

IN THE MATTER between **NPRLP**, Applicant, and **DL**, 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:

NPRLP

Applicant/Landlord

-and-

DL

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	August 19, 2020
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	CDL, representing the Applicant
<u>Date of Decision:</u>	August 20, 2020

REASONS FOR DECISION

An application to a rental officer made by NPRLP as the Applicant/Landlord against DL as the Respondent/Tenant was filed by the Rental Office 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 served on the Respondent by email deemed received on August 3, 2020.

A hearing was held August 19, 2020, by three-way teleconference. On the call were: Janice Laycock, Rental Officer; and CDL, representing the Applicant. The Respondent did not appear at the hearing. 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).

The Applicant claimed that the Respondent had repeatedly not paid their rent when due and sought an order for payment of rental arrears, termination and eviction.

Tenancy agreement

Evidence was presented establishing a tenancy agreement for the term from March 1, 2019, to February 28, 2020. The Applicant testified that according to their records the tenancy agreement continued on a month-to-month basis after the end of February 2020. I am satisfied that a valid tenancy agreement 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. The Application included a ledger up to July 1, 2020. An updated ledger to August 2, 2020, was provided to the Rental Office prior to the hearing. This information was not provided to the Respondent and, therefore, was not accepted as evidence.

The Applicant testified the ledger filed with their Application included charges for July's rent. No payments were made by the Respondent between the date the ledger was issued and the hearing date. The total arrears being claimed are \$5,727, including late payment penalties of \$178 and a charge for new keys of \$50.

I reviewed the late payment penalties charged and found them to be in keeping with the Act and the *Residential Tenancies Regulations* (the Regulations). However, I did not include the charge for new keys as this is not rental arrears and the Respondent was not at the hearing to speak to this claim.

I am satisfied that the ledger accurately reflects the calculation of accumulated rental arrears, and find that once the charge for the new keys of \$50 is deducted, the Respondent has rental arrears totalling \$5,677.

Termination of the tenancy agreement and eviction

During their tenancy the Respondent repeatedly failed to pay rent on time or at all, although in April 2020 their arrears were down to \$162. According to the ledger, no rent was paid in March, May, June, and July 2020.

The Applicant provided as evidence a copy of the “Notice to End a Tenancy for Non-Payment of Rent, (June 22, 2020)” that was given to the Respondent. Although this notice mentions an attachment “Notice to end a Tenancy Early Due to Non-Payment of Rent” and a termination date, that document was not included in the Application, and it is not clear if the attachment was provided to the Tenant. Despite this, the letter to the Respondent makes it clear that the rental account was in arrears and that termination of the tenancy agreement was being considered by the Landlord.

At the hearing the Applicant testified that based on a check of the rental premises in August, they believe the Respondent had abandoned the rental premises. However, they were not sure and requested that a termination and eviction order be issued. No evidence was presented of any attempts to contact the Respondent to determine their plans regarding their tenancy. However, even without this information from the Respondent, the Act provides direction on determining if someone has abandoned a rental premises. Under subsection 1(3) of the Act:

“... a tenant has abandoned the rental premises and the residential complex where the tenancy has not been terminated according to this Act and

- (a) the landlord has reasonable grounds to believe that the tenant has left the rental premises; or
- (b) the tenant does not ordinarily live in the rental premises, has not expressed on intention to resume living in the rental premises, and the rent the tenant has paid is no longer sufficient to meet the tenant’s obligation to pay rent.”

At the hearing the Applicant testified that they had just received new information from their colleague that the Respondent was in jail, which would explain why the rental premises appeared to be abandoned.

Being in jail is not in and of itself a reason for terminating a tenancy agreement. A tenant may make arrangements to pay their rent while they are in jail and may also have every intention of returning to the rental premises after they’re released. However, in this case, we are not clear what the Respondent’s plans are and based on the evidence it is clear that they have repeatedly not paid their rent. On this breach alone, I am satisfied that termination of the tenancy agreement and eviction are justified.

Order

An order will be issued:

- requiring the Respondent to pay rental arrears of \$5,677 (p. 41(4)(a));
- terminating the tenancy agreement on August 31, 2020 (p. 41(4)(c)); and
- evicting the Respondent from the rental premises on or after September 1, 2020 (p. 63(4)(a)).

Janice Laycock
Rental Officer