

IN THE MATTER between **NPRLP**, Applicant, and **JM**, 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 **Adelle Guigon**, Rental Officer;

BETWEEN:

NPRLP

Applicant/Landlord

-and-

JM

Respondent/Tenant

REASONS FOR DECISION

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| <u>Date of the Hearing:</u> | September 29, 2020 |
| <u>Place of the Hearing:</u> | Yellowknife, Northwest Territories |
| <u>Appearances at Hearing:</u> | CDL, representing the Applicant |
| <u>Date of Decision:</u> | October 13, 2020 |

REASONS FOR DECISION

An application to a rental officer made by NPRLP as the Applicant/Landlord against JM as the Respondent/Tenant was filed by the Rental Office August 13, 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 August 23, 2020, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The Applicant alleged the Respondent had repeatedly failed to pay rent, had accumulated rental arrears, and had repeatedly and unreasonably caused disturbances. An order was sought for payment of the rental arrears, termination of the tenancy agreement, and eviction.

A hearing was held September 29, 2020, by three-way teleconference. CDL appeared representing the Applicant. JM was served notice of the hearing by email deemed received August 23, 2020. The Respondent did not appear at the hearing, nor did anyone appear on the Respondent's behalf. The hearing proceeded in the Respondent's absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

Evidence was presented establishing a residential tenancy agreement between the parties commencing April 24, 2020. Email submissions were permitted after the hearing with respect to whether the Respondent was still occupying the rental premises. The Applicant confirmed by email at 4:03 p.m. on September 29th that they checked the rental premises and it appears to have been abandoned with only some clothes remaining in the closet. The Respondent confirmed by email on September 30th that she has been "slowly grabbing stuff out of there" and would be moved out entirely by Monday, October 5th. The Applicant's representative CD confirmed to me by telephone on October 13th that the Respondent was in fact still occupying the rental premises. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

The lease balance statements entered into evidence represent the Landlord's accounting of monthly rents and payments received against the Respondent's rent account. Rent was established at \$1,810 per month, and the rent for the period of April 24th to April 30th was prorated at \$422.33. A security deposit of \$905 was charged. Only one payment of \$1,780 was recorded in the statement as received May 27, 2020, of which \$905 went towards the security deposit and the remaining amount of \$875 went towards the rent.

I am satisfied the lease balance statement accurately reflects the current status of the Respondent's rent account. I find the Respondent has repeatedly failed to pay the rent and has accumulated rental arrears. Given that the Respondent remains in occupancy of the rental premises, I am prepared to allow the rent charged for October as reflected in the statement. I find the Respondent has accumulated rental arrears in the amount of \$10,412.33.

Disturbances

The Applicant provided evidence of complaints of disturbances alleged to have been caused by the Respondent and/or occupants of the rental premises. The disturbances consisted of loud noises late into the night, banging, yelling, and playing the television too loudly. These disturbances are alleged to have occurred late into the night and early morning hours. Seven warning notices were issued to the Respondent between May 13th and June 29th regarding the disturbances. No further complaints of disturbances were received by the Applicant since the end of June.

A 10-day notice to terminate the tenancy June 25, 2020, due to repeated and unreasonable disturbances pursuant to paragraph 54(1)(a) of the Act, was issued to the Respondent June 12, 2020. Given the lack of disturbances since the referenced termination date, I questioned whether the Applicant had made any effort to confirm whether the Respondent had complied with the 10-day notice. The Applicant's representative could not confirm this at hearing. As this information would inform not only whether termination and eviction orders were necessary but also how much rent the Respondent might be liable for, the hearing was adjourned *sine die* pending written confirmation of the status of the tenancy.

As previously mentioned, the Respondent replied to the request for additional written submissions, confirming that although she had not been living exclusively in the rental premises she was still removing her personal items from the premises and expected to be fully vacated by October 5th. The Respondent's absence from the rental premises certainly explains the lack of complaints of disturbances since the end of June. The Respondent also indicated that she disputed the disturbances as coming from her rental premises, but she did not make any submissions explaining the basis of her position.

I am satisfied that the disturbances complained of did originate from the Respondent's rental premises and as such the Respondent is responsible for them. I find the Respondent had repeatedly failed to comply with her obligation not to disturb the Landlord's or other Tenants' enjoyment or possession of the rental premises.

Termination of the tenancy agreement and eviction

Given that no further disturbances have been reported since the end of June, I am not satisfied that termination of the tenancy and eviction are justified based on the disturbances.

I am satisfied termination of the tenancy agreement and eviction are justified based on the Respondent's repeated failure to pay the rent and the substantial amount of rental arrears that have accumulated. I am also satisfied that an order for overholding rent accumulated after the ordered termination date is justified.

Order

An order will issue:

- requiring the Respondent to pay rental arrears in the amount of \$10,412.33 (p. 41(4)(a));
- terminating the tenancy agreement October 31, 2020 (p. 41(4)(c));
- evicting the Respondent from the rental premises November 1, 2020 (p. 63(4)(a)); and
- requiring the Respondent to pay compensation for use and occupation of the rental premises at a rate of \$59.51 for each day she remains in the rental premises after October 31, 2020, to a maximum of \$1,810 per month (p. 63(4)(b)).

Adelle Guigon
Rental Officer