

IN THE MATTER between **NTHC**, Applicant, and **CD**, 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 **hamlet of Tulita in the Northwest Territories**.

BETWEEN:

NTHC

Applicant/Landlord

-and-

CD

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	November 9, 2022
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	DW, representing the Applicant
<u>Date of Decision:</u>	November 22, 2022

REASONS FOR DECISION

An application to a rental officer made by THA on behalf of the NTHC as the Applicant/Landlord against CD as the Respondent/Tenant was filed by the Rental Office September 27, 2022. The application was made regarding a residential tenancy agreement for a rental premises located in Tulita, Northwest Territories. The filed application was personally served on the Respondent on November 1, 2022.

The Applicant alleged the Respondent had failed to pay utilities as required under the tenancy agreement and was responsible for repair of tenant damages. An order was sought to pay expenses related to repair of damages, to compensate the landlord for cost of utilities paid, as well as termination of the tenancy agreement and eviction.

A hearing was held November 9, 2022, by teleconference. DW appeared representing the Applicant. The Respondent did not appear nor did anyone appear on their behalf. As the Respondent failed to appear after receiving sufficient notice, the hearing proceeded in their absence as provided for under subsection 80(2) of the *Residential Tenancies Act* (the Act).

At the hearing, I reserved my decision and as provided for under section 82 of the Act, requested further information to support the Applicant's claim:

- for expenses to repair tenant damages and cleaning - copy of the entry and exit inspection reports for unit #74 and a copy of Work Order #352985; and
- for compensation for utilities - invoices for September and October 2022.

This information as well as proof of service on the Respondent was provided to the Rental Office on November 10, 2022. The Respondent was provided until November 21, 2022, to respond to this additional information; no response was received.

Previous orders

Previous Rental Officer Order file #15714 issued November 14, 2017 required the Respondent to pay rental arrears \$1,220.12, pay rent on time in the future, termination of the tenancy agreement January 31, 2018 unless rental arrears paid and rent paid when due for November, December 2018 and January 2019, and eviction February 1, 2019 if tenancy is terminated.

Previous Rental Officer Order file #20-13034 issued November 6, 2012 required the Respondent to pay rent arrears \$396, pay costs of cleaning \$413.99, termination of the tenancy agreement November 30, 2012, unless rent arrears, cleaning costs, and remainder of security deposit paid.

Tenancy agreement

Evidence was provided establishing a residential tenancy agreement for subsidized public housing commencing on March 27, 2012, and continuing month to month. Assessed rent was \$140 in June 2022, and is currently \$70 per month. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Tenant damages and cleaning

The Applicant claimed expenses totalling \$1,873.52, relating to cleaning and repair of damages to the Respondent's previous rental unit. The Respondent moved from unit #74 to #54 on January 14, 2022. This move was at the request of the Respondent.

The Applicant provided as evidence, photos of the damages/cleaning required, as well as invoices and work orders. I requested further information to support their claim and received a copy of the entry and exit inspection reports and work order #352985.

The Applicant claimed the following expenses for repair of damages and cleaning:

- \$952.92 - tenant damage charges - hauled garbage left in unit to dump, bring supplies, repair holes in walls - supported by inspection reports, photos, invoice #7711, Work Order #327524;
- \$437.60 - tenant damages and cleaning - tenant left unit unclean (13 hours by cleaners), replace a broken light fixture, and painting of porch floor - supported by inspection reports, photos, invoice 8118, Work Orders #351164 (cleaning), #351166 (cleaning) and #352985 (interior painting and repair damaged wall sconce); and
- \$483.00 - to clean up beverage containers that the Respondent had left. The Applicant testified that they provided many opportunities for the Respondent to take away the bags of beverage containers left in the yard. This fall they had to hire someone to clean up the bags of beverage containers as well as the containers that were now spread across the property, supported by a copy of the invoice from the contracted and the invoice #8221 to the Respondent.

Based on the evidence and testimony, I am satisfied the Respondent is responsible for the expenses related to repair of damages and cleaning claimed by the Applicant and these costs are reasonable. I find they are responsible for \$1,873.52 in expenses for repair of damages and cleaning of their former rental unit #74.

Breach of obligation - utilities

The Applicant testified and provided evidence of the Respondents continued breach of their obligation under section 8 of the written tenancy agreement, "*the tenant shall pay for all utilities provided to the Premises (including fuel oil, natural gas, wood, electricity, water, sewer services and garbage disposal).*"

According to the Applicant, when the Respondent moved out of unit 74 on January 14, 2022, they had arrears on their utility account with the NWT Power Corporation (NTPC) of \$159.10. Until they paid off these arrears, they were unable to get an account with NTPC, the utilities' account remained with the LHO, and the bills were paid by the NTHC.

This came to the attention of the LHO in August of 2022. The Applicant notified the Respondent by letter on August 26, 2022 that they were in breach of their tenancy agreement, warning them that if the account was not resolved (transferred to the Respondent) within 30 days, an application would be made to the Rental Office to terminate the tenancy agreement. The Applicant testified that, in addition to the written notice on August 26, 2022, they have repeatedly called the Respondent about this issue. The Respondent has not responded to their calls and they feel the Respondent is avoiding them.

At the hearing, the Applicant provided copies of the invoices from NTPC for January 14 to September 2022 and at my request provided NTPC invoices for October and November 2022. All of the utilities have been paid by the Landlord on behalf of the Respondent.

According to the NTPC invoices provided as evidence, the Applicant has paid the following amounts for utilities:

- \$266.79 - January (starting on January 14, 2022)
 - \$782.94 - February
 - \$692.74 - March
 - \$711.31 - April
 - \$666.74 - May
 - \$771.54 - June
 - \$966.16 - July
 - \$771.54 - August
 - \$485.73 - September
 - \$618.14 - October (billing date November 7, 2022)
- \$6,733.63**

Under subsection 45(1) of the Act, *"where in a written tenancy agreement a tenant has undertaken additional obligations, the tenant shall comply with the obligations under the tenancy agreement and with the rules of the landlord that are reasonable in all circumstances."* Under paragraph 45(4)(c) where on the application of a landlord a rental officer determines a tenant has breached their obligation the rental office can order the tenant to (a) comply with their obligation, (b) not breach their obligation again, (c) compensate the landlord for loss suffered as a direct result of the breach, and can also order (e) termination the tenancy.

In this situation, it is clear that the Respondent is in breach of their obligations under the tenancy agreement. They were responsible for paying off their utility arrears, transferring their account from unit #74 to #54 and then paying NTPC directly for their utilities. However, they did not do this, nor did they make any attempt to contact the Applicant, even after the written notice in August 2022.

Based on the evidence and testimony, I find the Respondent is responsible for compensating the landlord for the cost of utilities totalling \$6,733.63 and an order will issue for payment of these costs, to comply with their obligation under the tenancy agreement, and not to breach this obligation again.

With respect to the Applicant's request for termination of the tenancy agreement and eviction, although I am satisfied the Respondent has repeatedly breached their obligation under the Act and termination of the tenancy agreement and eviction are justified, I feel that the lack of earlier action by the Applicant contributed to the situation and the Respondent should be given a further opportunity to comply with their obligation.

I will issue an order for the termination of the tenancy agreement on March 31, 2023, unless the Respondent complies with their obligation to establish a utility account with NTPC and compensates the Applicant \$6,733.63 for previous utilities paid.

Orders

An order will issue:

- requiring the Respondent to pay expenses related to repair of tenant damages and cleaning totalling \$1,873.52 (p. 42(3)(e) and 45(4)(d));
- requiring the Respondent to comply with their obligation under section 8 of the written tenancy agreement to pay their utilities, to not breach this obligation again, and to compensate the Applicant for utilities previously paid in the amount of \$6,733.63 (p. 45(4)(a), 45(4)(b) and 45(4)(c));
- terminating the tenancy agreement on March 31, 2023, unless the Respondent complies with their obligation under section 8 of the written tenancy agreement and establishes an account with the Northwest Territories Power Corporation and compensates the Applicant \$6,733.63 utilities previously paid (p. 45(4)(e) and ss. 83(2)); and
- If the tenancy agreement between the parties is terminated in accordance with this order the Respondent is evicted from the rental premises on or after April 1, 2023 (p. 63(4) and 83(2)).

Janice Laycock
Rental Officer