

IN THE MATTER between **N.T.H.C.**, Applicant, and **S.S.**, 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 **Hal Logsdon**, Rental Officer, regarding a rental premises located within the **city of Yellowknife in the Northwest Territories**.

BETWEEN:

N.T.H.C.

Applicant/Landlord

-and-

S.S.

Respondent/Tenant

REASONS FOR DECISION

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| <u>Date of the Hearing:</u> | January 10, 2023 |
| <u>Place of the Hearing:</u> | Yellowknife, NT via teleconference |
| <u>Appearances at Hearing:</u> | P.S., representing the Applicant |
| <u>Date of Decision:</u> | January 15. 2023 |

REASONS FOR DECISION

The tenancy agreement between the parties was monthly and commenced on September 5, 2018. The premises are subsidized public housing and are contained in a multi-unit residential complex.

The application was filed on November 23, 2022 and set for hearing on January 10, 2023. The Respondent was sent a notice of attendance on November 29, 2022 but failed to appear at the hearing. In my opinion, it is not unreasonable to deem the notice served. The hearing was held in the absence of the Respondent.

The Applicant alleged that the Respondent had breached the tenancy agreement by failing to pay rent, disturbing other tenants in the residential complex, failing to pay for electricity, permitting unauthorized persons to occupy the premises and carrying on an illegal activity on the premises. The Applicant sought an order requiring the Respondent to pay the alleged rent arrears, terminating the tenancy agreement, and eviction.

Rent Arrears

The Applicant provided a statement of the rent account in evidence that indicated a balance of rent owing as at October 1, 2022 in the amount of \$835. The Applicant testified that since that date, the rent for November (\$160), December (\$160) and January (\$160) had come due and no rent had been received, bringing the balance of rent owing to \$1,315. Notices regarding rent arrears were served on the Respondent in October and August 2022 and a notice of termination regarding rent was served on November 9, 2022.

I find the rent statement in order and find the Respondent in breach of their obligation to pay the lawful rent. I find current rent arrears of \$1,315.

Disturbance

A previous order (file #16971, filed on July 17, 2020) ordered the Respondent to comply with their obligation to not disturb other tenants and terminated the tenancy agreement on October 31, 2020 unless the Respondent paid repair costs and refrained from any further disturbance. The Applicant testified that two complaints had been received on February 22 and 23, 2022 regarding the Respondent's brother slamming doors and constant traffic to and from the premises. Both complaints allege drug dealing. On May 18, 2022, the Respondent signed an agreement to not create any more disturbances in order to "avoid further consequences". The Applicant testified that constant partying and drinking in the Respondent's premises was reported by a tenant in the residential complex on October 14, 2022.

I find the Respondent in breach of their obligation to not disturb other tenants in the residential complex and in breach of the previous order to not create any disturbance in the future.

Failure to Pay for Electricity

Article 8 of the tenancy agreement between the parties obligates the tenant to pay for utilities, including electricity, during the term of the agreement. The Applicant provided notices from the supplier of electricity in evidence which indicated that the electrical service had been cut off on September 22, 2021. Presumably the account arrears were paid and full service was restored sometime thereafter. However, load limiters were placed on the service on May 22 and again on October 22, 2022. The Applicant testified that the service has not been fully restored and the load limiter remains in place.

Although the Applicant argued that the load limiter could affect fire and safety devices or the heating system, I doubt that is the case. However, the failure to pay for utilities is nevertheless a breach of the tenancy agreement and section 45 of the Act and could certainly lead to other hazards such as alternate methods of cooking or lighting. I find the Respondent in breach of her obligation to pay for electricity during the term of the tenancy.

Illegal Activities

The Applicant stated that the Respondent's premises were searched by the police on August 25, 2022 and a loaded handgun and crack cocaine were seized and a 22-year-old man arrested. A news article was provided in evidence. The Applicant testified the Respondent had told him that they did not know the man was in possession of the drugs and was a friend of her boyfriend. There was no evidence that the Respondent or the Respondent's boyfriend was arrested or charged.

To be in breach of section 46 of the Act, the Respondent would have to commit an illegal act or permit another person to commit an illegal act in the premises or residential complex. In my opinion, it is certainly possible that the Respondent did not know that the boyfriend's friend was in simple in possession of drugs or a weapon.

However it is, in my opinion, unlikely that the Respondent would not have known he was dealing drugs from the premises. Previous complaints from other tenants noted frequent traffic to and from the premises and suspicion of drug trafficking. It is, in my opinion, unlikely that the Respondent would not know that frequent visitors to the premises at various hours of the day and night for short periods of time suggested illegal activity. The Respondent's knowledge of an illegal act and their failure to curtail it, implies permission.

On the balance of probabilities, I find the Respondent permitted drugs to be sold from the premises in breach of section 46 of the Act although they may not have committed the illegal act themselves.

Unauthorized Occupants

Article 5 of the tenancy agreement requires all persons other than the tenant residing in the rental premises to be listed on Schedule B of the agreement. Any additional residents must be approved by the landlord and added to the schedule. The Applicant testified that on several occasions the Applicant had permitted persons from outside the Northwest Territories to stay in the premises. The Applicant stated that the Respondent's brother and sister had also stayed in the premises for periods of time. The Respondent's boyfriend resided in the premises but was added to Schedule B of the tenancy agreement with the approval of the landlord.

Schedule B does not prohibit the tenant from having house guests, persons who normally reside elsewhere, from staying in the premises for reasonable periods of time. There is no evidence to suggest that previous persons, other than the Respondent's boyfriend were residing at the premises. I find no evidence that the Respondent is currently in breach of article 5 of the tenancy agreement.

An order shall issue requiring the Respondent to pay the Applicant rent arrears in the amount of \$1,315. In my opinion, there are sufficient grounds to terminate this tenancy agreement and issue an eviction order. There has been no rent paid since June 2022 despite numerous notices. The Respondent was previously ordered to not disturb other tenants but has continued to create disturbances, drawing complaints from her neighbours. The Respondent has not paid for electricity, despite their obligation to do so and has permitted an illegal act to be committed in the rental premises. The discovery of a firearm, associated with the illegal activity, is particularly disturbing.

The order shall terminate the tenancy agreement on February 15, 2023 and an eviction order shall become effective on February 16, 2023.

Hal Logsdon
Rental Officer