

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

**LP**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** April 7, 2021

**Place of the Hearing:** Yellowknife, Northwest Territories

**Appearances at Hearing:** AS, representing the Applicant

**Date of Decision:** April 7, 2021

### **REASONS FOR DECISION**

An application to a rental officer made by the HRHA on behalf of the NTHC as the Applicant/Landlord against LP as the Respondent/Tenant was filed by the Rental Office February 26, 2021. The application was made regarding a residential tenancy agreement for a rental premises located on the Hay River Reserve (also known as the K'atlodéeché First Nation), Northwest Territories. The filed application was deemed served on the Respondent by registered mail on March 22, 2021.

The Applicant claimed the Respondent, a former tenant, had outstanding arrears for repairs and cleaning, utilities arrears, and arrears for use and occupation of the rental premises after their tenancy agreement was terminated. An order was sought for payment of costs for repairs and cleaning, payment of utilities arrears, and compensation for use and occupation of the rental premises.

A hearing was held April 7, 2021, by three-way teleconference. AS appeared representing the Applicant. The Respondent was served notice of the hearing by registered mail deemed served on March 22, 2021, but failed to appear at the hearing. No one appeared on their behalf. The hearing proceeded in the Respondent's absence under subsection 80(2) of the *Residential Tenancies Act* (the Act).

#### *Previous orders*

Rental Officer Order #16292 issued December 18, 2018, ordered the Respondent to pay rental arrears in the amount of \$1,725, to pay future rent on time, to pay the security deposit arrears in the amount of \$255, termination of the tenancy agreement March 31, 2019, unless the rental arrears, security deposit arrears, and rents for January, February, March were paid on time, and eviction April 1, 2019, if the termination of the tenancy agreement became effective. The Applicant chose not to enforce the termination and eviction orders.

Rental Officer Order #16838 issued February 19, 2020, ordered the Respondent to pay rental arrears in the amount of \$300, termination of the tenancy agreement February 29, 2020, and eviction on or after March 15, 2020.

#### *Tenancy agreement*

Evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing beginning on May 1, 2016, and continuing month to month. The tenancy agreement was terminated on February 29, 2020, and the Sheriff's office conducted an eviction on December 4, 2020, under the authority of Rental Officer Order #16838.

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

#### *Overholding tenants*

Under subsection 67(1) of the Act "A landlord is entitled to compensation for a former tenant's use and occupation of the rental premises after the tenancy has been terminated." Under the authority of Rental Officer Order #16838 the tenancy agreement was terminated on February 29, 2020. The Respondent did not vacate the rental premises until the Sheriff delivered possession to the Applicant on December 4, 2020.

The lease balance statement entered into evidence represents the Landlord's accounting of monthly rents and payments received against the Respondent's rent account. After the tenancy agreement was terminated on February 29, 2020, the Respondent was no longer eligible for subsidized rent and according to the lease balance statement was charged the maximum rent of \$1,545 per month. At the time that the eviction was carried out the Respondent owed a total of \$14,104 for use and occupation of the rental premises.

In the application the Applicant had claimed \$14,404 for this period. At the hearing it was pointed out that this amount included rent for November 2019 to February 2020, totalling \$300 that had already been ordered paid under Rental Officer Order #16838.

I am satisfied the lease balance statement accurately reflects the current status of the Respondent's rent account. I find the Respondent owes a total of \$14,104 for use and occupation of the rental premises after the tenancy was terminated.

#### *Utilities*

Section 8 of the written tenancy agreement establishes the Respondent's responsibilities for utilities, including electricity. As noted in previous Rental Officer Order #16838, the Respondent was responsible for transferring the utility account for the new premises to their own name, but despite numerous notices and attempts to communicate with the Respondent by the Applicant, the Respondent had failed to comply with their obligation. According to the evidence and testimony of the Applicant, this situation continued and when the Respondent was evicted in December 2020 they owed a total of \$1,503.16 for electricity (December 2019 to November 2020) that had been paid by the Applicant on the Respondent's behalf.

I find that the Respondent has repeatedly failed to comply with their obligation to take responsibility for the electricity account and owes a total of \$1,503.16 for electricity used during the occupation of the rental premises.

### *Alteration of locks*

Under subsection 25(1) of the Act “No landlord or tenant shall, during occupancy of the rental premises by the tenant, alter or cause to be altered the locking system on any door giving entry to the rental premises except by mutual consent.” According to the Applicant’s testimony, when the eviction was carried out the Respondent was not present and the Applicant discovered that the Respondent had changed the locks without consent which kept them being able to access the unit. It was necessary to call in maintenance staff to change the locks. According to the work orders and receipts, the cost to replace the locks on both exterior doors, including materials and labour, was \$232.24.

Under subsection 25(3) where an obligation under this section has been breached a rental officer may make an order “(c) requiring the person who breached the obligation to compensate the party affected for loss suffered as a direct result of the breach.”

The Applicant had claimed this cost as being for damages, however, at the hearing I explained that in my opinion it is more appropriate to consider it under subsection 25(1). Based on the testimony and evidence, I find that the Respondent breached subsection 25(1) of the Act and owes the Applicant compensation of \$232.24 for costs to replace the locks.

### *Tenant damages and cleaning*

In the application the Applicant claimed \$1,010.09 for expenses related to replacement of an exterior door that had been kicked in. The Applicant provided a work order and receipts for materials as evidence of the costs of the work carried out in September 2020. At the hearing the Respondent testified that these damages were not reported by the Respondent and when asked about the damages the Respondent had no explanation for them.

The Applicant claimed other expenses related to repairs of damages and cleaning that were identified during the exit inspection. The Applicant provided as evidence the entry and exit inspection reports, invoices, work orders, and receipts for materials, and reported that the unit was “filthy”.

- \$545.19 - replacing damaged exterior porch entry door. At the hearing I asked the Applicant to support their claim that this damage was the responsibility of the Respondent. The Applicant testified that the damages to the door were not reported as required in section 12 of the tenancy agreement and it was obvious that attempts had been made to secure the door and repair it;
- \$211.04 - removing and disposing of trash left in unit;
- \$87.14 - replacing damaged door knob to porch and repairing damaged bathroom door;
- \$27.83 - removing satellite dish and cables from the front step of the unit;
- \$48.97 - replace missing CO2 detector;

- \$55.65 - removing stickers, pins, and tape from wall and repairing damaged drywall;
- \$227.60 - replacing mould-damaged fridge with a used fridge. At the hearing I asked the Applicant for the age of the fridge that was replaced in order to determine depreciation. The Applicant testified that the unit was completely renovated when the Respondent moved into the unit and the fridge was new in November 2019. Based on this information I find that the claim of \$227.60 is reasonable;
- \$85.33 - replacing damaged toilet seat and missing tub and sink stoppers in bathroom;
- \$252.09 - replacing missing electrical covers in kitchen and living room, light bulbs in bedroom and living room, as well as damaged light fixtures in bedroom and living room; and
- \$393.75 - cleaning unit

Total amount claimed for repairs and cleaning: \$1,934.59

Replacement of exterior door	\$1,010.09
Repair of damages and cleaning at move out	<u>1,934.59</u>
TOTAL	<u>\$2,944.68</u>

#### *Security deposit*

According to the lease balance statement provided as evidence the Respondent paid \$1,200 for their security deposit. In the statement provided to the Respondent on February 8, 2021, the interest earned on the security deposit was \$2.21. When the security deposit and interest is applied against the costs of repairs and cleaning I find that the remaining balance owing is \$1,742.47.

#### *Orders*

An order will be issued:

- requiring the Respondent to pay compensation for the use and occupation of the rental premises after termination of the tenancy agreement in the amount of \$14,104.00 (ss. 67(4));
- requiring the Respondent to pay for utilities arrears in the amount of \$1,503.16 (p. 45(4)(c));
- requiring the Respondent to pay compensation in the amount of \$232.24 for changing the locks (p. 25(3)(c)); and
- requiring the Respondent to pay for expenses related to repairs and cleaning in the amount of \$1,742.47 (p. 42(3)(e), 45(4)(d)).

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Janice Laycock  
Rental Officer