

IN THE MATTER between **HNT**, Applicant, and **HS and RC**, 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 **community of Lutselk'e in the Northwest Territories**;

BETWEEN:

**HNT**

Applicant/Landlord

-and-

**HS and RC**

Respondents/Tenants

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>October 31, 2023</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>MRC, representing the Applicant MD, representing the Applicant HS, the Respondent</b>
<b><u>Date of Decision:</u></b>	<b>October 31, 2023</b>

### **REASONS FOR DECISION**

An application to a rental officer made by LKHA on behalf of HNT as the Applicant/Landlord against HS and RC as the Respondents/Tenants was filed by the Rental Office October 2, 2023. The application was made regarding a residential tenancy agreement for a rental premises located in Lutselk'e, Northwest Territories. The filed application was served on the Respondent HS by email deemed received October 23, 2023, pursuant to subsection 4(4) of the *Residential Tenancies Regulations*, and on the Respondent RC by personal service October 20, 2023.

The Applicant alleged the Respondents had repeatedly failed to pay rent, had accumulated rental arrears, and had failed to report household income as required. An order was sought for payment of the rental arrears, payment of future rent on time, termination of the tenancy, eviction, and compensation for overholding rent.

A hearing was held October 31, 2023, by three-way teleconference. MRC and MD appeared representing the Applicant. HS appeared as the Respondent. RC was personally served with notice of the hearing on October 20, 2023. RC did not appear at the hearing, nor did anyone appear on his behalf. The hearing proceeded in RC's absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

#### **Tenancy agreement**

Evidence was presented establishing a joint tenancy agreement between the parties for subsidized public housing commencing November 12, 2015. RC signed a statutory declaration September 6, 2023, indicating that he had moved out of the premises some time in September 2022, but the Applicants testified that he was observed accessing the premises from time to time this summer while HS was out of town. HS had left the community in June 2023 and only returned on or about October 27, 2023, and she had not yet signed a statutory declaration confirming RC's statement. As a result, a sole tenancy agreement with HS has not been entered into and the joint tenancy agreement with both HS and RC remains in effect. I am satisfied a valid joint tenancy agreement is in place in accordance with the Act.

### **Rental arrears and household income**

The lease balance statement entered into evidence represents the Landlord's accounting of monthly subsidized rents and payments received against the Respondents' rent account. All rents up to and including June 2023 were subsidized and last assessed at \$1,155. The rents for July to October 2023 do not appear on the lease balance statement, but the Applicant's representatives confirmed they would like to include the claim for those rents. They testified that all the rents since July 2023 have not been subsidized and are to be charged at the maximum monthly rent of \$1,445. The lease balance statement was amended accordingly. A payment was recently received on October 18, 2023, from the YWCA on behalf of HS for \$3,000. The last payment received against the rent account was recorded February 7, 2023, for \$100.

The unsubsidized rent of \$1,445 is being charged because the Respondent HS has not reported her household income as required under paragraph 6 of the written tenancy agreement. The subsidies are calculated based on the total household income for the previous calendar year as reported in the annual income tax filings. RC had filed his 2022 income tax return, but HS's has not been filed. HS testified that she had submitted her 2022 tax return to the CRA in the Spring of 2023, but her CRA profile became compromised after she left the community and impacted the processing of her return. She was unable to obtain the documents she needed to resolve the issue until she returned to Lutselk'e. Now she is just waiting for the Notice of Assessment to be completed by CRA.

HS questioned why the subsidized rent for the 2022-2023 period was as high as \$1,155 given she was not employed full-time during that period. She was reminded at the hearing that the assessment for the 2022-2023 period would have been calculated based on the total household income for the 2021 calendar year. Before any reassessments of the subsidies can be made by the Landlord, the Tenants must notify the Landlord that their household income has substantially changed and they must ask the Landlord to do the reassessment based on the new information. In this case, the Tenants did not notify the Landlord that the household income had substantially changed, and the Landlord was not formally notified that RC had moved out until a year later. The Landlords had no information from which to consider reassessing the Tenants' subsidized rent amount.

HS testified that now that she's back in the community she is working full time and start focussing on resolving her debt and moving forward with her life. She claimed she hasn't spoken with RC in a long time and does not know what his intentions are for sharing the debt created during their joint tenancy. HS indicated that she would be making arrangements for up to 25 percent of her bi-weekly paycheques to be automatically forwarded to the Landlord by her employer. She estimated that after tax deductions the bi-weekly payroll deduction should amount to approximately \$450.

Although there are no confirmed details on what HS's 2022 income was, the Applicant's representative confirmed that based on the estimate of HS's current income it is highly likely that the monthly subsidized rent will be assessed at less than the last fiscal year's amount of \$1,155. However, until the necessary documents are actually received for the Applicant to assess the current fiscal year's rent subsidy, the Respondents remain in breach of their obligation under paragraph 6 of the written tenancy agreement and the maximum monthly rent of \$1,445 will continue to be charged from July 2023 onwards. The Applicant's representative confirmed that upon receipt of the income information the rent subsidy would be reassessed retroactively and the lease balance statement amended accordingly.

I am satisfied the amended lease balance statement accurately reflects the current status of the Respondents' rent account. I am satisfied the Respondent HS has not reported her 2022 income. I find the Respondents have failed to comply with their obligation to report their household income as required under paragraph 6 of the written tenancy agreement, have repeatedly failed to pay the rent in full when due, and have accumulated rental arrears in the amount of \$15,512.24. That amount represents approximately 13 months' rent.

### **Termination of the tenancy and eviction**

In light of the Respondents' repeated failure to pay the rent and the substantial amount of rental arrears that have accumulated, I am satisfied termination of the tenancy agreement and eviction are justified. Given HS's commitment to make payments towards the rent account and with the Applicant's agreement, I am satisfied the termination and eviction orders should be conditional on the reporting of household income, making payments towards the rental arrears, and paying the monthly subsidized rent on time.

## Orders

An order will issue:

- requiring the Respondents to pay rental arrears in the amount of \$15,512.24 (p. 41(4)(a));
- requiring the Respondents to pay their rent on time in the future (p. 41(4)(b));
- requiring the Respondents to comply with their obligation to report the household income (p. 45(4)(a));
- terminating the tenancy January 31, 2024, unless the household income for 2022 is reported, at least \$600 is paid towards the rental arrears, and the monthly subsidized rents for November, December, and January are paid on time (p. 41(4)(c), p. 45(4)(e), ss. 83(2)); and
- eviction on February 1, 2024, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss. 83(2)).

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Adelle Guigon  
Rental Officer