

IN THE MATTER between **NTHC**, Applicant, and **TK and RK**, Respondents.

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-

TK and RK

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: April 13, 2021

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: LP, representing the Applicant
TK, Respondent

Date of Decision: April 13, 2021

REASONS FOR DECISION

An application to a rental officer made by THA on behalf of the NTHC as the Applicant/Landlord against TK and RK as the Respondents/Tenants was filed by the Rental Office March 1, 2021. The application was made regarding a residential tenancy agreement for a rental premises located in Tuktoyaktuk, Northwest Territories. The filed application was personally served on the Respondent March 30, 2021.

The Applicant alleged the Respondents had repeatedly failed to pay rent in full when due, had accumulated rental arrears, had caused damages to the rental premises, and had failed to pay the costs of repairs in a timely manner. An order was sought for payment of the rental arrears, payment of the costs for repairs, termination of the tenancy agreement, and eviction.

A hearing was held April 13, 2021, by three-way teleconference. LP appeared representing the Applicant. TK appeared as Respondent and on behalf of RK.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement for subsidized public housing beginning August 1, 2014. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Rental arrears

The lease balance statement and lease ledger entered into evidence represent the Landlord's accounting of monthly subsidized rents and payments received against the Respondent's rent account. The rents up to and including February and part of March 2021 were subsidized and last assessed at \$325 per month. In March the Respondents' uncles moved into the rental premises with them resulting in a re-assessment of the subsidized rent based on total household income. The new income exceeds the CNIT threshold resulting in the maximum monthly rent of \$1,445 being charged since March 2021.

Either insufficient payments or no payments were received in 8 of the last 12 months of the tenancy, resulting in rental arrears.

The Respondent did not dispute the accuracy of the Landlord's accounting, acknowledging the amount of rental arrears and accepting responsibility for them. The Respondent testified that she has worked out an agreement with her uncles to split the monthly rent equitably so that it gets paid in full each month. She also committed at hearing to pay \$300 every month towards the rental arrears starting on April 20th, as well as any additional amounts as she can afford it, until the rental arrears are paid in full.

I am satisfied the lease balance statement accurately reflects the current status of the Respondents' rent account. I find the Respondent has repeatedly failed to pay the rent in full when due and has accumulated rental arrears in the amount of \$2,942.09. That amount represents approximately four months' subsidized rent.

Damages

The Applicant provided a work order and invoice in support of a claim for costs to replace tiles from the front entrance to the bathroom. The work order indicates the floor was damaged and tiles were missing. There was no information explaining how the damages occurred or why the Respondent is liable for them. The Applicant's representative suggested that the floor tiles lifted because the Respondent refused to protect them with paper or cardboard or another kind of floor covering, and didn't clean up the dirt and water tracked in by people entering and exiting the premises, resulting in water seeping underneath the tiles and loosening the grout and adhesive.

The Respondent disputed this claim, denying responsibility for the damaged tiles. The Respondent testified that while she does not keep a rug or paper on the floor she is regularly sweeping and mopping up the dirt and water that gets tracked in. The Respondent further testified that the tiles started lifting in 2017 and she notified the Application at that time. The Respondent followed up with the Applicant at least twice more on the issue over the next year or so.

The Applicant's representative had no direct knowledge about this claim. The Applicant's representative testified that she does not see the work orders until they are completed. The call to make a work order goes through the secretary, who logs the call and sends the work order to the maintenance personnel. The maintenance personnel then look into the issue, prioritize it for repair, and decide whether the damages are the Tenant's responsibility. The work order to repair the flooring was opened January 16, 2020, and closed February 10, 2020. The invoice was issued February 13, 2020. The Applicant's representative could not explain why the work order wasn't opened when the Respondent reported the damages three years previous. When asked, the Applicant's representative also did not know how old the flooring is in that rental premises. She suggested it was likely very old because the Landlord does not change the flooring between tenants or unless it is damaged.

The Tenant is responsible for repairing damages caused by their wilful or negligent conduct, and they are responsible for maintaining the ordinary cleanliness of the rental premises. The Tenant is not responsible for normal wear and tear.

The Landlord is responsible for maintaining the rental premises in a good state of repair. This includes maintaining the flooring and repairing the flooring from damages caused by normal wear and tear.

The older flooring tile gets the less reliable the grouting and adhesive become. The average useful life of carpet, lino, and ceramic tile is 10 years. I am satisfied the flooring tiles in the rental premises are at least that old, and more likely they are substantially older than that.

I am satisfied that the Tenant was using the floor in a normal manner, and I have no evidence to dispute the Tenant's assertion that she was complying with her obligation to maintain the ordinary cleanliness of the flooring. I am satisfied that the Tenant diligently reported the lifting floor tiles to the Landlord when they first started lifting in about 2017. I am not satisfied that the damages to the floor tiles were caused by anything other than normal wear and tear, and consequently I am not satisfied that the Tenant is responsible for the costs of repairing the floor tiles. The Applicant's claim for costs of repairs totalling \$1,179.16 is denied.

Termination of the tenancy agreement and eviction

In light of the Respondents' repeated failure to pay the rent in full when due and the substantial amount of subsidized rental arrears that have accumulated, I am satisfied that termination of the tenancy agreement and eviction are justified. However, given the Respondent's commitments to resolve the debt and pay future rent on time, and by the Applicant's agreement, I am satisfied that the termination and eviction orders should be conditional on the Respondent making monthly payments towards the rental arrears and paying the monthly subsidized rents on time.

Order

An order will issue:

- requiring the Respondent to pay rental arrears in the amount of \$2,942.09 (p. 41(4)(a));
- requiring the Respondent to pay future rent on time (p. 41(4)(b));
- terminating the tenancy agreement July 31, 2021, unless at least \$300 each month towards the rental arrears and the monthly subsidized rents for May, June, and July are paid on time (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondent from the rental premises August 1, 2021, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

Adelle Guigon
Rental Officer