25, 2020

REASONS FOR DECISION

An application to a rental officer made by NPRLP as the Applicant/Landlord against TR and CR as the Respondents/Tenants was filed by the Rental Office on July 15, 2020. 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 Respondents by email deemed served on August 3, 2020.

The Applicant claimed that the Respondents had repeatedly failed to pay their rent and an order was sought for payment of rental arrears, termination of the tenancy agreement, and eviction.

A hearing was held August 19, 2020, by three-way teleconference. Appearing at the hearing were Janice Laycock, Rental Officer, and CDL, representing the Applicant. No one appeared for the Respondents. As the Respondents failed to appear after receiving sufficient notice, the hearing proceeded in their absence under subsection 80(2) of the *Residential Tenancies Act* (the Act).

The day of the hearing the Rental Office and the Applicant had received an email from CR saying that she would not be attending the hearing and that she had made a further payment on the arrears of \$1,500. Ms. Richardson did not request a delay in the hearing. At the hearing I reserved my decision pending receipt of an updated lease ledger statement confirming that the payment was received. This information was provided by the Applicant to the Rental Office and the Respondent by email on August 20, 2020.

Tenancy agreement

The Applicant provided evidence establishing a residential tenancy agreement between the parties for the period of May 1, 2019, to April 30, 2020, and then continuing month to month. In the tenancy agreement, the Tenants are identified as TR and CR. CR is identified as a Guarantor. The tenancy agreement does not include any further details on the role of the Guarantor, including how the Guarantor can be removed from the tenancy agreement.

According to the Applicant's evidence, in response to their request for payment of rent owing, CR sent an email to the Applicant on June 5, 2020, saying: "Thank you for this but I was guarantor on the lease from June 1, 2019 - May 31, 2020. I no longer have a lease with you and from what I understand you have one with my son. So based on the ledger I am responsible and will pay the rent for May." Later that day she also said, "I am not going to be signing as guarantor, so if there is to be a new lease agreement it would be with my son." The Applicant responded that there was no new lease and to coordinate with their customer service representative.

At the hearing I asked the Applicant if a new lease was developed as a result of this email. The Applicant testified that the Respondent did not follow up with the Applicant's representative, so no new lease was negotiated.

Under subsection 22(1)(b) of the Act, where a tenant has a tenancy agreement for a period of six months or more the tenant may transfer his or her right to occupy the rental premises to another person by assignment where the tenant does not intend to return to the rental premises. Under subsection 22(2), the assignment is not valid unless the landlord has given written consent. Under section 23 the assignment may be in the approved form and must be signed by the landlord and signed by the tenants.

The email from CR dated June 5, 2020, to the Applicant provides notice of her intention to terminate her obligation as a Tenant (Guarantor). However, it is not notice of termination of the tenancy, nor does it meet the requirements under the Act as an assignment.

I am satisfied that a valid tenancy agreement between NPRLP and TR and CR is in place in accordance with the Act.

Rental arrears

The lease ledger entered into evidence provides information on charges and payments on the rental account. According to an updated statement the Respondents' rent is \$1,575, a payment of \$1,500 was received on August 20, 2020, and the current arrears owing are \$4,805. The arrears include \$74 in late payment penalties. Based on my review these penalties have been calculated according to the Act and *Residential Tenancies Regulations* (the Regulations).

I am satisfied the updated statement accurately reflects the current status of the Respondents' rent account and I find the Respondents currently owe \$4,805 in rental arrears.

Termination of the tenancy agreement and eviction

Based on the lease ledger entered into evidence, the Respondents have repeatedly failed to pay their rent when due or at all. Most recently, no rent was paid in February, March, May, June, and July. During the four-month period from May to August only \$1,500 was paid on their rent in August.

According to the Applicant's evidence, a "Notice to End a Tenancy for Non-Payment of Rent (June 22, 2020)" was sent to the Respondents on June 10, 2020. Although this notice references an attachment "Notice to End a Tenancy early Due to Non-Payment of Rent" this was not provided with the application. However, the evidence, including an email exchange with the Respondents, makes it clear that the Tenants are more than two months in arrears and that the Applicant is willing to work with them if they are adversely affected because of the COVID-19 pandemic.

In light of the Respondents' history of repeatedly not paying their rent, the lack of any response to the Applicant's attempts to work with them on the rental arrears, as well as the amount of rental arrears that have accumulated, I am satisfied that termination of the tenancy agreement and eviction are justified.

Orders

An order will be issued:

- requiring the Respondents to pay to the Applicant rent owing in the amount of \$4,805 (p. 41(4)(a));
- terminating the tenancy agreement on August 31, 2020, and requiring the Respondents to vacate the rental premises on that date (p. 41(4)(c)); and
- evicting the Respondents from the rental premises on or after September 1, 2020 (p. 63(4)(a)).

Janice Laycock
Rental Officer