

IN THE MATTER between **NTHC**, Applicant, and **CA and MM**, 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-

CA and MM

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: November 4, 2021, and December 2, 2021

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: November 4, 2021:
PS, representing the Applicant
CA, Respondent
MMA, Respondent

December 2, 2021:
PS, representing the Applicant

Date of Decision: December 2, 2021

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of the NTHC as the Applicant/Landlord against CA and MM as the Respondents/Tenants was filed by the Rental Office October 4, 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 Respondents October 15, 2021.

The Applicant alleged the Respondents had repeatedly failed to pay rent, had accumulated rental arrears, and had repeatedly failed to maintain the electricity account to the rental premises. An order was sought for payment of the rental arrears, payment of future rent on time, compliance with the obligation to maintain the electricity account, termination of the tenancy, and eviction.

A hearing was held November 4, 2021, by three-way teleconference. PS appeared representing the Applicant. CA and MMA appeared as Respondents. After hearing some submissions, the hearing was adjourned by agreement to December 2, 2021. The adjournment was confirmed by email to all parties. PS appeared on December 2, 2021, as scheduled, representing the Applicant. CA and MMA were notified November 4, 2021, and confirmed on the record of that hearing of the December 2, 2021, return date, and they were served notice by email deemed received November 8, 2021, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations). The Respondents did not appear at the December 2, 2021, hearing, nor did anyone appear on their behalf. The hearing continued in their absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing commencing March 18, 2016. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Previous order

Rental Officer Order #15313 issued September 27, 2016, ordered the Respondent to comply with their obligation not to cause disturbances and not to breach that obligation again, and ordered termination of the tenancy October 31, 2016, and eviction November 1, 2016, unless no further disturbances occurred.

Rental arrears

The lease balance statements entered into evidence represent the Landlord's accounting of monthly subsidized rents and payments received against the Respondents' rent account. All rents have been subsidized. No payments have been made in 11 of the last 12 months of the tenancy.

The subsidized rent up to and including June 2021 was assessed at \$160. The subsidized rent for July to October 2021 was assessed at \$890. The subsidized rent for part of November and starting in December 2021 was assessed at \$610. The Applicant's representative explained the re-assessment of the subsidized rent taking effect November 24, 2021, reflected the removal of the Respondents' adult son's income from the calculation as he moved out of his parent's home and into his own rental premises.

The Respondents did not dispute the accuracy of the Landlord's accounting, acknowledging their debt and accepting responsibility for it. They claimed an inability to pay the rent due to their obligation to pay for vehicle repairs so that they could travel on the highway to visit and care for their grandchildren. They chose repairing their vehicle over paying their rent. The Respondents testified that they had approached their social worker for assistance and were of the understanding that they may be able to get some financial assistance from there.

The Respondents also questioned the increase of the subsidized rent, claiming that they received CERB benefits last year which they believe have improperly affected the rent assessment. The Respondents had requested a re-assessment of their rent subsidy in August, but the Applicant's representative confirmed that the Respondents had not followed through with providing the supporting documents necessary to move the re-assessment request forward, despite repeated reminders. The Applicant's representative conceded that should the Respondents provide the necessary documentation it may be possible that their rent subsidy would be adjusted resulting in a variation to the balance owing. However, such an adjustment would not change the fact that no payments have been received in any amount towards the rent since April 7, 2021, and there would still remain a balance owing.

The Respondents offered a commitment to pay at least \$890 plus \$100 to \$200 per month against the rent account until the arrears were paid in full, not including any lump sum financial support they are able to secure from other resources. The Applicant's representative was hesitant to accept such a plan without further assurances of a lump sum payment for at least half of the balance owing.

The parties agreed to adjourn the hearing to give them an opportunity to work out a plan and expectations. At the December 2nd hearing, the Applicant testified that the parties were able to meet on November 17th. A payment plan was entered into where the Respondents agreed to pay at least \$890 by November 30th and then \$300 per month plus the subsidized rent thereafter. Some of the documents required to re-assess the rent subsidy were provided at that time, but the remaining documents have not as yet been provided, again despite repeated reminders over the last two weeks. The Applicant spoke with the Respondents on November 30th regarding their failed commitments to date, at which time they asked the Applicant to email their statement of account to their social worker. No payments have been received to date, rendering the Respondents non-compliant with the payment plan agreement entered into November 17th.

I am satisfied the lease balance statement accurately reflects the current status of the Respondents' rent account. I find the Respondents have repeatedly failed to pay the rent and have accumulated rental arrears in the amount of \$5,449.31. That amount represents approximately 10 months' subsidized rent.

Utilities

The Applicant provided four emails received from the local electricity provider dated: February 13, 2018; June 18, 2018; February 13, 2019; and September 15, 2021. The emails notified the Applicant that the electricity to the Respondents' rental premises was being disconnected due to their failure to pay the electricity bills.

Section 8 of the written tenancy agreement specifies that the Tenant is responsible for maintaining the utilities to the rental premises, including the electricity.

The Respondents did not dispute this claim. The Applicant confirmed that the electricity has been reconnected since September 2021 and now appears to be in good standing.

I find the Respondents have repeatedly failed to comply with their obligation to maintain the electricity account to the rental premises.

Termination of the tenancy and eviction

In light of the Respondents' repeated failure to pay the rent and the substantial amount of subsidized rental arrears that have accumulated, I am satisfied termination of the tenancy 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 their future rent on time.

Orders

An order will issue:

- requiring the Respondents to pay rental arrears in the amount of \$5,449.31 (p. 41(4)(a));
- requiring the Respondents to pay their rent on time in the future (p. 41(4)(b));
- requiring the Respondents to comply with their obligation to maintain the utilities to the rental premises and not to breach that obligation again (p. 45(4)(a), p. 45(4)(b));
- terminating the tenancy January 31, 2022, unless the rental arrears are paid in full and the monthly subsidized rent for January 2022 is paid on time (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondents from the rental premises February 1, 2022, if the termination of the tenancy becomes effective (p. 63(4)(a), ss. 83(2)).

Adelle Guigon
Rental Officer