

IN THE MATTER between **HNT**, Applicant, and **PL and JI**, 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 **Janice Laycock**, Rental Officer,

BETWEEN:

HNT

Applicant/Landlord

-and-

PL and JI

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: March 13, 2024

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: MRC, representing the Applicant
JI, representing the Respondents

Date of Decision: March 15, 2024

REASONS FOR DECISION

An application to a rental officer made by LHA on behalf of HNT as the Applicant/Landlord against PL and JI as the Respondents/Tenants was filed by the Rental Office November 1, 2023. The application was made regarding a residential tenancy agreement for a rental premises located in Lutselk'e, Northwest Territories. The filed application was personally served on the Respondents on January 3, 2024.

The Applicant claimed the Respondents had repeatedly failed to pay rent and had accumulated rental arrears. An order was sought for payment of the rental arrears, payment of rent on time in the future, termination of the tenancy agreement, eviction and compensation for overholding rent.

A hearing was scheduled for December 14, 2023, but was cancelled because adequate proof of service of the documents on the Respondents was not provided. A hearing was held on March 13, 2024, by three-way teleconference. MRC appeared representing the Applicant. JI appeared representing the Respondents.

I reserved my decision at the hearing in order to calculate rent owing if subsidies were applied.

Tenancy agreement

Evidence was presented establishing a joint tenancy agreement between the parties for subsidized public housing commencing on July 15, 2020 and continuing month to month. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Previous orders

Prior to this tenancy the Respondents had previous orders related to rental arrears:

- Rental Officer Order #15353, NTHC v PL and JI, was issued February 9, 2017, requiring the Respondents to pay rental arrears of \$924.52, termination of the tenancy agreement on March 31, 2017, eviction April 1, 2017, and compensation for use and occupation at the rate of \$47.51 for each day they remain in the rental premises after termination of the tenancy.
- Rental Officer Order #10-14321, LHA v PL and JI, was issued December 1, 2014, requiring the Respondents to pay rental arrears of

- \$2,075, to pay rent on time in the future, termination of the tenancy agreement on February 28, 2015, unless the rents for December 2014, to February 2015 are paid on time and rental arrears paid in full.
- Rental Officer Order #10-12998, LHA v PL and JI, was issued October 2, 2012, requiring the Respondents to pay rental arrears of \$22,574, to pay rent on time in the future and comply with obligation to report household income.
- Rental Officer Order #10-10231, LHA v PL and JI, was issued July 19, 2008, requiring the Respondents to pay rental arrears \$1,564, to pay costs for repairs totalling \$106, and pay future rent on time.

Rental arrears and income information

The lease balance statement provided as evidence is the Landlord's accounting of monthly rents and payments made against the Respondents rent account. The updated statement dated March 11, 2024, shows that all rents up to and including June 2023 were subsidized and last assessed at \$325 per month. The rents beginning in July 2023 are charged at full market rent of \$1,445.

The Applicant testified the unsubsidized rent of \$1,445 was charged because the Respondents did not provide household income for the previous calendar year as required under paragraph 6 of the written tenancy agreement. The subsidies are calculated based on total household incomes as reported in their tax filings.

The Respondent testified that they were not aware that income information needed to be provided every year. I pointed out that the Application included numerous notices about arrears including requests to provide income information for 2022. The Respondent claimed they had filed their taxes and had made an attempt to provide the information to the Landlord, but their office was not open. They also explained that their spouse was responsible for paying the rent and they paid utilities, and that they had no income and were reliant on any work they could get. They admitted they did not get along with the Applicant's representative but would work with them to get their rent re-assessed.

According to the lease balance statement, at the beginning of October 2022 the rental arrears owing were \$3,587.48, after that only two payments were made in the following eighteen months - one payment for \$150, in October 2022, and then another payment in January 2024 for \$995 - the balance owing was \$18,047.48.

The Respondent did not provide any reason for not paying regular rent during this period, other than her spouse was responsible for rent and they had no income. I pointed out that they were both tenants under the tenancy agreement and jointly responsible for the rent and that if they worked with the Applicant they could get their arrears reduced significantly.

The Applicant agreed that a re-assessment was possible and if the Respondents now had no employment, their rent would probably be reduced to \$70 starting in July 2023. Based on my calculations, if the subsidized rent of \$70 was charged for the nine-month period July 2023 to March 2024, the rental arrears now owing would be \$5,672.48.

Subsidized public housing is based on the principle of rent based on income. It is the responsibility of tenants to report their income in a timely manner so that affordable rent can be calculated and charged by the Landlord. In this case the Respondents have failed to report their income for 2022 and are in breach of their obligation under section 6 of the written tenancy agreement.

Without income information from the Respondents, the Landlord is unable to calculate the rental subsidy, and I believe justified in charging full market rent. However, the Respondent has, although reluctantly, promised to provide income information for 2022, to the Applicant and the Applicant has agreed to submit their rent for re-assessment. Rather than making an order for payment of rental arrears that may change significantly, or not making an order for payment of any arrears, I believe it is reasonable to order the Respondents to pay \$5,672.48 representing a portion of the arrears based on subsidized rent for the July 2023 to March 2024 period.

I recognize that if the Respondent does not comply with their promise to provide income information for 2022, the Applicant may return to the Rental Office with an application seeking the remainder of the rent owing.

Termination of the tenancy agreement and eviction

It is clear that the Respondents have not complied with previous orders or their obligations under the Act and tenancy agreement. They have repeatedly not paid their rent when due despite regular notices from the Applicant. No rent was paid during the months of November 2022 to December 2023, and although one payment was made in January 2024, no rent was paid in February or so far in March 2024. Despite repeated notices they have also not complied with the obligation to provide household income information. I believe that termination of the tenancy agreement and eviction is justified.

However, considering the promise (although given reluctantly) of the Respondent to provide income information, and with the agreement of the Applicant, the termination shall be conditional on the reporting of household income and paying at least \$5,672.48 on their rental arrears.

Compensation for overholding

The Applicant also sought compensation under subsection 67(4) of the Act for use and occupation of the rental premises after the tenancy has been terminated. As this termination is conditional, I denied this request, suggesting that the Applicant file a new application for compensation if required.

Orders

An order will issue:

- requiring the Respondents to pay rental arrears in the amount of \$5,672.48 (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 household income information (p.45(4)(a));
- terminating the tenancy agreement on June 30, 2024, unless the household income information is reported and at least \$5,672.48 is paid towards rental arrears (p. 45(4)(e), p. 41(4)(c), ss 83(2)) ;
- eviction on July 1, 2024, if the termination of the tenancy agreement becomes effective (p. 63(4)(a), ss 83(2)).

Janice Laycock
Rental Officer