

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

AW

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	December 8, 2021
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	LN, representing the Applicant AW, the Respondent
<u>Date of Decision:</u>	December 9, 2021

REASONS FOR DECISION

An application to a rental officer made by the PHA on behalf of the Northwest Territories Housing Association as the Applicant/Landlord against AW as the Respondent/Tenant was filed by the Rental Office on November 3, 2021. The application was made regarding a residential tenancy agreement for a rental premises located in Paulatuk, Northwest Territories. The filed application was personally served on the Respondent on November 24, 2021.

The Applicant claimed the Respondent had repeatedly failed to pay rent when due and had accumulated significant rental arrears. An order was sought for payment of rental arrears, payment of future rent on time, termination of the tenancy, eviction, and compensation for use and occupation after termination of the tenancy.

A hearing was held on December 8, 2021, by teleconference. LN appeared representing the Applicant. The Respondent, AW, appeared. I reserved my decision at the hearing to further review the testimony and evidence provided.

Previous order

Rental Officer Order #20-13632 was issued on January 7, 2014, relating to a joint tenancy agreement for subsidized public housing with AW and Glen Ruben. This order required the Respondents to pay rental arrears totalling \$5,483.73 and to pay their rent on time in the future.

Tenancy agreement

Evidence was provided establishing a sole tenancy agreement between the parties for subsidized public housing commencing on October 1, 2017, and continuing month to month. This sole tenancy agreement was entered into after the death of the Respondent's husband. The monthly subsidized rent was initially \$70, increased to \$325 in July 2019, and is currently assessed at \$790. At the hearing the Applicant testified the rent was based on the latest assessment of the household income and includes the income of the Respondent's son. 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 entered into evidence represents the Landlord's accounting of the monthly subsidized rents and payments received against the Respondent's rent account. This statement includes a balance of rent owing on October 13, 2021, of \$11,355.04. At the hearing the Applicant testified no rent payments had been received for November or December 2021 and as a result the balance now owing is \$12,935.04. The Applicant also provided evidence and testified to the numerous notices to the Respondent about rent owing and the rental arrears.

At the hearing the Applicant made it clear this application deals with the Respondent's current sole tenancy agreement. However, the balance on the lease balance statement includes arrears owing from the previous joint tenancies with the Respondent and her husband. As these arrears are not the subject of this application, I have deducted those previous debts from the current charges:

Balance as per statement (including rent for Nov. and Dec. 2021)	\$20,517.58
Less previous debts (joint Wolki and Ruben), not part of this application	<u>(6,507.58)</u>
Remaining balance for current tenancy	<u>\$14,010.00</u>

In reviewing the lease balance statement it is clear that the majority of payments made by the Respondent during the period of the sole tenancy (identified in the statement as Lease 8314) have been applied by the Landlord against the previous debts accrued during the joint tenancies. These previous debts are associated with Lease 2065 and Lease 7391. The Applicant confirmed it is the policy of the Landlord to apply rent payments to the oldest debts first. It was clear to me at the hearing this was not done at the direction of the Respondent.

In addition to the Respondent's rent payments, the statement indicates there are also some clear attempts by the Applicant to collect on the previous debts and current arrears through Canada Revenue Agency tax remittances. These payments are outside of the current rent payments by the Respondent and can be applied as indicated in the lease balance statement to the previous joint tenancy.

During the sole tenancy with the Respondent, the parties did not successfully establish a payment plan, nor did the Respondent agreed to direct their payments to previous arrears accrued during the joint tenancies. As a result I have applied all payments except the CRA payments totalling \$591.75 to the current tenancy and I find arrears owing under the sole tenancy in the amount of \$7,019.25.

Rent charged during sole tenancy	\$14,010.00
Payments (not including \$591.79 in CRA remittances)	<u>(6,990.75)</u>
Balance owing	<u>\$7,019.25</u>

Termination of the tenancy and eviction

In light of the Respondent's repeated failure to pay the rent in full when due, or in many cases any rent, as well as the significant amount of rental arrears that have accumulated during this tenancy, I am satisfied termination of the tenancy agreement and eviction are justified.

However, at the hearing the Respondent told us that they were struggling to pay all of their bills and their income was not consistent, but stated they were trying to pay off their arrears and were in the process of seeking support from Worker's Safety and Compensation Commission to get an advance on their Widow's Pension to do this. They also agreed to work with the Applicant to seek a re-assessment of their current subsidized rent and had reached out to their employer to get an update on their current income. The Applicant testified at the hearing that aside from the arrears, the Respondent was a good tenant and they were willing to work with them and were confident the rent re-assessment would result in lower rent for the last period.

Considering the efforts being made by the Respondent and the willingness of the Applicant to assist them, the termination and eviction orders will be conditional on the Respondent paying their rent on time for January, February, March, and April 2022, and paying their full arrears by April 30, 2022.

At the hearing I explained to the Respondent that I would make an order for payment of arrears accrued during their current tenancy, but this did not mean that they were not responsible for previous arrears as claimed by the Applicant. I encouraged them to work with their landlord to understand what they might owe related to the previous Rental Officer Order #20-13632 and other arrears accrued during previous tenancies.

Compensation for use and occupation

In their application the Applicant had requested compensation for the use and occupation of the rental premises if the Respondent remains in the rental premises after the tenancy is terminated. Under paragraph 63(4)(b) of the Act a rental officer who issues an eviction order may make an order requiring the tenant to compensate the landlord for the use and occupation of the rental premises calculated for each day the tenant remains in occupation following the termination of the tenancy.

At the hearing the parties were focussed on resolving the issues leading to breaches of the Act and compensation was not discussed. I believe it would be appropriate for the Applicant to return to the Rental Office if the tenancy is terminated and compensation for use and occupation is required.

Orders

An order will be issued:

- requiring the Respondent to pay rental arrears in the amount of \$7,019.25 and to pay their rent on time in the future (p. 41(4)(a), p. 41(4)(b));
- terminating the tenancy on April 30, 2022, and requiring the Respondent to vacate the rental premises on that date unless the rental arrears are paid in full, and the rents for January, February, March, and April 2022, is paid on time (p. 41(4)(c), ss. 83.(2)); and
- evicting the Respondent from the rental premises on May 1, 2022, if the termination of the tenancy becomes effective (p. 63(4)(a), ss. 83(2)).

Janice Laycock
Rental Officer