

IN THE MATTER between **HNT**, Applicant, and **BS**, 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-

BS

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: April 10, 2024

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: MD and AS representing the Applicant

Date of Decision: April 10, 2024

REASONS FOR DECISION

An application to a rental officer made by LKHA on behalf of HNT as the Applicant/Landlord against BS as the Respondent/Tenant was filed by the Rental Office October 17, 2023. The application was made regarding a residential tenancy agreement for a rental premises located in Lutsel k'e, Northwest Territories. The filed application was deemed served on the Respondent by registered mail on November 16, 2023.

The Applicant claimed the Respondent had repeatedly failed to pay their rent when due and was responsible for outstanding costs to repair damages. An order was sought to pay rental arrears owing, to pay future rent on time, to pay costs for repair of tenant damages, termination of the tenancy agreement and eviction as well as compensation for occupation of the rental premises after termination of the agreement.

A hearing was scheduled for November 16, 2024, but was rescheduled to January 17, 2024, because of issues with service. A hearing was held on January 17, 2024 by three-way teleconference. MRC appeared representing the Applicant. The Respondent, BS, appeared.

This hearing was adjourned to allow the Applicant and the Respondent to provide further information. The Respondent had promised to make payments to address their arrears and had raised issues about the condition of the rental premises. Prior to resuming the hearing I asked the Respondent to provide evidence of the issues with the rental premises and the Applicant to provide an update on the status of the Respondents rental account.

The hearing resumed on April 10, 2024 by three-way teleconference. MD and AS appeared representing the Applicant. The Respondent did not appear nor did anyone appear on their behalf. As the Respondent had been provided notice of the hearing by registered mail deemed served on March 11, 2024, the hearing proceeded in their absence as provided for under subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The Applicant provided as evidence a written tenancy agreement between the parties for subsidized public housing, for the period January 9, 2020 to April 30, 2020 and then continuing month to month. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

The Applicant provided as evidence an updated lease balance statement dated April 8, 2024. This statement represents the Landlord's accounting of monthly rent charged and payments made against the rent account. According to the statement the assessed rent is currently \$1,155 per month and the balance owing is \$11,860.

I am satisfied the lease balance statement accurately reflects the status of the Respondents rental account and find they have rental arrears owing in the amount of \$11,860.

Tenant damages

The Applicant claimed costs totalling \$393.91, representing the outstanding amount owing for cost to repair damages to the exterior door. The invoice for \$928.91 and the work order were provided as evidence and included labour and materials to replace the exterior door including the dead bolt and two door knobs. At the hearing on January 17, 2024, the Respondent admitted that they were responsible for the damages to the door and accepted responsibility to pay the outstanding amount.

According to the updated lease balance statement dated April 8, 2024, after the hearing on January 17, 2024 the Respondent made one additional payment of \$45 against the tenant damages leaving a further \$348.91 owing.

Based on the evidence and testimony I find the Respondent responsible for costs to repair damages totalling \$348.91.

Termination and Eviction

When I adjourned the hearing on January 17, 2024, the Respondent had not paid any rent for 17 of the last 18 months and had outstanding rental arrears totalling \$9,550. At the hearing the Respondent promised to pay \$1,200 every two weeks on the rent and arrears, and the Applicant offered to work with them to have their rent re-assessed.

Since that time the Respondent made one payment of \$1,155 for January's rent, and has made no further payments on rent or arrears, bring their rental arrears to \$11,860. Also, according to the Applicant the Respondent has not responded to offers to work with them on a re-assessment of their rent.

According to the evidence and testimony the Respondent has repeatedly not paid their rent when due and I find them in breach of their obligation under the Act. Despite an opportunity to address their arrears they have not done so and continue to be in breach. I am satisfied that termination of the tenancy agreement and eviction are justified, and will order termination of the tenancy agreement on April 30, 2024, and eviction on May 15, 2024.

Tenant issues raised at hearing

Under subsection 68(2) of the Act, “at a hearing of an application to terminate a tenancy or evict a tenant, a rental officer may permit a tenant to raise any issue that could be the subject of an application under this Act, and the rental officer may, if he or she considers it appropriate in the circumstances, make an order on that issue”. At the hearing on January 17, 2024, the Respondent raised a number of issues about the condition of their rental premises - that there was mould and other issues with the condition of the rental premises that had been raised with the landlord but not addressed. I adjourned the hearing to allow the Respondent to provide evidence to support their claim.

After the hearing the Respondent sent a series of emails to the Rental Office and the Landlord concerning their claim:

- January 22, 2024 - “I never had any windows screens since I moved in”;
- January 23, 2024 - “The mold is in my bathroom around the tub that tub is about 30 years old and also mold under my kitchen sink and on the counters and the cubberts were not fixed.”
- January 23, 2024 - “Me and my kids live here”.

At the hearing on January 27, 2024, the Applicant testified that they had previously checked out the unit for mould. Prior to the hearing resuming in April, the Applicant provided a copy of a work order RM 409013 and photos detailing work that had been done to address the Respondents concerns including inspecting for mould, removing and replacing the caulking behind the kitchen sink, and re-enforcing the kitchen counter, adjusting the kitchen cabinet doors, and replacing silicone on the bathtub surround. The Applicant testified at the hearing that no mould was found.

Based on this evidence I am satisfied that the main issues raised by the Respondent at the hearing and in their emails have been addressed.

Compensation for use and occupation

According to paragraph 63(4)(b), a rental office who terminates a tenancy may make an order requiring the tenant to compensate the landlord calculated for each day the tenant remains in occupation. The Applicant has requested that compensation be paid if the Respondent remains in the rental premises after the tenancy is terminated on April 30, 2024.

Accordingly, an order will issue requiring the Respondent to pay compensation of \$37.97 for each day they occupy the rental premises after April 30, 2023, to a maximum of \$1,155 per month.

Orders

An order will issue:

- requiring the Respondent to pay rental arrears owing in the amount of \$11,860 (p. 41(4)(a));
- requiring the Respondent to pay costs for repair of damages in the amount of \$348.91 (42(3)(e));
- terminating the tenancy agreement on April 30, 2024, and the Respondent must vacate the rental premises on that date (41(4)(c));
- evicting the Respondent from the rental premises on or after May 15, 2024 (63(4)(a));
- requiring the Respondent to pay compensation for occupation of the rental premises after the tenancy is terminated at the rate of \$37.97 for each day they occupy the rental premises, to a maximum of \$1,155 per month (63(4)(b)).

Janice Laycock
Rental Officer