

IN THE MATTER between **NTHC**, Applicant, and **SO**, 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-

SO

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: October 29, 2020, and January 14, 2021

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: LW, representing the Applicant
SO, Respondent

Date of Decision: January 14, 2021

REASONS FOR DECISION

An application to a rental officer made by NTHC as the Applicant/Landlord against SO as the Respondent/Tenant was filed by the Rental Office September 30, 2020. The application was made regarding a residential tenancy agreement for a rental premises located in Colville Lake, Northwest Territories. The filed application was personally served on the Respondent October 16, 2020, and an addendum to the application was personally served on the Respondent November 23, 2020.

The Applicant alleged the Respondent had accumulated rental arrears, had caused extensive damages to the rental premises, and had left the rental premises in an unclean condition. An order was sought for payment of the rental arrears and payment of the costs for repairs and cleaning.

A hearing was started on October 29, 2020, by three-way teleconference. LW appeared representing the Applicant. SO appeared as Respondent. The hearing was adjourned *sine die* pending the submission of additional documents in support of the Applicant's claims.

The hearing was reconvened January 14, 2021, by three-way teleconference. LW appeared representing the Applicant. SO was served notice of the hearing by registered mail signed for December 11, 2020. The Respondent did not appear at the reconvened 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

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing starting August 1, 2016. The Respondent voluntarily surrendered possession of the rental premises, ending the tenancy March 5, 2020. I am satisfied a valid tenancy agreement was in place in accordance with the Act.

Previous order

Rental Officer Order #16170 issued September 19, 2018, required the Respondent to pay rental arrears in the amount of \$185 and required the Respondent to pay costs of repairs in the amount of \$3,738.17. The rental arrears have since been paid in full and some payments have been made towards the costs of repairs, reducing the outstanding amount of arrears under that Order to \$1,783.17.

Rental arrears

The lease balance statement provided into evidence represents the Landlord's accounting of monthly rents and payments received against the Respondent's rent account. All rents were subsidized and were last assessed at \$140 per month. The last successful payment received by the Applicant against the rent account was recorded December 20, 2019, in the amount of \$140.

I am satisfied the lease balance statement accurately reflects the current status of the Respondent's rent account. I find the Respondent has accumulated rental arrears in the amount of \$303. That amount represents approximately 3 months' subsidized rent.

Repairs and cleaning

The Applicant provided the entry and exit inspection reports, photographs, work orders, invoices, contractor's scope of work, and notes to file in support of the following claims:

- removing and disposing of dirt, garbage, and debris throughout the premises
- cleaning the premises throughout, including removing marks on the walls, trim, and counter top in the kitchen, master bedroom, and second bedroom
- replacing the front exterior door
- repairing electrical systems in the front and rear entrance areas
- removing the stove and refrigerator
- repairing water damage to the bathroom floor
- replacing the bathroom toilet
- replacing a combustion hose
- repairing the condensation pump
- removing ice build up under the front landing
- replacing the water pressure pump

It is noteworthy that the Respondent was the very first tenant in this brand new rental premises.

Based on the evidence provided, I am satisfied that the premises had been left in a substantially unclean condition. The removal of the stove and refrigerator were necessary due to damages and uncleanliness, but the Applicant opted not to charge the Respondent for the costs of replacing those two appliances. I find the Respondent failed to comply with her obligation to maintain the ordinary cleanliness of the rental premises and is liable to the Applicant for cleaning costs in the amount of \$1,380.

The Respondent had left the community for a period of time in January and February 2020. The Respondent claimed that she had made arrangements for someone to take care of the premises while she was away, but that person did not fulfil their promise. The Respondent did not notify the Landlord that she would be away from the community, which is an additional obligation under section 18 of the written tenancy agreement. Had the Respondent notified the Landlord as required, the Landlord could also have kept an eye on the premises.

The Respondent returned to the community in early February and notified the Landlord on February 10, 2020, that the house was "cold". The Landlord arranged for their local maintenance person to attend the premises, where he discovered the furnace switch was turned off, the water lines were completely frozen, the premises had flooded out the front door resulting in frozen water around the front entrance, and the front exterior door was damaged to the extent that it would not close. The maintenance person further described the premises as being in "a mess" throughout.

The Applicant's representatives attended the community on February 13, 2020, and documented the condition of the premises, confirming the description provided by the local maintenance person. The Respondent had been staying with family, but attended the premises with the Applicant. The premises was confirmed as uninhabitable in its current condition and the Respondent agreed to continue staying with family.

The Respondent claimed that the damages were caused by other people who were staying in the premises while she was away. She also claimed she had been back since February 2, 2020.

The Applicant's representative and the Respondent met again March 5, 2020, to discuss the extent of the damages. The Respondent was informed of the likely costs and length of time to effect the repairs. The Respondent agreed to give up possession of the rental premises, and arrangements were made for the Respondent to retrieve whatever personal belongings she wanted.

Whether the damages were caused while the Respondent was at the premises or not, the Respondent is responsible for the condition of the rental premises and the actions of persons permitted in the premises. By the Respondent's own admission, she claimed to be aware that other people were using her premises while she was away. Additionally, the Respondent returned to the community February 2nd but didn't report the damages to the Landlord until February 10th. The damages were identified by the Landlord's representatives as being to an extent that they would have occurred over at least several days.

I am satisfied that the Respondent is responsible for the referenced damages as they were caused as a result of her extended absence from the rental premises. The Respondent's failure to ensure the premises was cared for during her absence constitutes negligence on her part.

The claimed costs of repairs amounted to \$13,608 invoiced by the contractor. That amount represents 90 percent of the total contract that was tendered. The scope of work provided listed two repairs that were not referenced in the evidence provided: replacing a window screen and replacing a section of drywall in the master bedroom. These two items were denied at hearing, but the outstanding 10 percent of the tendered contract were deemed to be a reasonable equivalent to the costs for repairing those two denied items.

I find the Respondent liable to the Applicant for the costs of repairs in the amount of \$13,608. The combined costs for cleaning and repairs total \$14,988. The Applicant requested that the retained security deposit of \$1,447.51 be applied against the total cleaning and repairs costs. As a result, the remaining balance owing for repairs and cleaning amounts to \$13,540.49.

Orders

An order will issue requiring the Respondent to pay rental arrears in the amount of \$303 (p. 41(4)(a)) and requiring the Respondent to pay costs of repairs and cleaning in the amount of \$13,540.49 (p. 42(3)(e), p. 45(4)(d)).

Adelle Guigon
Rental Officer