

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

**CL**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** May 4, 2021, and September 9, 2021

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

**Appearances at Hearing:** PS, representing the Applicant  
CL, Respondent, appeared May 4, 2021

**Date of Decision:** September 9, 2021

### **REASONS FOR DECISION**

An application to a rental officer made by YHA on behalf of the NTHC as the Applicant/Landlord against CL as the Respondent/Tenant was filed by the Rental Office March 22, 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 signed for April 16, 2021. Supplementary evidence was personally served on the Respondent May 10, 2021.

The Applicant alleged the Respondent had caused damages to the rental premises, had failed to pay the costs of repairs in a timely manner, and had repeatedly caused disturbances. An order was sought for payment of the costs of repairs, conditional termination of the tenancy, and eviction.

A hearing was commenced May 4, 2021, by three-way teleconference. PS appeared representing the Applicant. CL appeared as Respondent. The hearing was adjourned *sine die* pending clarification of evidence regarding claimed damages. The claims of disturbances were not discussed at this hearing and were agreed to be considered at the re-scheduled hearing.

The hearing re-scheduled for June 16, 2021, was postponed by the Rental Officer. The hearing re-scheduled for July 6, 2021, was postponed at the Applicant's request. The hearing re-scheduled for August 17, 2021, was postponed at the Respondent's request.

The hearing continued September 9, 2021, by three-way teleconference. PS appeared representing the Applicant. CL was served notice of the hearing by registered mail deemed served August 31, 2021, pursuant to subsection 71(5) of the *Residential Tenancies Act* (the Act). The Respondent did not appear at the continuation of this hearing, nor did anyone appear on her behalf. The hearing proceeded in the Respondent's absence pursuant to subsection 80(2) of the Act.

### *Tenancy agreement*

Evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing February 10, 2016. The rental premises the Respondent was initially assigned to will be referred to as BH208. On December 11, 2019, the Respondent was re-assigned to another rental premises which will be referred to as HRM01. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

### *Rental arrears*

Although rental arrears were not technically applied for, evidence was included in the application referencing rental arrears. At the May 4<sup>th</sup> hearing the Respondent did not object to the consideration of rental arrears.

The lease balance statements entered into evidence represent the Landlord's accounting of monthly subsidized rents and payments received against the Respondent's rent account. All rents were subsidized and last assessed at \$80 per month. No payments were received in 4 of the last 12 months of the tenancy.

The lease balance statements included a charge of \$399.64 for utilities which were not applied for and for which no evidence was provided. That amount was deducted from the lease balance statement.

I am satisfied the adjusted lease balance statement accurately reflects the current status of the Respondent's rent account. I find the Respondent has repeatedly failed to pay rent in full when due and has accumulated rental arrears in the amount of \$222.68. That amount represents approximately 3 months' subsidized rent.

### *Repairs and cleaning - BH208*

The Applicant claimed costs for repairs and cleaning from the previous rental premises BH208 which the Respondent vacated December 11, 2019. An extension to the time for making the application under subsection 68(3) of the Act was granted given the Landlord had completed the damages statement and provided it to the Respondent January 21, 2020, and the Tenant has been making payments towards the claimed arrears since March 2020.

The entry and exit inspection reports, damages statement, and photographs were provided in support of the following claims:

Cleaning throughout	\$450.00
Reinstall one bi-fold door	\$100.00
Replace and install two blinds	\$400.00
Reinstall two radiator cabinet covers	\$120.00
Replace and install three door stoppers	\$24.00
Reinstall bathroom fan cover	\$60.00
Replace and install one window lock	\$50.00
Replace and install one window screen	\$50.00
Sub-total	\$1,254.00
10% Admin Fee	\$125.40
5% GST	\$68.97
Total	\$1,448.37

At the May 4<sup>th</sup> hearing, the Respondent did not dispute the claims for repairs and cleaning at the previous rental premises BH208, acknowledging the debt and accepting responsibility for it. This acceptance is evident in the Respondent's payments towards the debt, which as of the September 9<sup>th</sup> hearing were paid in full.

#### *Repairs - HRM01*

The Applicant had applied for costs to repair four broken windows at the current rental premises HRM01. The work orders provided referenced the damages occurring March 31, June 5, July 27, and October 16, 2020.

The Respondent disputed her responsibility for all four of the claimed damages, testifying that other persons she did not permit on the property had broken the windows. The work orders for the first four claims were unclear as to the circumstances necessitating the repairs, and the Applicant's representative had no direct knowledge. The adjournment was granted for the Applicant to make further inquiries of the Maintenance Foreman on those work orders. By an email sent May 7, 2021, the Applicant withdrew their claims for the damages occurring March 31, June 5, and July 27, 2020.

The damaged window occurring October 16, 2020, was reported to the Applicant by the Respondent. The work order references the Tenant's window was kicked out from the inside, suggesting the Tenant or someone the Tenant permitted in the unit caused the damages. The Respondent testified at the May 4<sup>th</sup> hearing that JK had broken into the premises and broke the window while he was unlawfully there. RCMP were called and JK was charged for mischief causing damage. A review of the Territorial Court Docket confirmed the charges and that the matter was yet to be scheduled for trial.

It appears the Landlord's main concern with respect to the October damages is for the recovery of the costs to repair. However, the provisions of the Act under section 42 are limited to holding the Tenant responsible for the costs of repairing damages that are caused by the Tenant or persons permitted on the premises by the Tenant. Despite the mischief charges not yet being made out in Territorial Court, the fact that they've been laid lends support on a balance of probabilities to the Respondent's testimony to the Rental Officer that she as the Tenant did not break the window and that the person who did break the window was not permitted on the premises by her. Consequently, I am not satisfied that the Respondent is responsible for the damaged window from the October 2020 incident and the Applicant's claim for costs to repair that window is denied. I encourage the Landlord to approach the RCMP and/or the Public Prosecution Service of Canada to inquire about identifying themselves to the Territorial Court for restitution from JK should he be found guilty of the offence of mischief causing damage.

### *Disturbances*

Documents were provided as part of the application referencing disturbances which occurred in August, October, and November 2020. The nature of the disturbances included disruptive behaviour, yelling, shouting, banging, and fighting occurring multiple times usually overnight.

The Applicant's representative at the September 9<sup>th</sup> hearing confirmed that there have been no other complaints received since the November 2020 incidents, and acknowledged that given there have been no disturbances over the last 10 months that termination of the tenancy agreement and eviction may not be warranted. He did request at least an order requiring the Respondent to comply with her obligation not to cause disturbances.

In light of the pattern of disruptive behaviour occurring over a relatively short time and having been broken for at least 10 months now, I am satisfied the Respondent has taken the necessary steps herself to address the issue and prevent further disturbances. I do find the Respondent has failed to comply with her obligation not to cause disturbances, but I am not satisfied the disturbances justify termination of the tenancy and eviction.

*Orders*

An order will issue:

- requiring the Respondent to pay rental arrears in the amount of \$222.68 (p. 41(4)(a));
- requiring the Respondent to pay her rent on time in the future (p. 41(4)(b)); and
- requiring the Respondent to comply with her obligation not to cause disturbances and not to breach that obligation again (p. 43(3)(a), p. 43(3)(b)).

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Adelle Guigon  
Rental Officer