

IN THE MATTER between **NTHC**, Applicant, and **CB and KT**, 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 **Janice Laycock**, Rental Officer, regarding a rental premises located within the **city of Yellowknife in the Northwest Territories**.

BETWEEN:

NTHC

Applicant/Landlord

-and-

CB and KT

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	January 11, 2023
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	PS, representing the Applicant
<u>Date of Decision:</u>	January 12, 2023

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of the NTHC as the Applicant/Landlord against CB and KT as the Respondents/Tenants was filed by the Rental Office December 9, 2022. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served on the Respondents by registered mail, deemed served on December 27, 2022. The Respondent, CB, was also served by email, deemed served on December 23, 2022.

The Applicant claimed the Respondents had failed to pay rent when due, and had accumulated significant rent arrears, that they were responsible for expenses related to repair of damages, had breached their obligations under the written tenancy agreement to pay utilities on time and to provide income information. An order was sought for payment of rental arrears owing, payment of costs associated with repair of the damages, as well as termination of the tenancy agreement and eviction.

A hearing was held on January 11, 2023 by teleconference. PS appeared representing the Applicant. The Respondents did not appear, nor did anyone appear on their behalf. As the Respondents had been provided sufficient notice of the hearing, the hearing proceeded in their absence, as provided for under subsection 80(2) of the *Residential Tenancies Act* (the Act).

I reserved my decision at the hearing pending receipt by the Rental Office of a copy of the invoice to support the claim for tenant damages and to further consider the issues raised in the Application.

Tenancy agreement

Evidence was provided establishing a joint residential tenancy agreement for subsidized public housing commencing on January 15, 2021, and continuing month to month. The subsidized rent was \$890 up to June 2022, and is currently \$1,625 (full market rent).

At the hearing, the Applicant testified that CB had reported that she had attempted to get KT to contact the Landlord and remove his name from the tenancy agreement, however he had taken no steps to do so. The Applicant testified they could not enter into a new agreement with one Respondent alone without agreement from both of the joint tenants and the agreement continues as a joint tenancy.

I am satisfied a valid joint tenancy agreement is in place in accordance with the Act.

Rental arrears

The Applicant provided a lease balance statement printed on November 29, 2022. This statement represents the Landlord's accounting of monthly rents and payments made against the Respondents' account.

According to the statement, after having a credit on their account of \$975 on June 1, 2021 and repeatedly not paying their rent when due, the Respondents' had accrued rental arrears totalling \$11,050. At the hearing, the Applicant testified that no payments had been made since this statement was issued. When full market rent of \$1,625 for December 2022, and January 2023, is included, the total rental arrears owing by the Respondents are now \$14,300.

Tenant damages

The Applicant claimed \$115.50 for the cost to replace the lock to the entrance door at the request of the Tenant. At the hearing, I requested evidence to support this claim. After the hearing, the Applicant provided to the Rental Office, a copy of the invoice #125914 dated June 13, 2022, also provided to the Respondents.

Based on the evidence and testimony, I find the Respondents are responsible for repair of damages totalling \$115.50.

Breach of obligations - provide household income

Subsection 45(1) of the Act states "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 section 6 of the written tenancy agreement signed by the parties and provided as evidence, the Respondents are responsible for providing "an accurate report of the Tenant's income, the income of all other authorized occupants of the Premises ... at such times and in such forms as may be specified by the Landlord from time to time". Under Section 7 of the written tenancy agreement, the Respondents may be eligible for a rent subsidy if they comply with their obligations under section 6. Each year, based on the household income information the rent subsidy is calculated by the Landlord for the upcoming year, starting in July.

Despite notices from the Applicant to the Respondents, income information was not provided by either of the Respondents, and they were charged full market rent of \$1,625 starting July 1, 2022.

At the hearing, the Applicant testified the Respondent, CB, had contacted them by email on December 5, 2022, committing to provide their income information, but had not yet done this. Attempts to contact the other Respondent have been unsuccessful.

Based on the evidence and testimony, I find the Respondents have breached their obligations under subsection 45(1) of the Act and section 6 of the written tenancy agreement.

Breach of obligation - utilities

Under section 8 of the written tenancy agreement signed by the parties, the “tenant shall pay for all utilities provided to the Premises”. In this case, the Respondents are responsible for paying their power. The Applicant provided as evidence repeated notices from the provider, Northland Utilities, power would be shut off for non-payment. The notices are dated November 30, 2021; February 16, 2022; June 14, 2022; and November 24, 2022. The Applicant testified that not only are these a breach of the Respondent’s obligations under the Act and tenancy agreement, they also pose a risk to the building because devices such as smoke detectors do not work when the power is shut down.

Based on the evidence and testimony, I find the Respondents have repeatedly breached their obligations under subsection 45(1) of the Act and section 6 of the tenancy agreement.

Termination of the tenancy agreement and eviction

As a landlord of subsidized public housing, under subsection 51(5) of the Act the Applicant may terminate a tenancy “on the last day of a period of the tenancy by giving the tenant a notice of termination not later than 30 days before that day”.

In this case, according to the evidence, on November 22, 2022, the Applicant gave the Respondents notice of termination of at least 10 days as provided for in paragraph 54(1)(g) of the Act. As required under subsection 54(4) of the Act, they then made an application to a rental office for an order to terminate the tenancy agreement claiming the significant rental arrears owing (paragraph 41(4)(c)), breaches of their obligations under the written tenancy agreement (paragraph 45(4)(c)), and outstanding tenant damages (paragraph 42(3)(f)), as justification for termination of the tenancy agreement and eviction.

At the hearing, the Applicant testified they were willing to consider a conditional termination if the Respondents paid off their arrears in full in the amount of \$14,300, complied with their obligations to provide income information and pay their utilities, and paid the amount owing of \$115.50 for repair of tenant damages.

Based on the evidence and testimony at the hearing, I am satisfied that termination of the tenancy agreement at the end of January 2023, is justified. Both Respondents have repeatedly not paid their rent when due despite numerous notices and a last chance agreement signed and dated June 6, 2022. They are also both in breach of their obligations under the written tenancy agreement to provide income information and pay their utilities, and have not paid the expenses related to repair of damages (lock change) charged in June 2022. However, I am not convinced that an order for eviction is justified at this time.

Orders

An order will issue:

- requiring the Respondents to pay rental arrears in the amount of \$14,300 (p. 41(4)(a));
- requiring the Respondents to pay expenses related to repair of damages in the amount of \$115.50 (42(3)(e));
- terminating the tenancy agreement on January 31, 2023 (p. 41(4)(c), p. 42(3)(f) and p. 45(4)(e)).

Janice Laycock
Rental Officer