

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

KL

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: December 22, 2020

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: PS, representing the Applicant
KL, Respondent

Date of Decision: December 22, 2020

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of the NTHC as the Applicant/Landlord against KL as the Respondent/Tenant was filed by the Rental Office November 17, 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 registered mail delivered December 7, 2020.

The Applicant alleged the Respondent had repeatedly failed to pay rent, had failed to comply with a Rental Officer order to pay future rent on time, had accumulated rental arrears, had failed to report household income as required, had failed to maintain the electricity account for the rental premises in good standing, had caused 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, payment of future rent on time, payment of losses suffered as a direct result of failing to pay the electricity bills, payment of costs for repairs and cleaning, compliance with the obligation to report household income, termination of the tenancy agreement, and eviction.

A hearing was held December 22, 2020, by three-way teleconference. PS appeared representing the Applicant. KL appeared as Respondent.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing commencing September 15, 2017. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Previous order

Rental Officer Order #16425 issued April 3, 2019, required the Respondent to pay rental arrears in the amount of \$739.84, required the Respondent to pay future rent on time, ordered termination of the tenancy agreement July 31, 2019, unless the rental arrears were paid in full and the monthly subsidized rents for April through July 2019 were paid on time, and ordered eviction of the Respondent from the rental premises if the termination of the tenancy agreement became effective. The monetary order was satisfied. The termination and eviction orders were not enforced.

Household income

Section 45 of the Act provides for the inclusion of additional obligations in a written tenancy agreement. Section 6 of the written tenancy agreement obligates the Tenant to report the household income as and when required by the Landlord. The Landlord requires household income be reported annually before the end of June for the prior calendar year, preferably in the form of an income tax return although other forms could be accepted. The household income information is required in order to calculate any rent subsidies that the Tenant may be eligible for. If the Tenant does not report their household income then the rent subsidy cannot be calculated, in which case the Tenant would be charged the maximum monthly rent.

The Respondent acknowledged that she was late reporting her 2019 income, but stated she had provided it in October. The Applicant acknowledged receiving the Respondent's income report, but also required the Respondent's 19-year-old son's income information. The Respondent's son was believed to be residing with the Respondent because he remained listed in Schedule B of the written tenancy agreement as an authorized occupant. The rent subsidy was not calculated based on the Respondent's income information because the son's income information had not been provided.

The Respondent confirmed that her son had been living with her until late 2019, but that he had moved out of the premises after being unruly and causing damages to the Respondent's rental premises. She acknowledged that she had not notified the Applicant that her son no longer resided with her, but clarified that at the hearing on the record. Consequently, the Applicant does in fact now have the income information they require to assess the rent subsidy to which the Respondent is entitled.

I am satisfied the Respondent was late producing her 2019 household income to the Applicant. I find the Respondent has failed to comply with her obligation to report the household income as and when required by the Applicant.

Rental arrears

The lease balance statement represents the Landlord's accounting of monthly assessed rents and payments received against the Respondent's rent account. All rents up to and including for June 2020 were subsidized and last assessed at \$80 per month. All rents since July 2020 were charged at the unsubsidized rent of \$1,625 per month due to the Respondent's failure to report her household income. The last payment received on the rent account was recorded November 13, 2019, in the amount of \$80, resulting in no payments being received in 13 of the last 14 months of the tenancy.

The Respondent did not dispute the accuracy of the lease balance statement, acknowledging her debt and accepting responsibility for it. The Respondent explained that she believed Income Support had been paying the rent for her, and had not noticed that they had not been until recently. She was reminded that ultimately it is the Tenant's responsibility to make sure the rent is getting paid each and every month on time, regardless of who is actually making the payment. The Respondent was also reminded that she is no stranger to this responsibility, having participated in the hearing regarding Rental Officer Order #16425 in April 2019 where the same issue was discussed. The Respondent acknowledged her responsibility and committed to ensuring she did the work necessary to get the rent paid.

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 repeatedly failed to comply with a Rental Officer order to pay future rent on time. I find the Respondent has accumulated rental arrears.

The combination of subsidized and unsubsidized rents reflected in the lease balance statement result in rental arrears of \$10,310. However, given the confirmation that the Respondent has in fact reported her 2019 income, the Respondent appears to be entitled to rent subsidies for the period since July 2020 which have yet to be calculated. Based on the assumption that there has been no substantive change to the Respondent's income, I believe it reasonable to also assume the rent subsidy will likely be assessed at approximately the same as it had been at \$80 per month. Based on that assumption, I have adjusted the lease balance statement accordingly resulting in subsidized rental arrears of \$1,040.

This finding of subsidized rental arrears of \$1,040 is an estimate only and in no way is it meant to direct the Applicant's calculation of subsidized rent. The Applicant's calculations based on reported household income may result in a different monthly subsidized rent amount and further alter the value of the accumulated rental arrears. Should the re-assessment of the rent subsidies result in rental arrears of more than the amount ordered to be paid today, the Applicant may make another application to a rental officer requesting an order for payment of the difference.

Utilities

Section 45 of the Act provides for the inclusion of additional obligations in a written tenancy agreement. Section 8 of the written tenancy agreement holds the Tenant responsible for maintaining the utilities accounts for the rental premises.

The Applicant provided evidence establishing that the Respondent had failed to pay her electricity account twice during her tenancy. The first time was in November 2019, which resulted in the local electricity provider installing a load limiter. The installation of a load limiter required the Landlord to reset the load limiter and adjust the breakers in the rental premises accordingly. The Landlord incurred costs for the reset and adjustments amounting to \$323.40 which was charged back to the Tenant.

The second time the Respondent failed to pay the electricity account occurred over the summer in 2020 resulting in the electricity being cut off entirely. The local electricity provider refused to return power to the premises unless the Respondent's electricity account was paid in full and a deposit was paid. In an effort to protect their property, the Landlord agreed to pay the Tenant's electricity account balance of \$1,613.09 and deposit of \$300 to get the electricity turned back on to the rental premises. The Respondent was charged back for the total amount of \$1,913.09 in September 2020. No payments have been received against either of these charges.

The Respondent did not dispute the Applicant's claims, accepting responsibility for failing to pay the electricity bills and acknowledging her resulting debt to the Applicant. She made a commitment to ensure these costs were paid.

I am satisfied the Respondent failed to pay the electricity bills on two separate occasions during the tenancy, and that the Applicant incurred costs as a direct result. I find the Respondent has failed to comply with her obligation to maintain the electricity account in good standing. I find the Respondent liable to the Applicant for losses suffered as a direct result of this breach in the total amount of \$1,913.09.

Repairs and cleaning

On July 16, 2020, the Respondent was transferred from one rental premises to another in accordance with section 3 of the written tenancy agreement.

Broken window

In October 2019, the Respondent's son broke the a window in the rental premises. The Applicant charged the Respondent \$583.28 for the replacement of the window. No payments have been received against this charge.

The Respondent did not dispute the claim, accepting responsibility for the damages as the leaseholder. The Respondent explained that her son had been charged by the police for the incident and she was still trying to recover the costs from him through the courts (i.e. restitution). The Respondent committed to paying the costs for replacing the window.

Exit inspection

The entry and exit inspection reports and photographs were entered into evidence in support of the Applicant's claims for costs of repairs and cleaning of the previous rental premises as follows:

Cleaning throughout	\$450.00
Patch and paint holes in walls throughout	\$1,620.00
Replace 7 electrical covers	\$70.00
Sub-total	\$2,140.00
10% Admin Fee	\$214.00
5% GST	\$117.70
Total	\$2,471.70

The Respondent did not dispute any of the above claims, accepting responsibility for them and acknowledging her debt. The Respondent committed to paying the costs for repairs and cleaning.

I am satisfied the Respondent is responsible for the damages to the window and for the additional damages and uncleanliness at the previous rental premises. I am satisfied the costs claimed for repairs and cleaning are reasonable. I find the Respondent liable to the Applicant for the total costs of repairs and cleaning of \$3,054.98.

I note here that I miss-spoke at the hearing when delivering my decision with respect to the repairs and cleaning costs, and only referred then to the amount of \$2,471.70; clearly that amount does not include the referenced costs of repairing the window, which I did find the Respondent liable for as well. This order will reflect the corrected total amount of \$3,054.98 to account for both charges.

Termination of the tenancy agreement and eviction

In light of the Respondent's repeated failure to pay the rent, the Respondent's failure to comply with a Rental Officer order to pay future rent on time, the substantial amount of rental arrears and other arrears that have accumulated, I am satisfied termination of the tenancy agreement and eviction are justified.

The Respondent expressed her regret for the situation, recognizing her unacceptable behaviour with respect to her obligations and responsibilities. She acknowledged the changes she needs to make in her lifestyle, and requested one more chance to prove she can be a good tenant. The Respondent indicated she believed she could get things straightened out with Income Support to start getting the rent paid again, and that she could secure the money to pay all the arrears within two to three months.

Given the Respondent's commitments, but with the caution that this would essentially be her last chance, I agreed to issue the termination and eviction orders conditional on the Respondent paying all the arrears (rental, utilities, repairs, and cleaning) in full and paying her future rent on time.

Orders

An order will issue:

- requiring the Respondent to pay rental arrears of \$1,040 (p. 41(4)(a));
- requiring the Respondent to comply with her obligation to maintain the utilities accounts for the rental premises and not breach that obligation again (p. 45(4)(a), p. 45(4)(b));
- requiring the Respondent to pay utilities arrears in the amount of \$2,236.49 (p. 45(4)(c));
- requiring the Respondent to pay costs of repairs and cleaning in the amount of \$3,054.98 (p. 42(3)(e), p. 45(4)(d));
- terminating the tenancy agreement March 31, 2021, unless the total arrears of \$6,331.47 are paid in full and the monthly subsidized rents for January, February, and March are paid on time (p. 41(4)(c), p. 42(3)(f), p. 45(4)(e), ss. 83(2)); and
- evicting the Respondent from the rental premises April 1, 2021, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

Adelle Guigon
Rental Officer