

IN THE MATTER between **VS**, Applicant, and **KJ and VE**, 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 **Adelle Guigon**, Rental Officer, regarding a rental premises located within the **city of Yellowknife in the Northwest Territories**;

BETWEEN:

VS

Applicant/Landlord

-and-

KJ and VE

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: **October 3, 2023**

Place of the Hearing: **Yellowknife, Northwest Territories**

Appearances at Hearing: **VS, the Applicant/Landlord**
 TD, Agent for the Applicant/Landlord

Date of Decision: **October 3, 2023**

REASONS FOR DECISION

An application to a rental officer made by VS as the Applicant/Landlord against KJ and VE as the Respondents/Tenants was filed by the Rental Office June 20, 2023. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was sent to the Respondents by emails deemed received and served July 7, 2023, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The Applicant alleged the Respondents had repeatedly failed to pay rent, had accumulated rental arrears, had left the rental premises in an unclean condition, had failed to return all issued keys at the end of the tenancy, and had failed to comply with the condo corporation by-laws. An order was sought for payment of the rental arrears, payment of cleaning costs, payment of costs to re-key the rental premises door locks, and payment of the fine resulting from the failure to comply with the condo corporation by-laws.

A hearing scheduled for September 12, 2023, was postponed due to the local wildfire evacuations. The hearing was re-scheduled and held October 3, 2023, by three-way teleconference. VS and TD appeared as the Landlord and the Agent for the Landlord, respectively. KJ and VE were sent notices of the re-scheduled hearing by emails deemed received and served September 23, 2023. The Respondents did not appear at the hearing, nor did anyone appear on their behalf. The hearing proceeded in the Respondents' absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

Evidence was presented establishing a residential tenancy agreement between the parties for a fixed-term from December 1, 2022, to November 30, 2023. The tenancy ended when the Respondents vacated the rental premises July 3, 2023. I am satisfied a valid tenancy agreement was in place in accordance with the Act.

Rental arrears

A rent ledger was entered into evidence representing the Landlord's accounting of monthly rent and payments received against the Respondents' rent account. The rent was established at \$2,300 per month. Only one payment was made against the rent account for \$2,300 received January 31, 2023.

At the hearing the Applicant confirmed that there had been no further payments received since the application was filed at the Rental Office. The Applicant further confirmed that they were able to re-rent the premises as of July 15th and consequently are seeking the pro-rated rent for July in the amount of \$1,150. Additionally, at the hearing the Applicant requested the calculation of late payment penalties against the unpaid rents.

The rent ledger was adjusted to account for the half-month's rent for July 2023. The Tenant is liable under section 41(2) for penalties against the late payment of rent. The late payment penalties to which the Landlord is entitled were calculated after the hearing and added to the rent ledger.

I am satisfied the adjusted rent ledger accurately reflects the current status of the Respondents' rent account. I find the Respondents have repeatedly failed to pay the rent when due. I find the Respondents have accumulated rental arrears in the amount of \$14,950 and that they are liable for late payment penalties in the amount of \$456. The Respondents have accumulated rental arrears in the total amount of \$15,406.

Lock re-keying

The Applicant provided an invoice from a locksmith for re-keying the apartment door locks in the amount of \$170. The Applicant testified that the Respondents had been issued two FOBs, two apartment keys, one laundry card, and one mail key at the beginning of the tenancy. They returned the two FOBs, the mail key, and one of the apartment keys. Given the uncertainty of the location of the outstanding apartment key and whether the Respondents had made any duplicates, particularly since there was very little if any communication between the parties on the matter, the Applicant felt it necessary for security reasons to re-key the apartment door lock.

I am satisfied the Respondents failed to comply with their obligation to return all the keys that were issued to them for the rental premises and that as such the resulting concerns for the security of the rental premises are reasonable. I am further satisfied that the costs claimed to re-key the apartment door lock is reasonable. I find the Respondents liable to the Applicant for the costs of re-keying the lock in the amount of \$170.

Cleaning

The Applicant provided the entry and exit inspection reports and photographs and video taken during the exit inspection report in support of their claims that the Respondents had failed to adequately clean the rental premises upon vacating. Despite repeated attempts to arrange a mutually convenient time for the Respondents to participate in the exit inspection, the Respondents did not attend at the July 3rd inspection.

The Applicant testified that the Respondents had failed to do any basic cleaning throughout the premises, and that the carpets were significantly unkempt and stained to the point that they were uncertain at that time whether they could be recovered. The subsequently viewed video did confirm that the floors had not been swept and mopped, the kitchen and bathroom cabinets, cupboards, and drawers had not been wiped down, the fridge had not been cleaned out, the oven had not been cleaned, the baseboards were not wiped down, the balcony had not been cleaned, and the carpets – particularly in the living room and one of the bedrooms – had not been vacuumed and did appear to have significant staining and dirty marks. The Applicant further testified that the much of the living room carpet staining seemed to be as a result of traffic in dirty footwear to the balcony. The staining in the bedroom carpet seemed like urine stains, but the Respondents did not have pets that the Applicant was aware of.

Two invoices were provided: one for the general cleaning throughout and the other specifically for the carpet cleaning. The general cleaning invoice of \$600 is detailed and appears reasonable for the size of the apartment and the amount of cleaning required. The carpet invoice of \$409.50 includes a note from the cleaner that the “carpets were filthy” and they had to go over the carpets three times.

I am satisfied that the Respondents failed to adequately clean the rental premises upon vacating, and that the level of uncleanliness to the carpets constitutes damages. I am satisfied the costs claimed to effectively clean the premises and carpets to an ordinary state of cleanliness are reasonable. I find the Respondents liable to the Applicant for the costs of cleaning in the total amount of \$1,009.50.

Additional obligations - condo corporation by-laws

Section 45(1) of the Act requires tenants to comply with additional obligations that are included in a written tenancy agreement.

Section 9 of the written tenancy agreement requires tenants to comply with the condo corporation by-laws.

The Applicant testified that she provided a copy of the by-laws to the Respondents at the same time that she provided a copy of the written tenancy agreement, along with the usual welcome package. The by-laws were provided and include provision under paragraph 4(a) that tenants must not use common property or common assets in a way that causes a nuisance or hazard to another person or is contrary to a purpose for which the common property is intended.

The Applicant testified that upon vacating the rental premises the Respondents had left large items next to but outside of the large community garbage bins on the condo corporation property. Failing to place any sort of garbage inside the bins is considered a contravention of the previously reference paragraph 4(a) of the by-laws. The Applicant testified that there is additional signage on the community bulletin board in the lobby of the residential complex reminding all occupants that their garbage must be placed inside the garbage bins.

As a result of the Respondents' failure to comply with paragraph 4(a) of the condo corporation by-laws with regard to the failure to use the garbage bins as intended, the condo corporation fined the Applicant \$200. The Applicant is claiming this fine as a loss suffered as a direct result of the Respondents' failure to comply with the condo corporation by-laws. I agree with this interpretation.

I am satisfied that the Respondents were made aware of their obligation to comply with the condo corporation by-laws, and that they were duly notified of the condo corporation by-laws. I am satisfied that by placing their large item garbage outside of the provided community garbage bins that the Respondents failed to comply with their obligations under the condo corporation by-laws. I am satisfied that as a result of the Respondents' breach the Applicant suffered a demonstrable monetary loss in the condo corporation's fine for failing to comply with the condo corporation by-laws. I find the Respondents liable to the Applicant for the \$200 fine.

Filing fee

The Applicant included in their claims a request for the \$100 application filing fee to be paid by the Respondents. This request was denied as there are no provisions in the Act or Regulations for the awarding of costs, and the filing fee is not a monetary loss suffered as a direct result of a breach. The filing fee is an administrative fee considered to be a cost of doing business as a landlord.

Orders

An order will issue:

- requiring the Respondents to pay rental arrears, including late payment penalties, in the amount of \$15,406 (p. 41(4)(a));
- requiring the Respondents to pay costs of repairs and cleaning in the total amount of \$1,179.50 (p. 42(3)(e), p. 45(4)(d)); and
- requiring the Respondents to compensate the Applicant for the condo corporation fine in the amount of \$200 (p. 45(4)(c)).

Adelle Guigon
Rental Officer

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Tenancy agreement

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As a result of the Respondents' failure to comply with paragraph 4(a) of the condo corporation by-laws with regard to the failure to use the garbage bins as intended, the condo corporation fined the Applicant \$200. The Applicant is claiming this fine as a loss suffered as a direct result of the Respondents' failure to comply with the condo corporation by-laws. I agree with this interpretation.

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Lock re-keying

The Applicant provided an invoice from a locksmith for re-keying the apartment door locks in the amount of \$170. The Applicant testified that the Respondents had been issued two FOBs, two apartment keys, one laundry card, and one mail key at the beginning of the tenancy. They returned the two FOBs, the mail key, and one of the apartment keys. Given the uncertainty of the location of the outstanding apartment key and whether the Respondents had made any duplicates, particularly since there was very little if any communication between the parties on the matter, the Applicant felt it necessary for security reasons to re-key the apartment door lock.

I am satisfied the Respondents failed to comply with their obligation to return all the keys that were issued to them for the rental premises and that as such the resulting concerns for the security of the rental premises are reasonable. I am further satisfied that the costs claimed to re-key the apartment door lock is reasonable. I find the Respondents liable to the Applicant for the costs of re-keying the lock in the amount of \$170.

Cleaning

The Applicant provided the entry and exit inspection reports and photographs and video taken during the exit inspection report in support of their claims that the Respondents had failed to adequately clean the rental premises upon vacating. Despite repeated attempts to arrange a mutually convenient time for the Respondents to participate in the exit inspection, the Respondents did not attend at the July 3rd inspection.

The Applicant testified that the Respondents had failed to do any basic cleaning throughout the premises, and that the carpets were significantly unkempt and stained to the point that they were uncertain at that time whether they could be recovered. The subsequently viewed video did confirm that the floors had not been swept and mopped, the kitchen and bathroom cabinets, cupboards, and drawers had not been wiped down, the fridge had not been cleaned out, the oven had not been cleaned, the baseboards were not wiped down, the balcony had not been cleaned, and the carpets – particularly in the living room and one of the bedrooms – had not been vacuumed and did appear to have significant staining and dirty marks. The Applicant further testified that the much of the living room carpet staining seemed to be as a result of traffic in dirty footwear to the balcony. The staining in the bedroom carpet seemed like urine stains, but the Respondents did not have pets that the Applicant was aware of.

Two invoices were provided: one for the general cleaning throughout and the other specifically for the carpet cleaning. The general cleaning invoice of \$600 is detailed and appears reasonable for the size of the apartment and the amount of cleaning required. The carpet invoice of \$409.50 includes a note from the cleaner that the “carpets were filthy” and they had to go over the carpets three times.

I am satisfied that the Respondents failed to adequately clean the rental premises upon vacating, and that the level of uncleanliness to the carpets constitutes damages. I am satisfied the costs claimed to effectively clean the premises and carpets to an ordinary state of cleanliness are reasonable. I find the Respondents liable to the Applicant for the costs of cleaning in the total amount of \$1,009.50.

Additional obligations - condo corporation by-laws

Section 45(1) of the Act requires tenants to comply with additional obligations that are included in a written tenancy agreement.

Section 9 of the written tenancy agreement requires tenants to comply with the condo corporation by-laws.

The Applicant testified that she provided a copy of the by-laws to the Respondents at the same time that she provided a copy of the written tenancy agreement, along with the usual welcome package. The by-laws were provided and include provision under paragraph 4(a) that tenants must not use common property or common assets in a way that causes a nuisance or hazard to another person or is contrary to a purpose for which the common property is intended.

The Applicant testified that upon vacating the rental premises the Respondents had left large items next to but outside of the large community garbage bins on the condo corporation property. Failing to place any sort of garbage inside the bins is considered a contravention of the previously reference paragraph 4(a) of the by-laws. The Applicant testified that there is additional signage on the community bulletin board in the lobby of the residential complex reminding all occupants that their garbage must be placed inside the garbage bins.

As a result of the Respondents' failure to comply with paragraph 4(a) of the condo corporation by-laws with regard to the failure to use the garbage bins as intended, the condo corporation fined the Applicant \$200. The Applicant is claiming this fine as a loss suffered as a direct result of the Respondents' failure to comply with the condo corporation by-laws. I agree with this interpretation.

I am satisfied that the Respondents were made aware of their obligation to comply with the condo corporation by-laws, and that they were duly notified of the condo corporation by-laws. I am satisfied that by placing their large item garbage outside of the provided community garbage bins that the Respondents failed to comply with their obligations under the condo corporation by-laws. I am satisfied that as a result of the Respondents' breach the Applicant suffered a demonstrable monetary loss in the condo corporation's fine for failing to comply with the condo corporation by-laws. I find the Respondents liable to the Applicant for the \$200 fine.

Filing fee

The Applicant included in their claims a request for the \$100 application filing fee to be paid by the Respondents. This request was denied as there are no provisions in the Act or Regulations for the awarding of costs, and the filing fee is not a monetary loss suffered as a direct result of a breach. The filing fee is an administrative fee considered to be a cost of doing business as a landlord.

Orders

An order will issue:

- requiring the Respondents to pay rental arrears, including late payment penalties, in the amount of \$15,406 (p. 41(4)(a));
- requiring the Respondents to pay costs of repairs and cleaning in the total amount of \$1,179.50 (p. 42(3)(e), p. 45(4)(d)); and
- requiring the Respondents to compensate the Applicant for the condo corporation fine in the amount of \$200 (p. 45(4)(c)).

Adelle Guigon
Rental Officer