

IN THE MATTER between **NTHC**, Applicant, and **RT**, 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 **Janice Laycock**, Rental Officer,

BETWEEN:

NTHC

Applicant/Landlord

-and-

RT

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: February 17, 2021

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: PS, representing the Applicant

Date of Decision: March 8, 2021

REASONS FOR DECISION

An application to a rental officer made by the YHA on behalf of the NTHC as the Applicant/Landlord against RT as the Respondent/Tenant was filed by the Rental Office on January 14, 2021. 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 on February 3, 2021.

The Applicant claimed the Respondent had rental arrears and was responsible for damages to the rental premises. An order was sought for payment of rental arrears and expenses related to repairs and cleaning.

A hearing was held February 17, 2021 by three-way teleconference. PS appeared at the hearing representing the Applicant. The Respondent was served notice of the hearing but did not appear. The hearing proceeded in their absence under subsection 80(2) of the *Residential Tenancies Act* (the Act).

The Applicant sought and received an exemption (granted at the hearing) to the six-month period for filing an application for a breach of the Act as provided for in subsection 68(3), citing circumstances related to the COVID-19 pandemic for the delay.

At the hearing I reserved my decision pending receipt of further information to support the Applicant's claim for the replacement of the entrance door in December 2017 and to paint the rental premises after the Respondent moved out in April 2020. Additional information was provided to the Rental Office by the Applicant on February 25, 2021, along with proof of service of this additional information on the Respondent by registered mail, deemed served on March 4, 2021. I reserved my decision until March 8th in order to provide the Respondent a chance to reply to the additional information as provided for under section 82 of the Act, however no such reply was received.

Previous order

Rental Officer Order #16907 issued March 6, 2020, required the Respondent to pay rental arrears in the amount of \$120, termination of the tenancy agreement on March 15, 2020, and eviction on March 16, 2020. Prior to that, Rental Officer Order #16101 was issued on July 9, 2018, requiring the Respondent to not disturb other tenants and not breach that obligation again. This order included a conditional termination and eviction that was not enforced.

Tenancy agreement

Evidence was presenting establishing a residential tenancy agreement between the parties for subsidized public housing starting on November 2, 2015, and continuing month to month. This tenancy agreement was terminated on March 15, 2020, under the authority of Rental Officer Order #16907. According to the testimony of the Applicant, the Respondent did not vacate the rental premises until April 14, 2020, when the Sheriff's office carried out an eviction.

I am satisfied that a valid tenancy agreement was in place and that this tenancy agreement was terminated in accordance with the Act.

Rental arrears

The lease balance statement provided as evidence represents the Landlord's accounting of monthly rents and payments received against the Respondent's rent account. All rents were subsidized and at the time that the tenancy agreement was terminated the rent was assessed at \$80 per month. The Respondent owed \$39 for the period from March 1 to March 15, 2020.

I am satisfied the lease balance statement accurately reflects the current status of the Respondent's rent account. I find the Respondent had outstanding rental arrears at the end of their tenancy totaling \$39.

Overholding rent

Under subsection 67(1) of the Act, "A landlord is entitled to compensation of a former tenant's use and occupation of the rental premises after the tenancy has been terminated." The Respondent did not vacate the rental premises until they were evicted by the Sheriff on April 14, 2020 – thirty days after their tenancy was terminated. According to the lease balance statement, the Applicant claimed \$1,597 for this period based on full market rent for the rental premises.

I am satisfied that the lease balance statement accurately reflects the current status of the Respondent's rent account. I find that the Respondent owes \$1,597 for the use and occupation of the rental premises after the tenancy was terminated.

Repairs and cleaning

Replacement of entrance door

Included in the Applicant's claim are costs for replacement of the entrance door totaling \$1,651.65. The Applicant provided as evidence a copy of the invoice from the property owner for this work as well as a copy of a letter from the Applicant to the Respondent asking them for the RCMP report on this incident to verify their claim that the damages were not caused by them.

According to the invoice from the property owner the work was carried out in December 2017, although this may be an error as the invoice was not sent to the Applicant until June 6, 2019. The letter to the Respondent from the Applicant is dated August 9, 2019, and acknowledges the Respondent's call to the office providing the RCMP file number and stating that the damage to the door was an act of vandalism. The letter asks the Respondent for a copy of the RCMP report, which the Applicant testifies was not received.

At the hearing I requested further information to support the Applicant's claim, especially in light of the Respondent's report in 2019 that the damages to the door were an act of vandalism. Under subsection 42(1) of the Act "a tenant shall repair damage to the rental premises and the residential complex caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant."

Additional information was provided by the Applicant to the Rental Office on February 25, 2021. This information was also provided to the Respondent. The Applicant reported that they were told that the door was damaged by people that the tenant let into the building and it is not possible to get into the building unless you have a key/fob or someone from the inside lets them in. However, in light of the Respondent's claim that the damage was vandalism and this had been reported to the landlord and the RCMP, and in the absence of any direct witness testimony disputing the Respondent's claim, I am not convinced that the tenant or someone they allowed into the residential complex is responsible for these damages. The Applicant's claim for \$1,651.65 to replace the entrance door is denied.

Remove additional lock on entrance door

Also included in the Applicant's claim for expenses related to the repair of damages is a charge of \$60.64 to remove an additional lock on the door that was placed there by the tenant. This claim is supported by a photograph and invoice for the work. Based on the evidence and testimony of the Applicant I am satisfied that the Respondent is responsible for this repair.

Final inspection damages

As a result of the final inspection, the Applicant has claimed costs for repairs and cleaning totalling \$10,712.42. This claim is supported by copies of the entry and exit inspection reports, photographs, and an estimate of the costs for repairs and cleaning titled "October 17-18, RT, Re: Tenant Damages Unit CV106".

The estimate includes the following:

\$50 – Lock change.

After eviction, the lock was changed.

\$400 – Cleaning.

The photographs document the condition of the unit when the Respondent was evicted showing that considerable cleaning was required to return the unit to a state of reasonable cleanliness.

\$689.82 – Remove items.

On eviction the Respondent abandoned a number of items in the rental unit. According to notes provided as evidence by the Applicant the Respondent was provided an opportunity to return to the unit to collect their possessions but did not do so. According to the notes the Applicant consulted the Rental Office and as they believed that the possessions were either unsafe or unsanitary they were disposed of as provided for under subsection 64(2) of the Act. In addition to the photographs a copy of an invoice from “Best Movers” was provided as evidence detailing the labour and material costs to pack and take the items to the dump.

\$4,500 – Full paint unit.

Based on the evidence it is clear that the unit was in good condition when the Respondent moved in and patching to repair holes as well as painting was required to this unit when they vacated. At the hearing I asked the Applicant for further information to support this claim for painting of the entire unit: When was the unit last painted and how often are the units painted? On February 25th, 2021, the Applicant provided additional information to the Rental Office. According to this information, the cost of \$4,500 is the actual cost charged by the contractor to paint the unit after the tenant vacated, and the property owner (Northview) paints their units every five years. The property owner has recently changed and their staff were not able to determine when the unit was last painted.

Assuming that the unit was last painted prior to the tenant moving in on November 2, 2015, then the property owner’s maintenance schedule for painting every 5 years would set the unit as due for painting again in November 2020 – approximately seven months after the tenant was evicted. At that time the property owner would have assumed the full cost of painting the unit as part of their regular maintenance.

If the total cost for painting \$4,500 is spread over five years, the cost for each year is \$900.

I am satisfied based on the evidence that the Respondent is responsible for damages to the walls in the rental unit resulting in the need for patching as well as painting. I find that the Respondent is liable for \$900 for the costs of patching and painting outside the regular schedule of maintenance.

\$1,000 - Replace entrance door.

At the hearing I asked the Applicant if they had received a report from the Tenant about the damages to the door, similar to that received on the earlier claim. The Applicant testified that the Respondent had not reported the damages nor had they provided any information that would suggest the damages were not caused by them or someone they had allowed into the residential complex. I believe that the Tenant was obviously aware of their responsibility to report damages to the entry door. Considering the damages shown in the photograph and the lack of reporting by the Tenant I am satisfied that the Tenant is responsible for these damages.

\$400 – Replace doors in bathroom and master bedroom.

\$1,650 – Replace broken window and blinds in living area and master bedroom.

\$160 - Replace light fixtures in master bedroom and living area, replace switch cover in entrance, and replace smoke detector in entrance.

\$225 – Replace damaged drawer fronts in bathroom.

\$200 – Replace fire extinguisher and missing baseboard trim in entrance, replace radiator cover in master bedroom.

The five above claims are supported by the evidence provided.

TOTAL CLAIMED:	\$9,274.82
Less denied painting costs	<u>\$3,600.00</u>
Sub-total	\$5,674.82
Plus 10% Admin Fee	\$567.48
Plus 5% GST	<u>\$312.12</u>
TOTAL ALLOWED:	<u><u>\$6,554.42</u></u>

Based on the evidence and testimony of the Applicant I am satisfied that the Respondent is responsible for the repairs of damages and cleaning as described above. I find that the total owing by the Respondent to replace the lock in February 2020 (\$60.64) and repairs of damages and cleaning based on the final inspection in October 2020 (\$6,554.42) is \$6,615.06.

Security deposit

According to the final statement, move-out report sent to the Respondent on January 5, 2021, and included as evidence, the security deposit paid was \$925 and the interest earned was \$1.99. When the total amount of \$926.99 is applied against the total costs of repairs and cleaning the remaining amount owing for repairs and cleaning is \$5,688.07.

Orders

An order will issue:

- requiring the Respondent to pay rent owing in the amount of \$39 (p. 41(4)(a));
- requiring the Respondent to pay compensation for use and occupation of the rental premises after the tenancy was terminated in the amount of \$1,597 (ss.67(4)); and
- requiring the Respondent to costs of repairs and cleaning in the amount of \$5,688.07 (p. 42(3)(e), p. 45(2)(d)).

Janice Laycock
Rental Officer