

IN THE MATTER between **HNT**, Applicant, and **CM**, 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,

BETWEEN:

HNT

Applicant/Landlord

-and-

CM

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	January 10, 2024
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	AS, representing the Applicant
<u>Date of Decision:</u>	January 10, 2024

REASONS FOR DECISION

An application to a rental officer made by the HRHA on behalf of HNT as the Applicant/Landlord against CM as the Respondent/Tenant was filed by the Rental Office November 10, 2023. The application was made regarding a residential tenancy agreement for a rental premises located in K'atlodeeche First Nation, Northwest Territories. The filed application was served on the Respondent by registered mail on November 27, 2023.

The Applicant claimed that at the end of their tenancy the Respondent had rental arrears owing. An order was sought for payment of rental arrears.

A hearing was held on January 10, 2024, by three-way teleconference. AS 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, the hearing proceeded in their absence as provided for under subsection 80(2) of the *Residential Tenancies Act* (the Act).

Previous orders

- Rental Officer Order file #17558, NTHC v CM, was issued July 19, 2022. Required the Respondent to pay rental arrears accumulated since previous order file #17423 in the amount of \$225, pay rent on time, pay costs of repairs and call outs in the amount of \$1,457.36, prohibited from causing further damages, termination of the tenancy agreement on November 30, 2022, unless total arrears \$1,847.36 paid and rents for August to November 2022, paid on time, and eviction December 1, 2022 if tenancy terminated.
- Rental Officer Order file #17423, NTHC v CM, was issued December 17, 2021, requiring the Respondent to pay rental arrears \$265, pay rent on time in the future.
- Rental Officer Order file #16081, NTHC v CM, was issued July 4, 2018, requiring the Respondent to pay costs of repairs of damages \$397.50, prohibited from doing further damage, comply with obligation to pay utilities and not breach again, comply with obligation to not disturb landlord or tenants quiet enjoyment of the rental premises, comply with obligation to maintain ordinary cleanliness, termination of the tenancy agreement on September 30, 2018 unless outstanding repairs paid, no further damage, no further disturbances, no further breaches of obligation to pay utilities, Respondent has resumed residing in the rental premises by September 15, 2018. If the tenancy is terminated then eviction on October 1, 2018.

Tenancy agreement

The Applicant provided as evidence a written tenancy agreement between the parties for subsidized public housing. This agreement commenced on February 12, 2020, and continued month to month until the tenancy was terminated by the landlord on May 14, 2023, due to the evacuation of the community due to wildfires. Although the Respondent did not comply with the conditions of Rental Officer Order file #17558, the landlord did not enforce the termination of their tenancy on November 30, 2022.

The Applicant testified that a decision was made by the landlord to terminate all tenancy agreements in the community when the wildfire evacuation was ordered, and to enter into a new agreement when the tenants returned (June 19, 2023), in order to not charge rent to their tenants during this extended period away from the community.

At the hearing I raised questions about the authority under the Act for this termination, recognizing that the Act does give subsidized public housing landlord some flexibility. The Applicant testified that this was a decision of the landlord but had no further details.

After the hearing I considered further if the tenancy agreement for subsidized public housing had been terminated in accordance with the Act. Subsection 51(3) and 51(5) of the Act allows termination of a subsidized public housing tenancy with notice of 30 days. Under subsection 51(4) of the Act notice is not required for termination of a tenancy agreement for public housing that is for a term of 31 days or less. In this case the tenancy is for subsidized public housing which is renewed as a monthly tenancy, so notice of 30 days would be required.

Under subsection 54(1) of the Act, any landlord can reduce the notice to 10 days where there are extenuating circumstances, but this does not include an emergency evacuation. Under subsection 54(3), this period of notice can be reduced by an application to a rental officer, and under subsection 54(4) the landlord is required to make an application to a rental officer for an order to terminate the tenancy agreement.

After further consideration, I can see no authority under the Act for the landlord, even a subsidized public housing landlord, to terminate a tenancy due to an evacuation. And although the tenants left the community under the evacuation order, they did not give up possession of the rental premises, nor were they expected to. For these reasons it is my opinion that their tenancy agreement continued and was not terminated on May 14, 2023.

I am satisfied a valid tenancy agreement was in place. I find that this tenancy agreement was not terminated in accordance with the Act and as a result, continued.

Rental arrears

The Applicant provided as evidence a lease balance statement with charges and payments made up to July 21, 2023, and printed on January 8, 2024. This statement represents the Landlord's accounting of monthly rent charged up to the date of the evacuation May 14, 2023, and payments that have been made on that amount.

According to the lease balance statement, I am satisfied that the previously ordered amounts have been satisfied and the amount owing is for rent alone. The balance owing on May 14, 2023 was \$581.50, but after making payments of \$100 each in June and July 2023, the balance owing by the Respondent is \$318.50.

At the hearing the Applicant testified that no further payments had made been on the amount owing for this period of tenancy. I am satisfied based on the evidence and testimony that the Respondent has rental arrears owing for this period of their tenancy totalling \$318.50.

Orders

An order will issue requiring the Respondent to pay rental arrears owing in the amount of \$381.50 (p. 41(4)(a)).

Janice Laycock
Rental Officer