

IN THE MATTER between **HNT**, Applicant, and **SW**, 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 **city of Yellowknife in the Northwest Territories**.

BETWEEN:

HNT

Applicant/Landlord

-and-

SW

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 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>	October 13, 2023

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of HNT as the Applicant/Landlord against SW as the Respondent/Tenant was filed by the Rental Office July 10, 2023. 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 Respondent by email deemed served July 28, 2023.

The Applicant claimed that at the end of their tenancy the Respondent had rental arrears and were responsible for costs of repairing damages and cleaning of the rental premises. An order was sought for payment of rental arrears and to pay costs for repairs and cleaning.

A hearing was scheduled for September 20, 2023, but was rescheduled at the request of the Applicant. A hearing was held October 11, 2023, by three-way teleconference. PS appeared representing the Applicant. The Respondent did not appear, nor did anyone appear on their behalf. 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 of further information to support the Applicant's claim for costs to repair damages.

Tenancy agreement

The Applicant provided as evidence a written tenancy agreement between the parties for subsidized public housing. This agreement commenced on August 8, 2019, and continued month-to-month until it was terminated on May 18, 2023, by notice to the tenant. Subsidized rent was \$80 per month.

The Applicant testified that the Respondent's tenancy was terminated because the Respondent had on a number of occasions attempted to sublet the rental premises and had left the rental premises for extended periods of time without notifying the Landlord, in breach of their tenancy agreement .

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..."

Part 16 of the written tenancy agreement says "The tenant shall not assign this Agreement or Sublet the Premises, in whole or in part."

Part 18 of the written tenancy agreement requires the tenant to not leave the rental premises unoccupied without notice to the landlord.

According to the Applicant, after repeated warnings, when the Applicant visited the rental premises and again found the Respondent not currently living there and unauthorized persons occupying the rental premises in breach of the Act and their tenancy agreement, the Applicant gave the Respondent notice of termination and boarded up the rental premises to prevent further access by unauthorized persons.

Under subsection 51(5) of the Act, where there is a tenancy agreement for subsidized public housing, the Landlord may terminate the tenancy by notice alone. Paragraph 48(2) of the Act provides that “no landlord shall regain possession of a rental premises unless (a) the tenant has vacated or abandoned the rental premises.”

In this case I am satisfied the Respondent had vacated the rental premises without providing notice to the Landlord, and allowed unauthorized persons to occupy the rental premises in breach of the Act and their written tenancy agreement. I am satisfied a valid tenancy agreement was in place and was terminated in accordance with the Act.

Rental arrears

The Applicant provided as evidence an updated lease balance statement with charges and payments made up to October 5, 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, at the end of their tenancy the Respondent had rental arrears owing of \$126.

Based on the evidence provided I find rental arrears owing are \$126.

Tenant damages

The Applicant provided evidence and testified that the Respondent was responsible for costs of repairing damages and cleaning totalling \$14,975.44. The claim includes the following:

- \$300.30 - charge from April 1, 2023. At the hearing the Applicant testified this charge was for an after hours lock out. I asked for documentation to support this claim. After the hearing on October 11, 2023, the Applicant provided Invoice #129353 and Work Order #370983 to support this claim.

- \$137.45 - charge from May 9, 2023. At the hearing the Applicant testified this charge was to board up the unit after unauthorized people were found to be occupying the rental premises. I asked for documentation to support this claim. After the hearing on October 11, 2023, the Applicant provided Invoice #130006 and Work Order #375600 to support this claim.
- \$11,771.88 Total Approved - Move out inspection total claimed \$14,024.13 - evidence provided included photos, entry and exit inspection reports, and an estimate of costs prepared by the maintenance staff and dated June 16, 2023:
 - ✓ \$1,960.06 - remove items left by tenant to dump - copy of invoice from Best Movers.
 - ✓ \$450 - full unit cleaning
 - ✓ **\$5,416.04 approved**
 - claimed \$7,216.04 - full unit painting - Applicant provided evidence and testified at hearing that multiple coats of paint were required because of the dark colours that the Respondent had painted the unit. At the hearing I asked for further information, such as when the unit was last painted and to confirm the 10 year maintenance schedule. I required this information to determine what, if any, depreciation could be applied against this cost. The Applicant provided information to the Rental Office on October 11, 2023, confirming the 10 year schedule for painting and that the unit had last been painted in November 2018. Based on previous estimates received from the Applicant, typically the cost to paint a two-bedroom unit would be about \$3,000. In this case the unit is a three-bedroom so the cost would be higher, I estimate around \$4,000, and would be scheduled for regular painting again in 2028: $\$4,000 / 10 \text{ years} = \400 per year . As the unit was painted 5.5 years before it was due to be painted under the maintenance schedule the Respondent is responsible for those costs totalling \$2,200 ($5.5 \text{ years} \times \$400 = \$2,200$) and they are also responsible for the difference between the regular cost (\$4,000) and the estimated cost of \$3,216.04 ($\$7,216.04 - \$4,000$).
I find the total owed by the Respondent for painting the unit is \$5,416.04.
 - ✓ \$990 - replace baseboard removed.
 - ✓ \$142 - front entry - to replace weather stripping and receptacle.
 - ✓ \$100 - hallway - to replace smoke detector.
 - ✓ \$132 - living room - install trim on door frame.
 - ✓ \$325 - Kitchen - reinstall cabinet door, remove wall paper on counter top, rehang window screen and replace sink stopper.

✓ \$0 - \$150 - repair water damage below sink - supported by photographs and inspection report. At the hearing I asked the Applicant if this damage was a maintenance issue. They testified that the Respondent had not reported any issue and speculated that their actions had caused the damages. Based on the photographs it appears that there may have been a leak in the plumbing that contributed to the water damage to the shelf in the cabinet. I am not convinced that the Respondent was responsible for this damage. **I deny this claim.**

✓ \$66 - Bathroom - reinstall towel rod.

✓ \$370 - Master Bedroom - rehang door, install trim on walls/ door/window, replace receptacle covers and repair corner bead on one wall.

✓ \$132 - Bedroom #2 - repair hole behind door, install screen.

✓ \$109 - Bedroom #3 - rehang window screen, replace receptacle cover, repair hole behind door.

\$10,192.10	Subtotal
1,019.21	10% admin
<u>560.57</u>	5% GST
<u>\$11,771.88</u>	TOTAL

- \$513.56 - To move items in storage and abandoned by Respondents to dump - inventory of abandoned property was filed with the Rental Office, file number 2023-06.

TOTAL \$12,723.19

I am satisfied the amounts as revised are reasonable and supported by the evidence and testimony. I find the Respondent is responsible for costs of repairing damages and cleaning totalling \$12,723.19.

Security deposit

According to the statement dated June 22, 2023, and provided as evidence by the Applicant, the security deposit with interest earned is \$1,626.47. When the rental arrears totalling \$126 are deducted, the Respondent has no rental arrears owing, and there is a further \$1,500.47 that can be applied against the costs for repairs and cleaning, bringing the total owing for repairs and cleaning to \$11,222.72.

Orders

An order will issue requiring the Respondent to pay costs for repairs and cleaning totalling \$11,222.72 (p. 42(3)(e), p. 45(4)(d)).

Janice Laycock
Rental Officer