

IN THE MATTER between **NTHC**, Applicant, and **MM**, 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, regarding a
rental premises located within the **town of Norman Wells in the Northwest Territories**;

BETWEEN:

NTHC

Applicant/Landlord

-and-

MM

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	August 23, 2022
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	LW, representing the Applicant CP, representing the Respondent
<u>Date of Decision:</u>	August 23, 2022

REASONS FOR DECISION

An application to a rental officer made by NWAHA on behalf of the NTHC as the Applicant/Landlord against MM as the Respondent/Tenant was filed by the Rental Office June 14, 2022. The application was made regarding a residential tenancy agreement for a rental premises located in Norman Wells, Northwest Territories. The filed application was served on the Respondent by registered mail, signed for July 4, 2022.

The Applicant alleged the Respondent had repeatedly failed to pay rent, had accumulated rental arrears, had failed to maintain the electricity account to the rental premises, and had accumulated utilities arrears. An order was sought for payment of rental arrears and payment of utilities arrears.

A hearing was held August 23, 2022, by three-way teleconference. LW and CP appeared representing the Applicant. MM was served with notice of the hearing by registered mail, signed for July 4, 2022. The Respondent did not appear at the hearing, nor did anyone appear on the Respondent's behalf. The hearing proceeded in the Respondent's absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

Evidence was presented establishing a residential tenancy agreement between the parties for market rental housing commencing April 1, 2020. The Respondent vacated the rental premises, ending the tenancy effective March 15, 2022. I am satisfied a valid tenancy agreement was in place in accordance with the Act.

Bankruptcy filing

Evidence was presented confirming that the Respondent had filed for bankruptcy on October 25, 2021. The Applicant had filed a claim against the bankruptcy for a total amount of \$15,974.09 representing rental arrears accumulated as of October 25, 2021, and utilities arrears for April 2020 to June 2021. As required by the *Bankruptcy and Insolvency Act*, those amounts claimed against the bankruptcy filing cannot be considered under the *Residential Tenancies Act* until the bankruptcy is discharged or otherwise concluded. As such, the considerations under this application to a rental officer will only be for rental arrears and utilities arrears that have accumulated since October 25, 2021.

Rental arrears

The lease balance statement entered into evidence represents the Landlord's accounting of monthly rent and payments received against the Respondent's rent account. Rent was established at \$1,445 per month.

The Respondent had been transferred from one rental premises to another on December 10, 2021, resulting in the Landlord prorating the rent for the days spent in each premises for the month of December. The prorated amounts were incorrectly calculated, resulting in an over charge of \$47.23 for December's rent. The lease balance statement was adjusted by deducting that amount from the balance.

The Respondent had arranged for payments to be made twice per month by automatic withdrawal from her bank account. The withdrawal for March 4, 2022, was reversed by the bank due to insufficient funds (NSF). Paragraph A(1)(b) of the written tenancy agreement specifies that the Tenant agrees to an administrative charge of \$10 for each NSF cheque. The lease balance statement includes an NSF charge of \$10 for the March 4th NSF withdrawal reversal. I am satisfied the administrative charge is a reasonable additional obligation as provided for under subsection 45(1) of the Act.

The last successful payment against the rent account was recorded February 18, 2022, in the amount of \$810.

I am satisfied the adjusted lease balance statement accurately reflects the current status of the Respondent's rent account. I find the Respondent has failed to pay the prorated rent for March 2022, has failed to pay the NSF charge, and has accumulated rental arrears, including the NSF charge, since October 25, 2021, in the total amount of \$721.

Utilities arrears

Paragraph A(2)(b) of the written tenancy agreement sets out the Tenant's responsibility for maintaining the electricity account to the rental premises. The Applicant provided evidence establishing that the Tenant has never successfully transferred the electricity account into her own name, resulting in all electricity bills for the rental premises since the start of the Respondent's tenancy going to the NWA. The NTHC has been paying the electricity bills for the rental premises and then invoicing the NWA for the accumulated arrears, who in turn has invoiced the Respondent.

The most recent invoice from the NTHC was issued May 25, 2022, for a total amount of \$5,639.54 including GST. The NWHHA issued an invoice to the Respondent on the same day, May 25th, for that amount. At the hearing, the Northwest Territories Power Corporation bills were requested in order to verify that the amount claimed was correct and had not inadvertently charged the GST twice. Those bills were provided and reviewed after the hearing and verified that the bills for July 2021 to February 2022 were correctly calculated, including the prorated calculation for December respecting the transfer between rental premises.

The bill for March 2022 appears to have been prorated differently than the December bills, based on an energy usage of 264 kWh rather than on the number of days occupied. There was no evidence provided to substantiate how 264 kWh was measured as being used between March 1st and 15th. To ensure the prorated calculations were being applied consistently, I recalculated the portion of the March 2022 bill to determine the Respondent's liability for the period that she occupied the premises with simple division: $(\$239.15 / 31 \text{ days}) \times 15 \text{ days} = \115.72 .

I am satisfied the Respondent is responsible for the electricity usage from July 1, 2021, to March 15, 2022. I am satisfied the amount invoiced May 25, 2022, after adjusting the prorated amount for March 2022, accurately reflects the utilities arrears accumulated since October 25, 2022. I find the Respondent liable to the Applicant for utilities arrears in the total amount of \$5,575.44.

Orders

An order will issue:

- requiring the Respondent to pay rental arrears accumulated since October 25, 2021, in the amount of \$721 (p. 41(4)(a)); and
- requiring the Respondent to pay utilities arrears accumulated since October 25, 2021, in the amount of \$5,575.44 (p. 45(4)(d)).

Adelle Guigon
Rental Officer