

IN THE MATTER between **HNT**, Applicant, and **TS**, 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 **community of Behchoko, in the Northwest Territories.**

BETWEEN:

HNT

Applicant/Landlord

-and-

TS

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 4, 2023
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	TM, representing the Applicant LE, representing the Applicant
<u>Date of Decision:</u>	October 4, 2023

REASONS FOR DECISION

An application to a rental officer made by BKGK on behalf of HNT as the Applicant/Landlord against TS as the Respondent/Tenant was filed by the Rental Office June 13, 2023. The application was made regarding a residential tenancy agreement for a rental premises located in Behchoko, Northwest Territories. The filed application was personally served on the Respondent on June 22, 2023.

The Applicant claimed the Respondent had repeatedly not paid their rent and had accumulated significant rental arrears. An order was sought for payment of rental arrears and to pay all future rent on time, as well as for termination of the tenancy agreement, eviction, and compensation for use and occupation after termination of the tenancy agreement.

A hearing was scheduled for August 9, 2023, but was rescheduled at the request of the Applicant. A hearing was held on October 4, 2023, by three-way teleconference. LE and TM appeared representing the Applicant. The Respondent did not appear, nor did anyone appear on their behalf. As the Respondent had been provided sufficient notice of the hearing by registered mail on August 21, 2023, the hearing proceeded in their absence as provided for under subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The Applicant provided as evidence a written tenancy agreement between the parties for subsidized public housing. This agreement commenced on May 6, 2016, and continues month to month. The subsidized rent is currently \$345 per month. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Rental arrears

The Applicant provided as evidence an updated lease balance statement with charges and payments made up to October 1, 2023. This statement represents the Landlord's accounting of monthly rent charged and payments made against the account during this tenancy. According to the statement the Respondent has paid no rent since May 2021 and the balance owing for rent is currently \$30,646.

At the hearing the Applicant testified and provided evidence that the Respondent was charged full market rent of \$1,545 for the rental period from July 2022 to June 2023, as they had not provided household income information for the 2021 tax year, despite repeated notices to do so. Further, the Respondent had not provided all of the information required for the rental period from July 2023 to June 2024, resulting in the current rent assessment.

The Respondent had claimed their spouse was no longer living with them, but had not provided the documents repeatedly requested by the Applicant to confirm the Respondent's claim. The Applicant testified they were willing to re-assess the rent if the Respondent provided the required documentation, and this should result in a reduction in the assessed rent and rental arrears.

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 the Respondent agreed to provide an accurate report of the income for the household, and "the names, ages and gender of all persons who occupy the Premises at such times and in such forms as may be specified by the Landlord from time to time". If they do so, the Respondent is eligible for a rent subsidy under section 7 of the written tenancy agreement.

I am satisfied, based on the evidence and testimony, that the Respondent has breached subsection 41(1) of the Act to pay rent when due and currently has rental arrears totalling \$30,646. I am further satisfied that the Respondent has breached subsection 45(1) of the Act requiring them to comply with the obligations under section 6 of the written tenancy agreement.

Termination of tenancy agreement and eviction

According to the lease balance statement provided as evidence, the Respondent has repeatedly not paid their rent when due and has accumulated significant arrears. This is despite repeated notices from the Applicant. The Respondent has had rental arrears owing since November 26, 2018, and they have not paid any rent since May 28, 2021, which is a breach of their obligation to pay rent when due under subsection 41(1) of the Act. The Respondent has also breached their obligation under subsection 45(1) of the Act and section 6 of the written tenancy agreement to provide household income information.

Based on the evidence and testimony, I am satisfied that termination of the tenancy agreement and eviction are justified. However, at the hearing the Applicant testified that they were willing to give the Respondent another opportunity to provide the required information, so that rent could be re-assessed, but expected that rent would be paid when due, that at least \$100 would be paid towards the rental arrears in October, November, and December 2023 and January 2024, and the requested household income information was provided.

Accordingly, the termination of the tenancy agreement will be conditional. If the Respondent can provide their household income information for the rental period from July 2023 to June 2024, pays at least \$400 towards their rental arrears, and pays the rent when due for November and December 2023 and January 2024, their tenancy will continue. If they do not comply with these conditions, their tenancy agreement will be terminated on January 31, 2024, and eviction will follow on February 1, 2024.

The conditional order requires income information as requested for the July 2023 to June 2024 rental period. However, I encourage the Respondent to comply with their obligation to provide household income information for the rental period from July 2022 to June 2023, as well. The Applicant has made it clear that they are willing to consider a re-assessment of rent for this period if they receive the requested information.

Compensation for use and occupancy after termination of the tenancy agreement

I believe as the termination of the tenancy agreement is conditional, that an order for compensation for use and occupancy is not appropriate at this time. If the Respondent does not comply with the conditions of the order and the tenancy is terminated, the Applicant may return with an application for compensation for use and occupation.

Orders

An order will issue:

- requiring the Respondent to pay rental arrears in the amount of \$30,646 (p. 41(4)(a));
- requiring the Respondent to pay their rent on time in the future (p. 41(4)(b));
- requiring the Respondent to comply with their obligation to provide household income information as required and not to breach this obligation again (p. 45(4)(a), p. 45(4)(b));

- terminating the tenancy agreement on January 31, 2024, unless at least \$400 is paid towards the rental arrears, the rents for November and December 2023 and January 2024 are paid when due, and the Respondent complies with their obligation to provide required household income information for the rental period from July 2023 to June 2024 (p. 41(4)(c), p. 45(4)(e), ss. 83(2)); and
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