

IN THE MATTER between **HNT**, Applicant, and **KM**, 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 **Adelle Guigon**, Rental Officer, regarding a
rental premises located within the **town of Norman Wells in the Northwest Territories**;

BETWEEN:

HNT

Applicant/Landlord

-and-

KM

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: June 18, 2024

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: LW, representing the Applicant

Date of Decision: August 20, 2024

REASONS FOR DECISION

An application to a rental officer made by NWHHA on behalf of HNT as the Applicant/Landlord against KM as the Respondent/Tenant was filed by the Rental Office April 22, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Norman Wells, Northwest Territories. The filed application was served on the Respondent by registered mail signed for May 10, 2024.

The Applicant alleged the Respondent had repeatedly failed to pay rent when due, had accumulated rental arrears, had repeatedly caused damages to the rental premises, had failed to pay the costs of repairs in a timely manner, had repeatedly caused disturbances, and had repeatedly failed to maintain the ordinary cleanliness of the rental premises. An order was sought for payment of the rental arrears, payment of future rent on time, payment of costs for repairs, prohibition from causing further damages, compliance with the obligation not to cause disturbances and not to breach that obligation again, compliance with the obligation to maintain the ordinary cleanliness of the rental premises and not to breach that obligation again, termination of the tenancy, and eviction.

A hearing was held June 18, 2024, by three-way teleconference. LW appeared representing the Applicant. KM was served with notice of the hearing by registered mail signed for May 10, 2024. The Respondent did not appear at the hearing, nor did anyone appear on the Respondent's behalf. The hearing proceeded in the Respondent's absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

Evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing June 16, 2021. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

Rental arrears

Lease balance statements entered into evidence represent the Landlord's accounting of monthly rents and payments received against the Respondent's rent account since December 2022. All rents since that date have been subsidized and are currently assessed at \$80 per month.

The last payment received against the Respondent's rent account was recorded on May 30, 2024, in the amount of \$80. All rents have been paid in full and on time since at least January 2023, and in fact since that time the Respondent has made sufficient payments to result in a rent credit balance of \$372 as of June 17, 2024.

I am satisfied the lease balance statement accurately reflects the current status of the Respondent's rent account. I am not satisfied the Respondent has repeatedly failed to pay rent, nor am I satisfied the Respondent has accumulated rental arrears. The Applicant's request for orders to pay future rent on time and to pay rental arrears is denied.

Damages and uncleanliness

The Applicant provided reports, notes, and photographs from home visits and inspections conducted in October 2022 and March 2023 documenting observed damages to windows, walls, doors, and alarms, and the unreported use of the fire extinguisher with evidence of a cooking fire resulting in damages to the stove, range hood, and surrounding walls, cabinets, and roof. Also observed was an extensive amount of clutter, disarray, and uncleanliness to a degree blocking access through and in the premises to various areas, including the fire suppression devices and utilities. In addition to those interior issues, the yard was noted as having extensive amounts of vehicles, sleds, and other debris littered throughout the yard in such a manner as to interfere with access to the water, heating fuel, and sewage removal services.

In March 2023, the Tenant left the community to have a child (due to birthing services not being available in Norman Wells) and while she was away her family and Social Services approached the Landlord to inspect the premises. During that inspection, the Social Services officer committed to having the interior of the premises cleaned for the Tenant while she was away. The Applicant confirmed that Social Services did an extensive amount of work to clean the premises.

The Applicant claimed that the items in the yard technically belonged to the Respondent's spouse, who apparently resisted requests to clean up the yard and remove the items. In June 2023, the Applicant received notice from the Town of Norman Wells advising them that the condition of the Respondent's yard contravened the Town's yard cleanliness bylaw. Notice was sent to the Respondent requiring the yard clean up to be completed by June 23, 2023. The Respondent and/or her spouse did not comply and the yard remained in an unacceptable state of disarray. The Applicant testified that she had driven by the premises recently and noted that there was no observable change to the condition of the yard, in their opinion.

The Applicant confirmed that there have been no further formal inspections of the premises since March 2023 due to conflicts with the Respondent's spouse, who allegedly can be aggressive and violent. However, they testified that maintenance personnel did enter the premises to replace the front window earlier this Spring. The Applicant did not have any documentation immediately available to indicate what the maintenance personnel's observations were of the interior of the premises when they attended to replace the window, and opportunity was granted for the Applicant to make those inquiries.

The Applicant acknowledged that the last note on their file indicates the Respondent last contacted the Landlord in April 2024 inquiring about the window repairs. The Applicant again reiterated that the only indication that they have that nothing appears to have changed since last summer is the visual observation of the condition of the yard when they drove by the afternoon of the hearing. The Applicant's presumption was that if the yard had not changed, then it was unlikely the condition of the interior had changed.

While I can be satisfied the Respondent is responsible for causing damages to the premises, no evidence was provided to establish whether any of the identified damages were repaired and whether there are any additional damages caused to the premises.

And while I can be satisfied that the Respondent in the past has failed to maintain the ordinary cleanliness of the premises, the current status of the premises was not presented and had not been collected by the Applicant. The Applicant was granted an opportunity:

- to provide more information on the age of the damaged stove and range hood, including costs of replacing those items in the Spring of 2023;
- obtain feedback from the maintenance personnel who attended the premises in the Spring of 2024 on their observed condition of the interior; and,
- if possible, to conduct a supervised inspection of the premises to confirm the current condition.

On July 5, 2024, the Applicant provided me with:

- several photographs of the interior and exterior of the premises taken during an inspection on July 3rd; an invoice dated April 12, 2023, for the replacement costs of the stove and range hood;
- a work order completed March 31, 2023, for the replacement of the stove and range hood;
- a letter to the Respondent dated March 12, 2023, regarding the discovery of evidence of a fire in the rental premises and consequential damages; and
- a work order completed December 19, 2023, for the removal and temporary repair of the broken window.

Broken window

With respect to the references to the broken window, it was not clear in the evidence provided how many windows had been broken, when they were broken, how they were broken, and when they were repaired or which ones were repaired. Consequently, I am unable to determine what the Respondent is responsible for in this regard, nor am I satisfied what the actual costs being claimed for these repairs are.

Stove and range hood

The Applicant did provide their invoice for the costs of replacing the stove and range hood, and while it does seem more likely than not that the Respondent is responsible for the referenced damages to those appliances, I was not provided with their ages. As such, I am unable to determine depreciation for these items in order to assess the level of financial liability the Respondent is responsible for. Consequently, I am not prepared to order the Respondent to pay for costs of repairs that I cannot reasonably assess at this time. The Applicant may make a new application to a rental officer when they have sufficient evidence to establish this information.

Photographs

The new photographs that have been provided reasonably depict the current condition of the rental premises. Contrary to the presumption made previously by the Applicant, I am of the opinion that the Respondent has by-and-large been successful at maintaining the interior of the rental premises in a relatively reasonable state of ordinary cleanliness, particularly when compared to the condition the premises was at in March 2023. While there is some amount of clutter, the vast majority of the interior I would characterize as “lived in”. Given the history here, I find myself applauding the Respondent’s success in this regard.

Additionally, with respect to the yard, the new photographs do depict several motorized vehicles, sleds, with what appears to be assorted mechanical parts in them, oil drums, and play equipment, but they are neatly arranged along the perimeter of the gravel yard. There is a small pile of debris beside the house (including a mattress), but this too does not appear to be interfering with access to the house or its vital services. This represents a vast improvement from what was depicted last year.

As previously indicated, I am satisfied that there are damages to the rental premises that on a balance of probabilities were likely caused by the Respondent and/or other occupants of the premises or their guests. However, insufficient evidence has been provided for me to assess what the costs of repairs are or will be. I am not prepared to issue an order for payment of any of the repairs – claimed or not – but I do so without prejudice. The Applicant may still make a new application for costs of repairs. I am prepared to issue an order prohibiting the Respondent from causing further damages to the rental premises.

With respect to the uncleanliness of the premises, I am satisfied that historically the Respondent has failed to maintain the ordinary cleanliness of the rental premises, but I am not satisfied that the current state of the premises substantially breaches that obligation. I am prepared only to issue an order requiring the Respondent to comply with their obligation to maintain the ordinary cleanliness of the rental premises and not to breach that obligation again.

Disturbances

The Applicant's claims regarding disturbances were acknowledged at the hearing as being rather dated, with the last reported complaint in November 2022. The Applicant agreed that the disturbances were not a substantive problem.

I am not satisfied there has been any recently occurring pattern of disturbances for which the Respondent is responsible. As such, the Applicant's claim for an order to comply with the obligation not to cause disturbances is denied.

Orders

An order will issue prohibiting the Respondent from causing further damages to the rental premises (s. 42(3)(b)), and requiring the Respondent to comply with the obligation to maintain the ordinary cleanliness of the rental premises and not to breach that obligation again (s. 45(4)(a), s. 45(4)(b)).

Adelle Guigon
Rental Officer