

IN THE MATTER between **TPML**, Applicant, and **RC**, 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 **community of Whati in the Northwest Territories**;

BETWEEN:

TPML

Applicant/Landlord

-and-

RC

Respondent/Tenant

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>	RM, representing the Applicant RC, the Respondent
<u>Date of Decision:</u>	January 10, 2023

REASONS FOR DECISION

An application to a rental officer made by TPML as the Applicant/Landlord against RC as the Respondent/Tenant was filed by the Rental Office September 2, 2022. The application was made regarding a residential tenancy agreement for a rental premises located in Whati, Northwest Territories. The filed application was served on the Respondent by email, deemed received September 17, 2022.

The Applicant alleged the Respondent had failed to vacate the rental premises upon termination of his employment and had failed to pay overholding rent and utilities. An order was sought for payment of overholding rental arrears and utilities arrears.

A hearing scheduled for October 26, 2022, was postponed at the request of, and peremptory on, the Respondent. The hearing was rescheduled and held November 30, 2022, by three-way teleconference. RM appeared representing the Applicant. RC appeared as the Respondent.

Tenancy agreement

Evidence was presented establishing a residential tenancy agreement provided as a benefit of employment for which occupancy began April 15, 2020. The rental premises was described as being a furnished 2-bedroom home, and the rent was established at the beginning of the tenancy at \$1,000 per month including utilities. The Applicant claimed that the rent was subsidized, but the provided terms of the tenancy agreement do not establish a market rent for the rental premises.

Evidence was presented establishing that the Respondent's employment was terminated as of May 17, 2022. In the notice of termination of employment, the Landlord acknowledged their obligation under subsections 56(2) and (3) of the *Residential Tenancies Act* (the Act) requiring the Tenant to vacate the rental premises within one week of the termination of his employment and requiring the Landlord not to charge rent for that one week period. The Landlord agreed to extend the rent-free period to one month, ending June 17, 2022, at which time the Tenant was expected to vacate the rental premises.

After a series of delays due to the Tenant's medical needs, the Tenant vacated the rental premises on or about September 15, 2022. I am satisfied a valid tenancy agreement was in place as a benefit of employment. I am satisfied that tenancy agreement was terminated May 17, 2022, when the Tenant's employment was terminated. I am satisfied the Tenant did not vacate the rental premises until on or about September 15, 2022.

Rental arrears and utilities

As previously mentioned, the initial tenancy agreement established the rent at \$1,000 per month including utilities. The parties agreed at the hearing that in February 2022 the rent was reduced to \$750 per month including utilities.

The Landlord claimed overholding rent calculated from May 27th to September 30th at a market rent rate of \$1,500 plus utilities, and provided utilities bills for that period. However, as previously mentioned, no evidence was provided to establish that the Tenant was provided with a subsidized rent for this tenancy. While the Tenant may be liable for overholding rent, the overholding rent would be at the rate charged under the tenancy agreement. In this case, that would be \$750 per month, including utilities. The Landlord's claim for utilities in addition to rental arrears is denied.

The Tenant disputed that they were liable for any overholding rent. He claimed that because the Landlord granted him one month rent free in writing and did not specifically mention or charge any overholding rent thereafter until the application to a rental officer was filed that the inference was that the Landlord's agreement not to charge rent extended throughout the overholding period.

The Landlord's offer of one month rent free was specific to the month from May 17th to June 17th, and the Landlord acknowledged the obligations in the circumstances as set out under section 56. Further to that, subsection 67(1) establishes that the Landlord "is entitled to compensation for a former tenant's use and occupation of the rental premises after the tenancy has been terminated."

Despite the Landlord's extension of the rent-free period provided for under subsection 56(3), the Tenant remains liable for overholding rent beyond that rent-free period as provided for under subsection 67(1). Although it may have been helpful, the Landlord was not obligated to notify the Tenant that he had to pay overholding rent because that obligation is set out in the Act. The Tenant has effectively reversed the necessary inference by suggesting that the Landlord's failure to notify him that he would be charged overholding rent after June 17th meant that he wasn't liable for overholding rent. The Landlord's notice clearly specifies that the rent-free period would only be extended to June 17th, and that the Tenant was expected to vacate by that date. The correct inference to make is that the Tenant would be liable for overholding rent for the period he remained in occupancy of the rental premises after June 17th. The reasons why the Tenant remained in occupancy have no bearing on the Tenant's obligation to pay rent.

The Tenant made some references to monies that were owed to him by the Landlord, but it appears from the written submissions they were to do with employment matters rather than anything to do with the tenancy itself.

I am satisfied the Tenant is liable for and has failed to pay overholding rent. Based on an overholding period of three months from June 17th to September 15th, I find the Tenant liable to the Landlord for overholding rent in the total amount of \$2,250.

Order

An order will issue requiring the Respondent to pay to the Applicant overholding rental arrears in the amount of \$2,250.

Adelle Guigon
Rental Officer