

IN THE MATTER between **HNT**, Applicant, and **AB**, 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 **self government of Whati in the Northwest Territories**;

BETWEEN:

HNT

Applicant/Landlord

-and-

AB

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: July 30, 2024

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: MD, representing the Applicant

KAF, representing the Applicant

JL, representing the Applicant

Date of Decision: July 30, 2024

REASONS FOR DECISION

An application to a rental officer made by HNT as the Applicant/Landlord against AB as the Respondent/Tenant was filed by the Rental Office May 27, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Whati, Northwest Territories. The filed application was personally served on the Respondent on May 29, 2024.

The Applicant claimed the Respondent has engaged in or allowed illegal activities on the rental premises, and has accumulated rental arrears. An order is sought for payment of the rental arrears, termination of the tenancy, eviction, and compensation for use and occupation of the rental premises.

A hear was scheduled for July 30, 2024, by three way teleconference. MD, PM for HNT's NSDO, KAF for WHA, and JL, PA for HNT's NSDO appeared representing the Applicant. The Respondent, AB, did not appear at the hearing, nor did anyone appear on the Respondent's behalf. The Respondent was personally served notice of the hearing on May 29, 2024. The hearing proceeded in the Respondent's absence pursuant to subsection 80(2) of the Residential Tenancies Act (the Act). Due to the severity of the application, the hearing was adjourned *Sine Die* to allow the Applicant to provide an up-to-date lease balance statement.

Tenancy Agreement

The Applicant provided, as evidence, two written tenancy agreement between the parties for subsidized public housing commencing July 24, 2019, and continuing month to month. The tenancy agreement printed on Dec 15, 2020 was signed and dated by both parties. The tenancy agreement printed on March 7, 2024 was signed by the Landlord's representative but not by the Respondent. A question was raised with regards to the agreements as they contained the same tenancy dates. The WHM testified the original tenancy was for a two-bedroom unit as indicated on Schedule A. The Respondent had requested to be transferred to a smaller one bedroom unit. This resulted in the signing of a new tenancy agreement.

At the time of the application, the subsidized rent was \$75.00. I am satisfied a valid tenancy agreement is in place in accordance with subsection 9(4) of the Act.

Rental Arrears

The lease balance statement entered into evidence represents the Landlord's accounting of the monthly assessed rents and payments received from the start of the tenancy on July 24, 2019. During the tenancy, the Respondent's rent varied based on the income subsidy received from the Landlord. The subsidized rent at the time of the application was calculated at \$75.00 per month. The last time the Respondents was in a zero or positive balance on their rent was October 30, 2019.

From June 2023 to May 2024, the Respondent had missed or failed to pay the rent in full or on time multiple times. The arrears balance at the application time was \$1,950.00.

During the hearing, the Rental Officer questioned the Applicant's representatives as to whether the arrears had decreased or increased. The HNT PM testified the Respondent's arrears had increased. To support testimony, an updated lease balance statement was provided and showed the Respondent failed to pay rent for a further two months and the arrears had increased to \$3,570.00 as July 30, 2024.

While the arrears are **\$3,570.00**, it should be noted the July rent charge was the maximum rent in accordance with the tenancy agreement. HNT calculates rent subsidy based on the reporting of income with Canada Revenue Agency. The likelihood of the Respondent's rent increasing from \$75.00 to \$1,545.00 is most likely due to non-reporting.

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 and when due.

Illegal Activities and Disturbances.

Subsection 46(1) of the Act prohibits tenants from committing an illegal act or carrying on an illegal trade, business or occupation or permit another person to do so, in the rental premises or in the residential complex. Paragraph 19 of the tenancy agreement also prohibits tenants from conducting or being involved with illegal or criminal activities in or around the unit or another person to do so as well and can be cause for the Landlord to terminate the tenancy.

According to the testimony of the Applicant, and supported by evidence, there have been activities occurring at the rental premises that have required RCMP to attend and complaints by other tenants. Entered into evidence is a chronological history of events:

- February 2, 2024 - RCMP attended the rental premises to remove two individuals engaged in illegal activities;
- April 26, 2024 - a report of two drug dealers fighting. Both of these individuals were placed on orders not to return to the community. The April 26, 2024 claim was supported by an email from the RCMP entered into evidence;
- May 1, 2024 - the Respondent's neighbours called to complain about continued traffic at the Respondent's residence during the day and odd hours of the night, negatively impacting other tenants peaceful enjoyment of their rental premises.
- May 2, 2024 - the arrest of an individual found in the unit in possession of drug paraphernalia and placed on conditions not to return to the community. The Housing NWT Programs Manager also testified the individual also threatened a person with a bat, prompting a call to the RCMP. This claim is also supported by the email from the RCMP; and
- May 14, 2024, neighbours of the Respondent contacted the Applicant complaining again of continuous traffic in and out of the unit.

The claims noted above are supported by two emails from the RCMP dated May 6, 2024 and a second email on June 25, 2024. The June 25, 2024 email entered into evidence also indicated the RCMP were recently required to attend the rental premises on May 25, 2024 for an assault, May 28, 2024, for a drug file, May 29, 2024, for a suspicious person and then again on May 30, 2024 for a disturbance.

The Rental Officer also questioned if the Respondent had been charged themselves. The WHM testified as far they know, the Respondent has not been charged but their guests had been found with illegal drugs and a firearm.

Section 43 of the Act requires tenants to not disturb the landlord's or other tenants' possession or enjoyment of the rental premises or residential complex. Although this application did not specifically site this section of the Act as a reason for termination and eviction, evidence and testimony provided by the Applicant with regards to illegal activities did in fact cause disturbances with traffic to the unit, threats, loud music and attendance by the RCMP. Based on the evidence and testimony of the Applicant, I am satisfied that in addition to illegal activity in the rental premises, the Respondent is also responsible for disturbances in breach of section 43 of the Act.

During the hearing, the Rental Officer questioned if there have been any new reports of illegal activities after June 25, 2024. The WHAM testified on July 28, 2024, they received calls regarding the Respondent breaking windows in an adjacent unit. The Respondent was also disturbing other tenants by throwing a metal step towards a window. The WHAM also testified RCMP attended the rental premises and took the Respondent into custody.

Other Concerns

During the hearing, the WHAM testified they had attended the rental premises with the RCMP. The WHAM testified the rental premises was in an unlivable state. The Respondent had damaged appliances, cabinetry, walls are damaged, wall leading to the mechanical room is damaged and all windows were covered with boards as the Respondent has broken all windows.

No claim for damages has been included in the application.

Termination of the tenancy and eviction

The Applicant also entered into evidence a July 12, 2023 last chance agreement signed by the Respondent with regards to the quiet enjoyment of other tenants and the Landlord. Testimony and evidence provided showed the Respondent has breached that obligation. Also, entered into evidence was a 10-day notice of termination dated April 30, 2024. This notice was related to activities that took place on February 2, 2024 and April 26, 2024.

In light of the Respondent knowledge or involvement of illegal activities being committed in the rental premises, repeated and unreasonable disturbances for which the Respondent is responsible, and the accumulation of rental arrears, I am satisfied that termination of the tenancy and eviction are justified.

Orders

An order will issue:

- requiring the Respondent to pay rental arrears in the amount of \$3,570.00 (p. 41(4)(a));
- termination of the tenancy August 15, 2024 (p. 41(4)(c), p. 43(3)(d), p. 46(2)(c));
- eviction of the Respondent from the rental premises August 16, 2024 (p. 63(4)(a)); and
- requiring the Respondent to pay compensation and use for the rental premises for each day after the tenancy has been terminated (p. 63(4)(b)).

Jerry Vanhantsaeme
Rental Officer