

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

MB

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing:	April 14, 2021
Place of the Hearing:	Yellowknife, Northwest Territories
Appearances at Hearing:	PS, representing the Applicant
Date of Decision:	May 19, 2021

REASONS FOR DECISION

An application to a rental officer made by the YHA on behalf of the NTHC as the Applicant/Landlord against MB as the Respondent/Tenant was filed by the Rental Office on March 19, 2021. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was sent to the Respondent by registered mail deemed served on April 8, 2021, under subsection 71(5) of the *Residential Tenancies Act* (the Act).

The Applicant claimed that the Respondent had repeatedly failed to pay rent when due and had accumulated rental arrears, owed for costs of repairs and cleaning, and owed for utilities. An order was sought for payment of rental arrears, payment of rent on time in the future, payment of costs for repairs and cleaning, and payment for costs of utilities, as well as for termination and eviction.

A hearing was held April 14, 2021, by three-way teleconference. PS appeared representing the Applicant. The Respondent did not appear at the hearing, nor did anyone appear on their behalf. Having been served with notice of the hearing in accordance with the Act, the hearing proceeded in the Respondent's absence under subsection 80(2).

At the hearing the Applicant clarified that the current address of the Respondent is 2015 Sissons Court in Yellowknife, Northwest Territories. At the hearing I requested additional information to support the Applicant's claims, including copies of invoices related to the utilities and copies of communications with the Tenant regarding rental arrears. I reserved my decision pending receipt of this information as provided for under section 82 of the Act.

Tenancy agreement

Evidence was presented establishing a tenancy agreement for subsidized public housing beginning June 17, 2015, and continuing month to month. I am satisfied that a valid tenancy agreement is in place in accordance with the Act.

Exceeding time limit for making an application

Subsection 68(1) of the Act states that an application to a rental officer must be made within six months after the breach of an obligation under the Act or tenancy agreement or the situation referred to in the application arose. Subsection 68(3) allows the Rental Officer to grant an extension to the time for making an application where the Rental Officer is of the opinion that it would not be unfair to do so. In this case the claim relates to potential breaches of the Act, some of which occurred in 2019 with the most recent occurring approximately nine months ago.

In a letter to the Rental Office dated March 4, 2021, the Applicant asked for an extension to the six month period "Due to unprecedented circumstances and uncertainty of the pandemic, we were not able to complete the move out inspections and prepare final statements on time. The staff were working from home during the spring and summer of last year." Further the letter said that they are now clearing off backlogs and recognize that some files were "left behind."

At the hearing the Applicant testified that despite the impact of the pandemic on their operations they had taken a number of steps to try to address outstanding rental arrears, damages, and payment of utilities with the Respondent including regular statements, notices, and attempts to negotiate a payment plan with them. According to the Applicant the Respondent did not respond.

In light of the impact of the pandemic on their operations and the efforts that were made to communicate with the Respondent who is currently a tenant, I find that an extension to the time for making this application is justified and fair. The extension is granted.

Previous orders

Rental Officer Order #16529 issued July 20, 2019, ordered the Respondent to pay costs totalling \$4,724.99 for repair and cleaning related to transferring from one apartment to another in January 2019.

Rental arrears

The lease balance statement entered into evidence provides information on charges and payments on the rental account. According to this statement, in April 2021 the Respondent's subsidized rent was \$80 per month, they had a credit balance in September 2020 of \$77.86, and after not paying any rent for the next seven months (October 2020 to April 2021), they had accumulated rental arrears totalling \$482.14.

At the hearing the Applicant testified that they had made numerous attempts to communicate with the Respondent about their arrears including through monthly statements, a payment plan, as well as attempts to talk to them in January and February 2021. I requested copies of correspondence with the Respondent relating to these communications.

Additional information was provided to the Rental Office on April 16, 2021, and copied to the Respondent, including: a Last chance agreement dated April 10, 2019, and signed by the Respondent; monthly statements sent to the Respondent for September, October, and November 2020, as well as for January, February, and March 2021; and letters dated January 19, 2021, and February 25, 2021, entitled "Notice of Arrears" providing information on all arrears (rent, damages, and utilities) and requesting that the Respondent call to discuss a payment plan. The Applicant testified that they received no response to their correspondence.

I am satisfied the lease balance statement accurately reflects the current status of the Respondent's rent account. I find that on April 14, 2021 the Respondent owed \$482.14 in rental arrears.

Repairs and cleaning

The Applicant provided evidence including invoices and work orders related to two damages charges totalling \$482.40:

- \$181.91 - December 16, 2019, for repair of heating system – wires on zone valve had been removed and main valve shut off. At the hearing I asked if this damage could have been as a result of a failure of the equipment/systems. The Applicant testified that this damage was not a failure of a system but had to have been caused by the Respondent or someone that they had permitted into the rental premises.
- \$300.49 – March 4, 2020, to replace plugged toilet – an auger would not pass through the blockage and when toilet was replaced it was determined that a child's toy was stuck in the outlet. The Applicant recognized that it could have been dropped by accident but the Respondent was still responsible for the repair/replacement costs.

The Applicant testified that the Respondent was required to move from their rental premises at Apartment #15, 5009 - 47th Street, into unit 2015 Sissons Court in June 2020 so that renovations could be carried out. The Respondent moved units and an exit inspection was carried out on June 19, 2020. According to the Applicant, and this is supported by the inspection report and photographs provided as evidence, there were items left in Apartment #15 and further cleaning was required. According to an email provided as evidence by the Applicant, the Maintenance Manager spoke to the Respondent on June 30, 2020, and was told that the "stuff left behind in Apartment 15 was all junk".

The Applicant invoiced the Respondent on July 9, 2020, for the following:

\$124.76	removal and disposal of items in unit
\$600.00	full cleaning, by contractor and the Applicant's staff
\$72.48	10% administrative fee
<u>\$39.86</u>	5% GST
<u>\$837.10</u>	Total

I am satisfied based on the evidence provided that the Respondent is responsible for the cost to repair previous tenant damages of \$482.40, as well as \$837.10 to clean and remove items from Apartment #15, and currently owes a total of \$1,319.50 for repairs and cleaning.

Breach of obligation to pay utilities

Under section 8 of the tenancy agreement the Respondent is responsible for paying all utilities including power. Under paragraph 45(4)(c) of the Act where a tenant breaches on obligation they can be ordered to compensate the landlord for loss suffered as a direct result of the breach.

The Applicant testified at the hearing that when the Respondent moved units they had arrears on their power account of \$607.25. In order to transfer power to the new unit (SC2015) it was necessary to pay the arrears and a deposit of \$200. The Applicant paid \$807.25 on behalf of the Respondent and then invoiced them this amount on the monthly lease balance statement.

At the hearing I asked the Applicant to provide further evidence, such as copies of invoices, to support their claim for utilities. This request was also made to the Applicant by email and copied to the Respondent. The Applicant provided to the Rental Office and to the Respondent a copy of the cheque to the utility provider as proof that this payment was made.

As provided for in section 82, the Respondent was provided with this new evidence and given an opportunity to provide additional information and to explain or refute the claim. The Respondent responded by email on April 15, 2021, explaining they were on the land and would not be back in town for 10 days, and that they had paid their power bill. I replied to the email (copying the Applicant) explaining the claim that had been made and giving them until April 29, 2021, to provide a response. I also pointed out to the Applicant that there was an error in calculation - the original amount claimed by the utility provider in the email dated June 9, 2020, and provided as evidence was \$604.25 and with the \$200 deposit the total should be \$804.25 not \$807.25.

The Respondent also called the Rental Office on April 16, 2021, and reported that they had paid their power bill. I explained that this was for the power on her previous unit, asked her to review the email sent to her explaining the claim, and asked her to provide proof of payment to the Rental Office and the Applicant by April 29, 2021. The Respondent agreed to do this, however no documentation or further information was provided by the Respondent to the Rental Office.

Based on the evidence and testimony of the Applicant and in the absence of any information refuting this claim I am satisfied that the Respondent is in breach of their obligation to pay the utilities and owes the Applicant \$804.25.

Termination of the tenancy agreement and eviction

According to the evidence and testimony of the Applicant, the Respondent has not paid any rent since September 2020 and has not responded to any of the Applicant's efforts to work with them to address the arrears. In light of the Respondent's repeated failure to pay the rent in full when due or to address their outstanding arrears, I am satisfied termination of the tenancy agreement and eviction are justified.

Orders

An order will be issued:

- requiring the Respondent to pay rental arrears in the amount of \$482.14(p. 41(4)(a);
- requiring the Respondent to pay costs for repair of damages and cleaning totaling \$1,319.50 (p.42(3)(e) 45(4)(d));
- requiring the Respondent to compensate the Applicant for charges related to a breach of their obligation to pay utilities totaling \$804.25 (p.45(4)(c));
- terminating the tenancy agreement June 10, 2021 (p.41(4)(c); and
- evicting the Respondent from the rental premises June 11, 2021.

Janice Laycock
Rental Officer