

IN THE MATTER between **NTHC**, Applicant, and **EA**, 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:

NTHC

Applicant/Landlord

-and-

EA

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 5, 2020

Place of the Hearing: Behchoko, Northwest Territories

Appearances at Hearing: TM, representing the Applicant
LE, representing the Applicant
HP, Tlicho Interpreter for the Respondent

Date of Decision: November 5, 2020

REASONS FOR DECISION

An application to a rental officer made by BKGK on behalf of the NTHC as the Applicant/Landlord against EA as the Respondent/Tenant was filed by the Rental Office February 13, 2020. The application was made regarding a residential tenancy agreement for a rental premises located in Behchoko, Northwest Territories. The filed application was personally served on the Respondent February 26, 2020.

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

A hearing scheduled for April 14, 2020, by three-way teleconference was postponed at the request of the Applicant in order to accommodate an in-person hearing and provision of a Tlicho interpreter for the Respondent. The hearing was postponed to April 15, 2020, when additional matters were also scheduled to be heard. That hearing date was further postponed due to the COVID-19 pandemic. Re-scheduling of this hearing was further delayed until pandemic restrictions were eased to enough of a degree that an in-person hearing could be arranged with necessary protocols and to again accommodate a Tlicho interpreter for the Respondent.

A hearing was held November 5, 2020, in Behchoko. TM and LE appeared representing the Applicant. HP appeared as the Tlicho interpreter for the Respondent. EA was served notice of the hearing by registered mail delivered October 13, 2020, and the Applicant confirmed she had spoken with the Respondent prior to the hearing to remind him of it. Her impression was that he intended to appear for the hearing. Unfortunately, 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). The Tlicho interpreter was thanked for appearing and granted permission to excuse herself from the hearing.

Tenancy agreement

Evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing June 11, 2015. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

The lease balance statement entered into evidence represents the Landlord's accounting of monthly assessed rents and payments received against the Respondent's rent account. All rents were subsidized and are currently assessed at \$75 per month. No payments have been received in 11 of the last 12 months of the tenancy. The last payment received against the rent account was recorded February 27, 2020, in the amount of \$350.

The Applicant confirmed that the Respondent has not given written notice that their income has been directly affected by the COVID-19 pandemic.

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 when due and has accumulated rental arrears in the amount of \$675. That amount represents nine months' subsidized rent.

Damages

The Applicant provided a work order and invoice regarding the replacement of one exterior door. The Applicant explained that the RCMP were forced to kick the door in to gain access, presumably in response to a call for service, in January 2020. The repairs were completed on February 3, 2020, and the Respondent was charged \$453.09. The Respondent has not made any payments against the costs of replacing the exterior door.

The Applicant further implied that the RCMP attendance was in response to partying and other disturbances caused by persons the Respondent permitted in the premises. It seems that when the RCMP attended no one opened the door for them, so they felt compelled to force their way in to respond to the disturbances.

Given the circumstances, it seems more likely than not that as the Tenant the Respondent was responsible for the actions of the persons permitted into his rental premises resulting in the RCMP forced entry. Given no evidence to the contrary, I am satisfied the Respondent is responsible for the damages to the exterior door and I find him liable to the Applicant for the costs of repairs in the amount of \$453.09.

Disturbances

The Applicant testified that they have received repeated complaints from neighbouring Tenants of partying, loud music, yelling, fighting, and other such disturbances occurring at all hours of the night on a regular basis. The Applicant further acknowledged that the Respondent, who is an elder and struggles with his own chronic alcoholism, is likely being taken advantage of by younger persons who seem to be manipulating the Respondent into letting them stay at his place. The Applicant indicated that there have been observations suggesting that upwards of 16 people have been living at the rental premises with the Respondent.

The rental premises is a one-bedroom self-contained unit in a multiplex. The Applicant is of the opinion that the Respondent would be better suited to living at their seniors complex where there is an on-site building caretaker and the Respondent would be less likely to be taken advantage of in such a manner. Efforts to negotiate this move with the Respondent have been unsuccessful, despite the Respondent's apparent inability to control his environment from those who take advantage of him.

I am satisfied that there have been regular, repeated, and unreasonable disturbances originating from the Respondent's rental premises for which the Respondent is responsible. I find the Respondent has failed to comply with his obligation not to cause disturbances or permit disturbances to be caused by persons he allows into the rental premises.

Termination of the tenancy agreement and eviction

The repeated failure to pay the rent and substantial amount of subsidized rental arrears that have accumulated are justification on their own for termination of the tenancy agreement and eviction. The repeated and unreasonable disturbances are also justification on their own for termination of the tenancy agreement and eviction. Together, the reasons for termination of the tenancy agreement and eviction are quite strong.

It seems to me that at the very least the disturbances could be alleviated by the suggested move to the seniors complex. However, I cannot order a transfer to a new unit until or unless the Applicant exercises their right to move a Tenant under section 3 of the written tenancy agreement and the Tenant refuses to move. Section 3 of the written tenancy agreements says:

"The Tenant agrees to accept a transfer to other premises when, in the Landlord's opinion, the Premises are no longer suitable."

While the Applicant has certainly had the conversation with the Respondent about moving to the seniors complex, they have not formally notified the Respondent that he has been reallocated to a more suitable premises. Neither has the availability of a specific suitable premises been identified.

What I can do in this case, as suggested and supported by the Applicant, is order the conditional termination of the tenancy agreement and eviction dependent on the Respondent paying the rental arrears, paying his future rent on time, and causing no further disturbances. In doing so, it gives an opportunity for the Respondent to hopefully understand the seriousness of the situation and give more consideration to the Applicant's suggestion to transfer to the seniors complex. This also gives the Applicant more time to consider exercising section 3 of the written tenancy agreement to relocate the Respondent to more suitable premises.

Orders

An order will issue:

- requiring the Respondent to pay rental arrears in the amount of \$675 (p. 41(4)(a));
- requiring the Respondent to pay his rent on time in the future (p. 41(4)(b));
- requiring the Respondent to pay costs of repairing the exterior door in the amount of \$453.09 (p. 42(3)(e));
- requiring the Respondent to comply with his obligation not to cause disturbances, and not to breach that obligation again (p. 43(3)(a), p. 43(3)(b));
- terminating the tenancy agreement February 28, 2021, unless the rental arrears are paid in full, the monthly subsidized rents for December, January, and February are paid on time, and no further disturbances are reported to the Landlord (p. 41(4)(c), p. 43(3)(d), ss. 83(2)); and
- evicting the Respondent from the rental premises March 1, 2021, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

Adelle Guigon
Rental Officer