

IN THE MATTER between **NTHC**, Applicant, and **DB and AL**, 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, regarding a rental premises located within the **town of Hay River in the Northwest Territories**;

BETWEEN:

NTHC

Applicant/Landlord

-and-

DB and AL

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	November 30, 2022
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	AS, representing the Applicant
<u>Date of Decision:</u>	November 30, 2022

REASONS FOR DECISION

An application to a rental officer made by HRHA on behalf of the NTHC as the Applicant/Landlord against DB and AL as the Respondents/Tenants was filed by the Rental Office October 19, 2022. The application was made regarding a residential tenancy agreement for a rental premises located in Hay River, Northwest Territories. The filed application was sent to the Respondents by registered mail, deemed served November 15, 2022, pursuant to subsection 71(5) of the *Residential Tenancies Act* (the Act).

The Applicant alleged the Respondents had committed an illegal act on the premises, had failed to comply with their obligation to maintain the utilities to the rental premises, had failed to maintain the ordinary cleanliness of the rental premises, had caused substantial damages to the rental premises, and had failed to comply with a rental officer order prohibiting the Respondents from causing further damages to the rental premises. The tenancy had been terminated by a notice given pursuant to subsection 51(5) of the Act. An order was sought for eviction of the Respondents from the rental premises.

A hearing was held November 30, 2022, by three-way teleconference. AS appeared representing the Applicant. DB and AL were sent notices of the hearing by registered mail, deemed served November 15, 2022. The Applicant's representative confirmed at the hearing that the Respondents had contacted the Applicant's office last week indicating their awareness of the scheduled hearing. The Respondents did not appear at the hearing, nor did anyone appear on the Respondents' behalf. The hearing proceeded in the Respondents' absence pursuant to subsection 80(2) of the Act.

Tenancy agreement

Evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing December 12, 2014. I am satisfied a valid tenancy agreement was in place in accordance with the Act.

Previous orders

Rental Officer Order #15510 was issued April 20, 2017, and required the Respondents to pay their future rent on time.

Rental Officer Order #15808 was issued January 9, 2018, and required the Respondents to pay rental arrears, to pay their future rent on time, to pay costs of repairs and cleaning, to cause no further damages to the rental premises, and ordered the conditional termination of the tenancy and eviction, dependent on the payment of the rental arrears in full and future rent being paid on time. Despite the Respondents' failure to comply with the terms of the conditional termination order, the Applicant did not enforce the termination and eviction orders, effectively reinstating the tenancy as of May 1, 2018.

Rental Officer Order #16449 was issued April 9, 2019, and required the Respondents to pay rental arrears, terminated the tenancy, ordered eviction, and ordered compensation for overholding rent. The Applicant did not enforce the termination and eviction orders, effectively reinstating the tenancy as of May 1, 2019.

Rental Officer Order #17514 was issued April 26, 2022, and required the Respondents to pay their future rent on time.

Rental Officer Order #17574 was issued July 14, 2022, and required the Respondents to comply with their obligation not to cause disturbances and not to breach that obligation again, and ordered conditional termination of the tenancy and eviction dependent on no further disturbances occurring.

Utilities and illegal activity

Subsection 45(1) of the Act requires the Tenants to comply with any additional obligations set out in a written tenancy agreement. Subsection 46(1) of the Act prohibits the tenant from committing an illegal act in the rental premises.

Section 8 of the written tenancy agreement sets out the Tenant's obligation to maintain the utilities' accounts to the rental premises, including electricity. Section 20 of the written tenancy agreement reiterates the prohibition from committing illegal activities in the rental premises and sets out such activity as being cause for termination of the tenancy.

On October 4, 2022, the Landlord's maintenance personnel attended the rental premises to conduct the annual unit inspection and discovered the premises was without electricity. The Landlord contacted the local electricity provider on October 5, 2022, and they confirmed that the Tenants' electricity to the rental premises had been disconnected on September 21, 2022, due to the Tenants' failure to pay the electricity bills.

On October 7, 2022, the Landlord was approached by the owner of the neighbouring premises who notified the Landlord that they had discovered the Tenants stealing electricity from their property. An extension cord had been plugged into the neighbouring premises' exterior power socket and extended into the Tenants' premises. Photographs were provided proving the claim. The owner confirmed that they had disconnected the extension cord and returned it to the Tenants, telling them not to steal electricity.

When confronted with this issue by the Landlord that same day, the Tenants admitted to stealing the electricity but claimed it was just for the one day and that they intended to get the electricity reconnected the following Monday. The Tenants did not do this. The Applicant provided supplementary evidence that the Tenants have continued to date to repeatedly plug extension cords into both of the neighbouring premises to get some electricity into the rental premises. The electricity account has also not been reconnected to date.

I find the Respondents have failed to comply with their obligation to maintain the electricity account to the rental premises. I find the Respondent has committed the illegal act of stealing electricity in the rental premises.

Damages

Subsection 42(1) of the Act holds the Tenants responsible for damages to the rental premises that are caused by the Tenants' wilful or negligent conduct, or that of persons permitted on the premises by the Tenants. Subsection 45(2) of the Act sets out the Tenants responsibility to maintain the ordinary cleanliness of the rental premises. Section 12 of the written tenancy agreement reiterates both of those obligations.

As previously mentioned, the Applicant's maintenance personnel attended the rental premises on October 4, 2022, to conduct the annual unit inspection. They discovered extensive damages and uncleanliness throughout the premises, took photographs, and notified the Applicant's representative.

The Applicant's maintenance personnel again attended the premises the afternoon of November 29th. The Tenants had changed the locks to one of the doors without notifying the Landlord, but the maintenance personnel were able to access the premises through the other door. The Tenants were not present, but the maintenance personnel discovered that the plumbing was completely frozen, rendering the premises uninhabitable. Otherwise, it appeared unchanged from the condition identified on October 4th.

I am satisfied the Tenants are responsible for the damages caused to the rental premises, including the damages resulting from the freeze-up. I find the Respondents have failed to comply with their obligation to maintain the ordinary cleanliness of the rental premises and have failed to comply with a rental officer order prohibiting them from causing further damages to the rental premises.

Termination of the tenancy and eviction

Due to the Tenants' illegal activity of stealing electricity and their having caused further substantial damages to the rental premises in contravention of Rental Officer Order #15808, on October 7, 2022, the Landlord served the Tenants with a termination notice ending the tenancy November 30, 2022, pursuant to subsection 51(5) of the Act.

Subsection 51(5) of the Act provides for the subsidized public housing landlord to terminate a month-to-month tenancy for the last day of a month by giving the Tenant at least 30 days' advance written notice. I am satisfied the termination notice given in this case is valid and justified and, therefore, I find that the tenancy has been terminated in accordance with the Act effective November 30, 2022.

Given the indications that the Respondents have not voluntarily vacated or given up possession of the rental premises, I am satisfied an eviction order is necessary. An order will issue evicting the Respondents from the rental premises December 1, 2022.

Adelle Guigon
Rental Officer