

IN THE MATTER between **NF**, Applicant, and **DK**, 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, regarding a rental premises located within the **city of Yellowknife in the Northwest Territories**.

BETWEEN:

NF

Applicant/Landlord

-and-

DK

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: September 7, 2022

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: RP, JK and DO(by telephone), representing the Applicant
DK, the Respondent

Date of Decision: September 7, 2022

REASONS FOR DECISION

An application to a rental officer made by NF as the Applicant/Landlord against DK as the Respondent/Tenant was filed by the Rental Office June 24, 2022. 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 Respondent July 12, 2022.

The Applicant claimed the Respondent had failed to pay rent when due and had accumulated rental arrears. An order was sought for payment of arrears owing, termination of the tenancy agreement, and eviction. The Applicant later amended the application, claiming the Respondent was also responsible for disturbances.

A hearing was held September 14, 2022 in person. RP, JK and DO appeared representing the Applicant. The Respondent, DK, also attended.

Tenancy Agreement

Evidence was provided establishing a tenancy agreement between NCHYPLP (now known as NF) and DK commencing on July 12, 2021 and continuing month to month. At the time of the hearing, the monthly rent was \$1,384. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

An updated statement, dated September 13, 2022, was provided to the Rental Office and the Respondent by email on September 13, 2022. The Respondent was also provided a copy of this statement at the hearing. The statement represents the Landlord's accounting of monthly rents and payments made against the Respondent's account.

According to the updated statement, since the commencement of their tenancy in July 2021 they did not pay any rent in September, November and December 2021 or in March, May, June, July, August or September 2022 - nine months. Their last payment was in April for \$1,600 and they have not paid anything since. Their rental arrears owing, including late payment penalties charged according to the Act, currently total \$10,328.

At the hearing, the Respondent did not dispute the claims by the Applicant about the rental arrears, but stated that they were an alcoholic and had been attacked/injured in the winter and summer and couldn't work and pay the rent. They had sought financial help earlier in the year to pay some of the rent. They were still recovering and could hardly lift a pot, but would seek work later in the month. They also stated that they had been affected by COVID because they didn't believe in it and wouldn't get a vaccination, which also limited their work opportunities.

Disturbances

Under subsection 43(1) of the Act “A tenant shall not disturb the landlord’s or other tenants’ possession or enjoyment of the rental premises or residential complex.” Under 43(2) of the Act, “A disturbance caused by a person permitted by a tenant to enter the residential complex or the rental premises of the tenant is deemed to be a disturbance cause by the tenant.”

According to the evidence and testimony of the Applicant’s representative responsible for security at the residential complex, there have been numerous disturbances since May 2022 caused by the Respondent or their guests involving loud music and partying, yelling, and fighting. As a result of these and other disturbances in the building, the security staff have increased their patrols of the building. The alleged disturbances by the Respondent have been witnessed by security staff or have been brought to the attention of the Landlord by other tenants in the building. They report the Respondent is often intoxicated, verbally aggressive, and intimidating to other tenants.

At the hearing, the Applicant’s representative also testified that in discussions with the RCMP about the building, they were told that between June and September 1, 2022 the RCMP had been called to the Respondent’s apartment 14 times. They admitted that although these may be as a result of disturbances that information is not available.

The evidence also includes many complaints from a neighbour about disturbances by the Respondent. In my view, although these complaints may be founded, the complainant is not a tenant and as such these disturbances, unless substantiated by the Applicant’s staff or complaints from other tenants, do not constitute a breach under the Act.

At the hearing, the Respondent did not deny the allegations about the disturbances, they repeated that they are an alcoholic, and they don’t have a lot of control over their friends. They reported that they are not the only tenant causing disturbances in the building.

I pointed out, at the hearing, that under the Act the Respondent is responsible for disturbances by them or their guests.

Termination of the tenancy agreement and eviction

Based on the evidence and testimony at the hearing, I am satisfied that the Respondent has repeatedly breached their obligation under subsection 41(1) of the Act to pay their rent when due and has made little effort to address their arrears. On that basis alone, termination of the tenancy agreement and eviction would be justified.

Additionally, although many of the complaints about disturbances are from a neighbour who is not a tenant, I believe based on the evidence and testimony of the Applicant and Respondent, that other tenants and the landlord have also been repeatedly disturbed by the Respondent and their guests in breach of their obligation under subsection 43(1) and 43(2), and termination of the tenancy agreement and eviction for this reason is also justified.

At the hearing, the Applicant asked that the termination and eviction be effective immediately. Considering the date of the hearing, I did not think that would be reasonable and will order the termination at the end of the month.

Orders

An order will issue:

- requiring the Respondent to pay rental arrears in the amount of \$10,328 (p. 41(4)(a));
- terminating the tenancy agreement on September 30, 2022 (p. 41(4) and 43(3)(d)); and
- evicting the Respondent from the rental premises on October 1, 2022 (p. 63(4)(a)).

Janice Laycock
Rental Officer