

IN THE MATTER between **SDM(HBY)**, Applicant, and **MH**, 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:

SDM(HBY)

Applicant/Landlord

-and-

MH

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: June 6, 2022

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing:

Date of Decision: June 6, 2022

REASONS FOR DECISION

An application to a rental officer made by SDM(HBY) as the Applicant/Landlord against MH as the Respondent/Tenant was filed by the Rental Office April 25, 2022. 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 May 16, 2022.

The Applicant applied to terminate the tenancy under section 59 of the *Residential Tenancies Act* (the Act) explaining that they wished to change the use of the rental premises to that of a form of transitional housing for homeless and at-risk youth. An order was sought for termination of the tenancy and eviction.

This application was considered based on written submissions to ensure the issue was dealt with as informally and expeditiously as the circumstances and the considerations of fairness permitted. The Applicant was served with the filed application and notices of hearing by written submission on April 29, 2022. The Applicant forwarded the Respondent's copy of the filed application and notice by registered mail sent April 29th. Canada Post acknowledged a processing error re-routing the registered mail on May 3rd. The Respondent did not claim the package despite receiving notice from Canada Post that the package was available on May 9th. The Respondent was deemed served with the filed application and notice of hearing by written submission on May 16th, pursuant to subsection 71(5) of the Act.

The Applicant had been granted 10 business days from the date they were served with the filed application package to forward any additional written submissions they wished to make. No additional submissions were received from the Applicant.

The Respondent had been granted 10 business days from the date they were served with the filed application package to forward any written submissions they wished to make, or to contact the Rental Office to request an oral hearing. No written submissions or requests for an oral hearing were received from the Respondent.

Tenancy agreement

On October 16, 2021, the Respondent was notified by the Applicant that they had purchased the residential complex and that they intended to provide the housing to young persons experiencing housing insecurity. The Respondent had been resident in the rental premises for some time, but the parties entered into a new written tenancy agreement on October 31, 2021, for a fixed-term from November 1, 2021, to January 31, 2022. The tenancy automatically renewed as a month-to-month tenancy on February 1, 2022, pursuant to subsection 49(1) of the Act. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Change of use

Subparagraph 59(1)(a)(ii) of the Act provides for a landlord to apply to a rental officer to terminate a tenancy if the landlord requires possession of the rental premises for the purposes of changing the use of the rental premises to a use other than that of a rental premises.

Rental premises is defined as a living accommodation used or intended for use as a rental premises.

Paragraph 6(2)(e) of the Act specifies that living accommodations established to temporarily shelter persons in need are exempt from the Act, and therefore such accommodations are not rental premises. Further, the Supreme Court of the Northwest Territories recently made a finding that the broad interpretation of exempted living accommodations would include those provided as transitional housing.

Given the Applicant's stated intent to change the use of the residential complex from providing rental premises to providing transitional housing for homeless and at-risk youth, and given that this type of service to youth is one of the Applicant's primary mandates, I am satisfied that the Landlord in good faith requires possession of the rental premises for the stated purpose.

Termination of the tenancy and eviction

Subparagraph 59(1.1)(a)(i) of the Act provides that the earliest the Rental Officer can order the termination of a month-to-month tenancy in this situation is for the last day of a month that is no earlier than 90 days after the application to a rental officer is made. As previously mentioned, this tenancy automatically renewed as a month-to-month tenancy on February 1, 2022. The application was filed April 25, 2022. Ninety days from filing date is July 24, 2022. Being satisfied that this application was made in good faith, I am satisfied termination of the tenancy and eviction are justified.

Orders

An order will issue:

- terminating the tenancy July 31, 2022 (sp. 59(1)(a)(ii)); and
- evicting the Respondent from the rental premises August 1, 2022 (p. 63(4)(a)).

Adelle Guigon
Rental Officer