

IN THE MATTER between **NF**, Applicant, and **DS and MS**, 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:

**NF**

Applicant/Landlord

-and-

**DS and MS**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** May 3, 2022

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

**Appearances at Hearing:** AM, representing the Applicant  
IA, representing the Applicant  
DS, the Respondent  
MS, the Respondent

**Date of Decision:** May 3, 2022

### **REASONS FOR DECISION**

An application to a rental officer made by NF as the Applicant/Landlord against DS and MS as the Respondents/Tenants was filed by the Rental Office March 25, 2022. The application was made regarding a residential tenancy agreement for a rental premises located in Inuvik, Northwest Territories. The filed application was personally served on the Respondents April 6, 2022.

The Applicant alleged the Respondents had repeatedly failed to pay rent and had accumulated rental arrears. An order was sought for payment of the rental arrears, termination of the tenancy, and eviction.

A hearing was held May 3, 2022, by three-way teleconference. AM and IA appeared representing the Applicant. DS and MS appeared as the Respondents.

#### *Tenancy agreement*

The parties agreed and evidence was presented establishing a residential tenancy agreement between the parties commencing April 1, 2013. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

#### *Rental arrears*

The lease ledger entered into evidence represents the Landlord's accounting of monthly rents and payments received against the Respondents' rent account, and it includes late payment penalties calculated in accordance with the Act and *Residential Tenancies Regulations* (the Regulations). No payments have been received against the rent account in 6 of the last 12 months of the tenancy. The last payment was recorded as received December 16, 2021, in the amount of \$1,850.

The written tenancy agreement establishes the rent at the beginning of the tenancy at \$1,850. The ledger corroborates the Landlord's and Tenants' testimony that from the beginning of the tenancy until the Landlord's change of ownership took effect November 1, 2020, the Respondents benefited from a staff discount of \$650 per month against their rent. The ledger further shows that the Tenants' post-discount rent had been paid in full each month through bi-weekly payroll deductions of \$600 each. The only exception to these payments was for a payroll deduction and reversal that resulted in a \$300 payment rather than a \$600 payment on January 12, 2018. The last staff discount and payroll deductions occurred in October 2020, after which the Respondents paid the rent of \$1,850 in full and on time for November 2020 to December 2021, excepting September 2021 for which no payment was received.

The Respondents testified that not long after the change of ownership took effect they received an invoice from the Landlord for rental arrears of \$4,025 that the Landlord claimed had accumulated after the payroll deductions had not been varied to account for rent increases. The Respondents denied having received notice of any rent increases throughout their tenancy, other than the most recent rent increase to \$1,887 which took effect April 1, 2022. Had they known about the rent increases they would have authorized the variance to the payroll deductions to account for the difference.

The ledger shows a rent increase imposed as of April 1, 2014, to \$1,875 and a second rent increase imposed as of December 1, 2015, to \$1,925. The ledger also shows that the rent was subsequently decreased as of November 1, 2020, back down to \$1,850.

Subsection 47(2) of the Act requires the Landlord to notify the Tenant of rent increases in writing at least three months before the date the rent increase is to take effect. No such notice is required to decrease the rent.

The Applicant's representative acknowledged that both of the prior rent increases occurred before he started working for the Landlord, and he confirmed that they do not have any documents in their tenant file indicating whether the Respondents were notified in writing of either of the rent increases. Consequently, I cannot be satisfied that the Respondents were notified of either of the rent increases which were imposed as of April 1, 2014, and December 1, 2015, and therefore I find those rent increases invalid. The ledger balance was adjusted by deducting \$25 for 20 months of rent and \$75 for 59 months of rent totalling \$4,925. This adjustment results in a balance of rental arrears of \$12,097.

The Respondents did not dispute the accuracy of the adjusted ledger, acknowledging the remaining debt and accepting responsibility for it. They explained that they have been out of work for several months. The Respondents testified that they have contract work starting very shortly from which they were able to commit to not only paying the rent in full and on time going forward but also to be able to have the rental arrears paid in full by the end of June.

I am satisfied the adjusted ledger 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 \$12,097. That amount represents approximately seven months' rent.

*Termination of the tenancy and eviction*

In light of the Respondents' repeated failure to pay the rent and the substantial amount of rental arrears that have accumulated, I am satisfied termination of the tenancy and eviction are justified. However, given the commitment to pay offered by the Respondents and the Applicant's representatives agreement to accept that commitment, I am satisfied that the termination and eviction orders should 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 in the amount of \$12,097 (p. 41(4)(a));
- requiring the Respondents to pay rent on time in the future (p. 41(4)(b));
- terminating the tenancy June 30, 2022, unless the rental arrears are paid in full and the rent for June is paid on time (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondents from the rental premises July 1, 2022, if the termination of the tenancy becomes effective (p. 63(4)(a), ss. 83(2)).

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Adelle Guigon  
Rental Officer