

IN THE MATTER between **NTHC**, Applicant, and **RC and JC**, 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-

RC and JC

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: April 15, 2021

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: LP, representing the Applicant

Date of Decision: April 15, 2021

REASONS FOR DECISION

An application to a rental officer made by THA as the Applicant/Landlord against RC and JC as the Respondents/Tenants was filed by the Rental Office March 5, 2021. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was personally served on the Respondent March 31, 2021.

The Applicant alleged the Respondents had repeatedly failed to pay rent when due, had accumulated rental arrears, had failed to comply with a rental officer order to pay future rent on time, 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 costs for repairs and cleaning, termination of the tenancy agreement, and eviction.

A hearing was held April 15, 2021, by three-way teleconference. LP appeared representing the Applicant. RC and JC were personally served notices of the hearing March 31, 2021. The Respondents did not appear at the hearing, nor did anyone appear on their behalf. The hearing proceeded in the Respondents' absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

Evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing July 3, 2013. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Previous order

Rental Officer Order #16788 issued January 14, 2020, ordered: the Respondents to pay rental arrears of \$5,965; the Respondents to pay their rent on time in the future; termination of the tenancy agreement July 31, 2020 unless the rental arrears were paid in full and the monthly subsidized rents for February to July were paid on time.

The rental arrears were not effectively paid in full until February 5, 2021, and the subsidized rents for March, April, and June were not paid on time. The Applicant's representative confirmed that despite the Tenant's failure to comply with the terms of the order, they did not pursue eviction due to the COVID-19 pandemic and permitted the tenancy to continue. In effect, the tenancy was reinstated as of August 1, 2020.

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. All rents have been subsidized and are currently assessed at \$790 per month. No payments have been received in five of the last 12 months of this tenancy.

I am satisfied the lease balance statement and lease ledger accurately reflect the current status of the Respondents' rent account. I find the Respondents have repeatedly failed to pay the rent when due, have failed to comply with a rental officer order to pay future rent on time, and have accumulated rental arrears in the amount of \$3,520. That amount represents approximately five months' subsidized rent.

Repairs and cleaning

The Respondents were transferred from one subsidized housing unit to another on November 20, 2020, in accordance with section 3 of their written tenancy agreement. The entry and exit inspection reports for the previous unit were not provided.

In the application package the Applicant included a work order claiming cleaning costs for the previous unit referencing scrubbing writing and markers off walls.

A notice and work order claiming costs for repairs to the previous unit were provided to the Rental Office April 12, 2021. The work order was dated March 25, 2021, and the notice providing the work order to the Tenants was dated March 31, 2021. The Applicant's representative confirmed that the notice and work order were sent to the Respondents by regular mail on March 31, 2021. The Applicant's representative believes the Respondents received the documents, but could not provide proof that they did.

Subsection 71(1) of the Act requires that notices or documents that are served on a party by mail must be served by registered mail. The purpose of this distinction is that registered mail has a tracking number to follow where the package is and when it gets delivered. Subsection 71(5) of the Act further provides that a notice of documents sent by registered mail is deemed to be served seven days after the day it was mailed.

Because the Applicant did not send the notice and work order regarding the repairs to the previous unit to the Respondents by registered mail I cannot be satisfied that the Respondents have either been served in accordance with the Act or that they have received the documents. Consequently, I cannot be satisfied that the Respondents have had fair opportunity to review the claims and consider whether or not they agree with those claims.

Given those issues, I declined to consider the claims associated with either the cleaning or repairs of the previous unit as part of this application. The Applicant was encouraged to ensure the Respondents had received the work order describing the work performed and costs claimed, to talk to the Respondents about those claims and address any issues the Respondents might have about any of them, and to see if the Respondents had a plan for paying any undisputed claims. If the Landlord and Tenants are unable to resolve the claims themselves or within a reasonable period of time then the Landlord could make a new application to a rental officer without prejudice.

Call-outs for service

A work order was provided documenting a call-out for service made by the Respondents on December 11, 2020. The Respondents reported finding water on the floor. The Applicant's maintenance personnel attended the premises and discovered that the Respondents had failed to properly hook up their washing machine to the water faucet which resulted in the water leak. The maintenance personnel tightened the washing machine connection for the Respondents.

The services for the washing machine are provided in the rental premises, but the washing machine itself is not. This means it is the Tenants' responsibility to provide and install their own washing machine.

I am satisfied that the Respondents are responsible for the call-out and that the costs claimed for the call-out are reasonable. I find the Respondent liable to the Applicant for the call-out fees of \$177.28.

A work order was provided documenting a call-out for service made by the Respondents on February 5, 2021. The Respondents reported that there was no heat at the rental premises. The Applicant's maintenance personnel attended the premises and discovered that the furnace was working as it should and that the Respondents had simply not turned the thermostat up beyond 10 degrees Celsius.

I am satisfied this call-out was an unnecessary inconvenience to the Applicant for which the Respondent is responsible, and I am satisfied that the associated costs claimed are reasonable. I find the Respondent liable to the Applicant for the call-out fees of \$35.29.

The Respondents had made a payment towards damages in the amount of \$210 on March 4, 2021. Applying this payment against the total costs of the call-outs of \$212.57 leaves a remaining balance owing of \$2.57.

Termination of the tenancy agreement and eviction

In light of the Respondents' repeated failure to pay the rent, the Respondents failure to comply with a Rental Officer order to pay future rent on time, and the substantial amount of subsidized rental arrears that have accumulated, I am satisfied termination of the tenancy agreement and eviction are justified. By agreement with the Applicant's representative, the termination and eviction orders will be conditional on the Respondents paying the rental arrears in full and paying future rent on time.

Orders

An order will issue:

- requiring the Respondents to pay rental arrears and outstanding call-out costs in the total amount of \$3,522.57 (p. 41(4)(a), p. 43(3)(c));
- requiring the Respondents to pay their rent on time in the future (p. 41(4)(b));
- terminating the tenancy agreement July 31, 2021, unless the rental arrears are paid in full and the monthly subsidized rents for May, June, and July are paid on time (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondents 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