

IN THE MATTER between **OA**, Applicant, and **NT**, 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, **Hal Logsdon**, Rental Officer, regarding a rental premises located within the **hamlet of Fort Resolution in the Northwest Territories**.

BETWEEN:

OA

Applicant/Landlord

- and -

NT

Respondent/Tenant

ORDER and EVICTION ORDER

IT IS HEREBY ORDERED:

1. Pursuant to paragraph 41(4)(a) of the *Residential Tenancies Act*, the Respondent shall pay the Applicant rent arrears in the amount of two thousand two hundred fifty dollars (\$2,250.00).
2. Pursuant to paragraph 41(4)(c) and subsection 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties shall be terminated on January 15, 2021, and the Respondent shall vacate the premises on that date, unless the rent arrears and the rent for January 2021 in the total amount of \$3,000.00 has been paid in full.
3. Pursuant to paragraph 63(4)(a) and subsection 83(2) of the *Residential Tenancies Act*, the Respondent shall be evicted from the premises known as Lot 232, Plan 3690, in Fort Resolution, Northwest Territories, on January 16, 2021, unless the rent arrears and the rent for January 2021 in the total amount of \$3,000.00 has been paid in full on or before January 15, 2021.

4. Pursuant to subparagraph 58(1.1)(a)(i) of the *Residential Tenancies Act*, the tenancy agreement between the parties shall be terminated on February 28, 2021, and the Respondent shall vacate the premises on that date.
5. Pursuant to paragraph 63(4)(a) of the *Residential Tenancies Act*, the Respondent shall be evicted from the premises known as Lot 232, Plan 3690, in Fort Resolution, Northwest Territories, on March 1, 2021.

DATED at the city of Yellowknife in the Northwest Territories this 8th day of December 2020.

Hal Logsdon
Rental Officer

IN THE MATTER between **OA**, Applicant, and **NT**, 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 **Hal Logsdon**, Rental Officer,

BETWEEN:

OA

Applicant/Landlord

-and-

NT

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	December 1, 2020
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	OA, Applicant PB, witness for the Applicant NT, Respondent
<u>Date of Decision:</u>	December 4, 2020

REASONS FOR DECISION

The application was filed on November 3, 2020, by OA and PB as joint Applicants/Landlords. A written copy of a tenancy agreement between OA as the sole landlord and NT as the tenant was included with the application. The Applicants testified that PB was the owner of the premises and OA, his daughter, acted as the property manager.

The *Residential Tenancies Act* defines "landlord " as follows:

"landlord" includes the owner, or other person permitting occupancy of rental premises, and his or her heirs, assigns, personal representatives and successors in title and a person, other than a tenant occupying rental premises, who is entitled to possession of a residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent.

Pursuant to the definition of "landlord", OA is certainly entitled to act as the Landlord and, in order to be consistent with the tenancy agreement, this order shall name only OA as the Landlord.

The tenancy agreement was made for a three-month term commencing on June 15, 2020, and the monthly rent, payable on the first day of each month, is \$750. The tenancy agreement was signed only by the landlord. The Applicant stated that she had sent a copy of the tenancy agreement to the Respondent by email. The Respondent stated that she had not received a copy until she was served with the filed application. However, the Respondent did not dispute the general provisions of the written agreement.

The Applicant testified that she wanted to terminate the tenancy agreement to enable her father to use the premises as his primary residence. The Applicant testified that her father had been living with her in Yellowknife during the COVID-19 pandemic but now wished to return to Fort Resolution and live in his house. The Applicant stated that the short term of the tenancy agreement was intentional in anticipation of her father's return to Fort Resolution after the beginning of the school year.

The Applicant alleged that the Respondent had breached the tenancy agreement by failing to pay rent. She testified that no rent had been received for October, November or December, resulting in rent arrears of \$2,250.

The Respondent did not dispute the rent arrears but stated that financial support for the October rent had been approved and payment was being processed. The Respondent stated that the Applicant's refusal to complete documents regarding rent support for the Respondent had resulted in the rent arrears. Communications between the parties, provided by the Respondent in evidence, suggest the Applicant was concerned the rental income would affect her father's income support eligibility. However, there is no obligation on the Landlord to assist the Tenant in accessing financial support for the rent.

The Respondent stated that the Applicant had breached the tenancy agreement by failing to repair a drainage problem in the kitchen sink rendering it unusable. The Respondent stated that the problem had persisted throughout the entire tenancy and despite numerous notices to the Landlord, the problem had not been addressed. Communications between the parties concerning the problem were provided by the Respondent in evidence. There is no evidence of a check-in inspection report, which would have indicated the condition of the drain at the commencement of the tenancy, was provided.

The Applicant did not dispute the allegations and stated that they had been trying to get a plumber to attend to the problem without success.

Normally, clogged drains are considered to be the result of tenant negligence, however this problem appears to have existed at the commencement of the tenancy. The Landlord was obligated to provide a good functioning drain at the commencement of the tenancy. Having failed to do so, they are responsible for the repair but it does not relieve the Respondent of their obligation to pay rent.

Section 58 of the *Residential Tenancies Act* permits the termination of a tenancy agreement by order:

58. (1) A landlord may apply to a rental officer to terminate a tenancy if the landlord

(a) requires possession of the rental premises for use as a residence by

- (i) the landlord,***
- (ii) the spouse, child or parent of the landlord, or***
- (iii) a child or parent of the spouse of the landlord.***

A Rental Officer must also find that an application seeking termination pursuant to section 58 is made in good faith. The possible effective dates of such a termination order are also set out in the Act:

58. (1.1) A rental officer who determines that a landlord, in good faith, requires the rental premises for a reason referred to in subsection (1), may make an order

(a) terminating the tenancy,

(i) in the case of a periodic tenancy, on the last day of a period of the tenancy that is not earlier than 90 days after the application is made.

I find the Respondent in breach of their obligation to pay rent and find rent arrears of \$2,250. In my opinion, there are sufficient grounds to terminate the tenancy agreement on these grounds alone, unless the rent arrears are promptly paid. An order shall issue requiring the Respondent to pay the Applicant rent arrears in the amount of \$2,250 and terminating the tenancy agreement on January 15, 2021, unless the rent arrears and the rent for January 2021 in the total amount of \$3,000 is paid in full. An eviction order shall become effective on January 16, 2021, unless the rent arrears and the January 2021 rent have been paid.

In my opinion, the application was made in good faith and it is the intention of the Applicant to permit her father to use the premises as his primary residence. Provided the rent arrears and January 2021 rent are paid on or before January 15, 2021, the Respondent may continue to occupy the premises until February 28, 2021, when the tenancy shall be terminated by an order pursuant to section 58. An eviction order shall become effective on March 1, 2021.

Hal Logsdon
Rental Officer