

IN THE MATTER between **NRR**, 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 **Jerry Vanhantsaeme**, Rental Officer, regarding a rental premises located within the **city of Yellowknife in the Northwest Territories**;

BETWEEN:

NRR

Applicant/Landlord

-and-

CM

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: July 24, 2024

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: CC, representing the Applicant
CM, representing the Respondent

Date of Decision: July 30, 2024

REASONS FOR DECISION

An application to a rental officer made by NRR/(FKA) NPR LP as the Applicant/Landlord against CM as the Respondent/Tenant was filed by the Rental Office May 17, 2024. 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 and deemed served on July 15, 2024.

The Applicant claimed the Respondents has failed to pay rent on time and in full resulting in the accumulation of rental arrears. An order was sought for payment of the rental arrears, termination of the tenancy agreement, and eviction.

A hearing was scheduled for July 24, 2024 in Yellowknife by three-way teleconference. CC appeared representing the Applicant. CM appeared representing the Respondent. Due to the severity of the claim, the hearing was adjourned *Sine Die* subject to the Applicant providing supporting documentation to the claim.

From this point forward the Applicant will be known as the Landlord and the Respondent as the Tenant.

Tenancy Agreement

Evidence was provided establishing a fixed term tenancy commencing October 1, 2019 to September 30, 2020. After which time the tenancy would become a month-to-month tenancy. The tenancy agreement was signed by both parties and dated October 6, 2019.

I am satisfied a valid tenancy agreement is in place in accordance with the *Act*.

During the review of the tenancy agreement, it was noted in paragraph 6 a clause for charging a pet fee in the amount of \$25.00 per month. This charge is in contravention of paragraph 14.1(1)(b), which states "A landlord shall not require or receive a pet security deposit from a tenant other than in the case of a tenancy other than a weekly tenancy, an amount equal to 50% of the rent for a period not exceeding one month."

During the hearing, the Landlord's representative testified the charge was put towards the security deposit, not as a monthly fee. Evidence was requested regarding this. More on this charge is noted in the rental arrears section of the Rental Officer Order.

Rental Arrears

The lease ledger entered into evidence represents the Landlords's accounting of the monthly assessed rents and payments made against the Respondent's rent account. The ledger indicates the Tenant's calculated rent was \$2,350.00 per month at the time of the application. The ledger also shows the August 18, 2023, as the last time the Tenant had a zero or positive balance on their rent.

The Landlord's representative testified the last time the Tenant had made a payment towards their rent was March 1, 2024, in the amount of \$2,350.00, leaving an arrears balance of \$5,416.78. The Representative also testified no other payments were made, and after a few months, an application was submitted to the Rental Officer. The representative also stated the Tenant's arrears have climbed to \$14,867.78. This claim was supported by an updated lease ledger submitted on July 23, 2024.

During the hearing, the Tenant acknowledged they were in arrears due to banking issues. They testified they were able to obtain trust money, and when they went to pay, the Landlord refused cash payment. They then redeposited this money into their bank account and the bank also took these funds. The Tenant also testified, she had taken her dogs to the vet, and lost one. The Tenant testified, they have funds coming but it is taking time, which could be up to 40 days.

When questioned by the Rental Officer, why the Landlord would not take cash, the representative stated they were not set-up to take cash but do accept money orders. The Rental Officer also questioned the Tenant as to why they did not go to other locations to arrange payments. The Tenant testified they did not go to other locations because they could only get money orders in lower amounts and charge so much per order and could not get to the post office in time.

A review of the ledger, the Rental Officer noted two areas of concern:

1. **Water invoice** - Charge for water in the amount of \$1,438.81 and an administration fee of \$215.82 for a total of **\$1,654.63** being charged against the Tenant's rent account. No proof of the charge or claim was included in the application. The Landlord's representative testified they could not obtain documentation from their accounts payable or the city of Yellowknife for this claim as part of the arrears and are fine with removing this from the claim. While this cost is denied as part of this application, the Applicant can make a separate application, should they be able to obtain evidence to support this claim.

2. **Monthly pet fee** - When questioned about the charges, the Landlord's representative acknowledged the charge was being done then stopped. The Rental Officer questioned why this occurred and it was not credited back to the rental account. The representative testified this was under the security deposit, half a month's rent was taken under the security deposit and the monthly pet fee on the tenancy agreement was put towards the remaining security deposit. The Rental Officer requested proof of this. An email and lease ledger from the start of the tenancy was provided, which stated the initial security deposit and pet deposit combined comes to \$2,235.00.

Understanding the Landlord arranged payment of the security deposit in smaller amounts can be beneficial to the Tenant. However, the processing of the payment as a fee on a lease ledger can indicate a charge that could be in contravention of the Act. Better recording of the charge would make it less likely to be questioned in the future.

I am satisfied the lease balance statement accurately reflects the current status of the Respondent's rent account and the historical pattern of behaviour throughout the tenancy. I find the Respondent has repeatedly failed to pay the rent in full when due and as of July 30, 2024, after removing water charge from the lease ledger balance, I find the Tenant has accumulated rental arrears in the amount of **\$13,213.15**.

Termination of the tenancy

In consideration of the Respondent's historical pattern of failing to pay rent on time and in full, I am satisfied the Landlord's request for termination of the tenancy and eviction is justified. This being said, as the Tenant had testified they have funds coming within the next forty days, the Landlord's representative agreed to a conditional termination of the tenancy agreement and eviction. A conditional termination and eviction order will be issued.

Order

- requiring the Respondent to pay rental arrears in the amount of \$13,213.15 (p.41(4)(a));
- requiring the Respondent to pay future rent on time (p.41(4)(b));
- terminating the tenancy on September 30, 2024 unless the rental arrears in the amount of \$13,213.15 are paid in full and the monthly rents for August and September are paid in full. (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondent on October 1, 2024, should the tenancy be terminated (p. 63(4)(a), ss. 83(2)).

Jerry Vanhantsaeme
Rental Officer