

IN THE MATTER between **HNT**, Applicant, and **CF**, 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-

CF

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 RO, representing the Applicant CF, the Respondent
<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 CF 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 the rental arrears and to pay all future rent on time, as well as for termination of the tenancy agreement and eviction.

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, TM, and RO appeared representing the Applicant. The Respondent, CF, appeared at the hearing.

Tenancy agreement

The Applicant provided as evidence a written tenancy agreement between the parties for subsidized public housing. This agreement commenced on May 20, 2014, and continues month to month. The rent is currently assessed at the full market rent of \$1,545 per month. Prior to July 2023, the subsidized rent was assessed at \$580 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 Tenant's rent account during this tenancy. According to the statement the Respondent has only made one payment for \$100 since October 2022, and the balance owing for rent is currently \$17,793.79.

At the hearing the Applicant testified and provided evidence that the Respondent was charged full market rent of \$1,545 for the rental period beginning July 2023 because they had not provided household income information for the 2022 tax year, despite repeated notices to do so. 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 owing.

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. If they do so they are eligible for a rent subsidy under section 7 of the written tenancy agreement.

At the hearing the Respondent testified that they were not paying rent because of the condition of the rental unit. They claimed that it was old, there was mould in the unit, and there were issues with the wiring that made it unsafe. He said he had raised these issues with the landlord and nothing had been done.

The Applicant testified that they take any issues with mould very seriously and respond to maintenance issues raised by tenants. The Respondent was previously in rental unit 611D but was moved in February 2023 because of maintenance issues (the ceiling in the bathroom was falling in). In the current unit when the Respondent raised issues with the wiring maintenance staff were sent in and the issue was resolved.

Under subsection 68(2) of the Act, at a hearing to terminate a tenancy a rental officer may permit a tenant to raise any issue that could be the subject of an application under the Act and if appropriate make an order on that issue. Based on the evidence provided at the hearing I do not think it is appropriate to make an order. The Applicant testified that they had responded to the Respondents concerns and no evidence was provided by the Respondent to support their claims.

The Respondent also testified that they were struggling to pay their rent, had family issues, and were looking for work. They agreed to provide income information and to start making payments on their rent and arrears.

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 \$17,793.79. I am also satisfied that the Respondent has breached subsection 45(1) of the Act requiring them to comply with their 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 in breach of subsection 41(1) of the Act and has accumulated significant arrears. This is despite repeated notices from the Applicant.

The Respondent has had rental arrears owing throughout their tenancy. In the period from March 2021 to August 2022 they did not pay any rent, and in the last fifteen months have only made three payments totalling \$500 with none of those payments for their full rent. They have also breached their obligation under subsection 45(1) of the Act and section 6 of the tenancy agreement to provide household income information and are currently not eligible for a subsidy.

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 income information for 2022 so that rent could be re-assessed. However, they expected the rent to be paid when due, at least \$100 to be paid towards the rental arrears in October, November, and December 2023, and January 2024, and the household income information for 2022 to be provided. The Respondent agreed to comply with these conditions.

Accordingly, the termination of the tenancy agreement will be conditional. If the Respondent can provide their household income information for 2022, pays at least \$400 towards their rental arrears, and pays the rent when due for November and December 2023 and January 2024, then 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.

Orders

An order will issue:

- requiring the Respondent to pay rental arrears owing in the amount of \$17,793.79 (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 and not to breach that 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 household income information for the 2022 tax year is provided (p. 41(4)(c), p. 45(4)(e), ss. 83(2)); and
- evicting the Respondent from the rental premises on February 1, 2024, if the tenancy is terminated (p. 63(4)(a), ss. 83(2)).

Janice Laycock
Rental Officer

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

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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. If they do so they are eligible for a rent subsidy under section 7 of the written tenancy agreement.

At the hearing the Respondent testified that they were not paying rent because of the condition of the rental unit. They claimed that it was old, there was mould in the unit, and there were issues with the wiring that made it unsafe. He said he had raised these issues with the landlord and nothing had been done.

The Applicant testified that they take any issues with mould very seriously and respond to maintenance issues raised by tenants. The Respondent was previously in rental unit 611D but was moved in February 2023 because of maintenance issues (the ceiling in the bathroom was falling in). In the current unit when the Respondent raised issues with the wiring maintenance staff were sent in and the issue was resolved.

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The Respondent also testified that they were struggling to pay their rent, had family issues, and were looking for work. They agreed to provide income information and to start making payments on their rent and arrears.

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 \$17,793.79. I am also satisfied that the Respondent has breached subsection 45(1) of the Act requiring them to comply with their obligations under section 6 of the written tenancy agreement.

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<u>Appearances at Hearing:</u>	TM, representing the Applicant LE, representing the Applicant RO, representing the Applicant CF, the Respondent
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