

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 **Jerry Vanhantsaeme**, Rental Officer, regarding a rental premises located within the **town of Hay River in the Northwest Territories**;

BETWEEN:

HNT

Applicant/Landlord

-and-

KM

Respondent/Tenant

REASONS FOR DECISION

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| <u>Date of the Hearing:</u> | August 21, 2024 |
| <u>Place of the Hearing:</u> | Yellowknife, Northwest Territories |
| <u>Appearances at Hearing:</u> | AS, representing the Applicant |
| <u>Date of Decision:</u> | August 24, 2024 |

REASONS FOR DECISION

An application to a rental officer made by HRHA on behalf of HNT as the Applicant/Landlord against KM as the Respondent/Tenant was filed by the Rental Office May 23, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Hay River, Northwest Territories. The filed application was served on the Respondent by registered mail and deemed served on June 10, 2024.

The Applicant alleged the Respondent had been evicted on February 22, 2024, in accordance with Rental Officer Order number 18031. The Applicant's representative claimed the Respondent is indebted for damages to the rental premises and overholding charges. An order was sought for payment of the overholding charges and costs of repairs.

A hearing was held August 21, 2024, by three-way teleconference. AS appeared representing the Applicant. The Respondent did not appear, nor did anyone on their behalf. The hearing proceeded in the Respondent's absence pursuant to subsection 80(2) of the *Residential Tenancies Act (Act)*. I adjourned the hearing *Sine Die* for the Applicant to provide supporting evidence to their claim.

Tenancy Agreement

Evidence provided establishing a month-to-month tenancy agreement between the parties for subsidized public housing commencing December 9, 2022, and signed by all parties. I am satisfied a valid tenancy agreement was in place in accordance with the *Act* until evicted.

Previous orders

Rental Officer Order #18031, dated October 23, 2023, was issued terminating the tenancy agreement on November 30, 2023 due to repeated and unreasonable disturbances and other actions seriously impairing the safety of other tenants in a rental complex and evicting the Respondent from the rental premises on December 1, 2023.

Security Deposit

Subsections 18(4) and 18(5) of the *Act* set out what may be deducted from a security deposit. Only arrears of rent and repairs of damages may be deducted from a deposit.

18. (4) A landlord may, in accordance with this section, retain all or a part of a security deposit, a pet security deposit or both for arrears of rent owing from a tenant to the landlord in respect of the rental premises, and for repairs of damage to the premises caused by the tenant or a person permitted on the premises by the tenant.
- (5) A landlord may not retain any amount of a security deposit or pet security deposit for repairs of damage to the rental premises if the landlord or his or her agent

- (a) fails to complete an entry inspection report and an exit inspection report; or
- (b) fails, without a reasonable excuse accepted by a rental officer, to give a copy of each report to the tenant.

Under section 9 of the written tenancy agreement between the parties, indicates a required security deposit of \$1,200.00. The Applicant also provided a copy of the security deposit sub-ledger which indicated a balance of security deposit principal and interest in the amount of \$1,200.18.

Subsection 18(7) of the *Act* Sets out what a landlord must do when they intend to withhold all or a portion of the security or pet deposit.

18. (7) A landlord who intends to withhold all or a portion of a security deposit, pet deposit or both shall within 10 days after the day a tenant vacates or abandons the rental premises,
- (a) give written notice to the tenant of that intention; and
 - (b) subject to subsection (9), return the balance of the deposits to the tenant.

Evidence provided showed the Applicant's representative had provided notice to the Respondent they were retaining the security deposit for use to cover costs in relation to tenant damages.

Rental Arrears

The lease balance statement entered into evidence represents the Landlord's accounting of the rent and payments received against the Respondent's rental account from the start of the tenancy. Throughout the tenancy and up to the point of the eviction, the Respondent accumulated arrears in the amount of \$205.00. In review of the sub-ledger for the security deposit, the arrears were deducted leaving a zero balance for rental arrears.

The remaining \$995.18 was put towards the tenant damages.

Damages

The Applicant claimed costs for repair of damage and cleaning of the rental premises. Entered into evidence was the tenant check-in/out unit condition report, photographs, 19 invoices, tenant statements, and work orders detailing the work done.

I reviewed the claim with the evidence provided to determine if the Respondent was responsible for the damages, cleaning, and if the cost for the work was reasonable.

Under subsection 42(1) of the *Act*, a tenant shall repair damages to the rental premises caused by their wilful negligent conduct of the tenant or persons permitted on the premises by the tenant, and under subsection 42(3)(e) of the *Act*, where, on the application of a landlord, a rental officer determines that a tenant has breached the obligation imposed by this section, the rental officer may make an order (e) requiring the tenant to pay any reasonable expenses directly associated with the repair or action.

The following are the amounts claimed and my findings:

1. **\$52.50 claimed and approved** - Invoice #37590, lockout charge for apartment after regular business hours, **supported by evidence**;
2. **\$326.96 claimed and approved** - WO #391879 - charge for repairing and install damaged exterior door, **supported by evidence**;
3. **\$222.60 claimed and approved** - WO #391641 - charge for assisting to repair and install damaged exterior door, **supported by evidence**;
4. **\$31.50 claimed and approved** - Invoice #37601, charge for building, unit and mailbox keys at request of tenant, **supported by evidence**;
5. **\$105.00 claimed and approved** - Invoice #37962, lockout charge to open apartment twice after regular business hours, **supported by evidence**;
6. **\$21.00 claimed and approved** - Invoice #38467 - charge for new building and unit keys on tenants request, **supported by evidence**;
7. **\$394.16 claimed and approved** - WO #400307, charge for replacing toilet due to unmovable blockage, **supported by evidence**;
8. **\$111.30, claimed and approved** - WO #400312, charge for assisting with replacement of toilet, **supported by evidence**;
9. **\$399.20, claimed and approved** - WO #410839, charge for removing and disposing of all trash left in unit, **supported by evidence**;
10. **\$207.99, claimed and approved** - WO #410831, charge for repairing damaged interior door frame and trim, **supported by evidence**;
11. **\$27.83, claimed and approved** - WO #410824, charge for repairing damaged bathroom door, **supported by evidence**;
12. **\$55.65, claimed and approved** - WO #410832, charge for replacing damaged ceiling tile and missing fan cover in bathroom, **supported by evidence**;
13. **\$126.51, claimed and approved** - WO #410830, charge for repairing holes and drywall damage throughout unit, **supported by evidence**;
14. **\$587.32, claimed** - WO #410828, charge for replacing damaged window unit glass. The useful life of window glass is 15 years. The Applicant's representative provided evidence, the glass was taken from a different unit under repair. The material cost for the glass is charged at \$479.85 working out to \$31.99. As there was 6.5 years remaining of useful life for the glass, the depreciated value of the glass is \$207.94 plus labour of \$79.50 for a total of \$287.44 plus GST. **\$301.81 approved**;

15. **\$114.74, claimed and approved** - WO #410838, charge for replacing damaged window screen, **supported by evidence**;
16. **\$27.83, claimed and approved** - WO #410859, charge for reinstalling smoke detector, **supported by evidence**;
17. **\$35.16, claimed and approved** - WO #410856, charge for replacing damaged outlet cover in living room, **supported by evidence**;
18. **\$198.43, claimed and approved** - WO #410853, charge for replacing damaged range hood in kitchen, (tenant had removed filter and damaged fan). I questioned, exactly what happened to the fan as there were no photos. The Applicant's representative testified the Respondent has previously had a kitchen fire. The electronics had been damaged. Upon further questioning, the representative testified, there may have been smoke damage. After completing the move-out, maintenance staff could not get the fan working, resulting in the replacement of the fan. I requested information in regards to the age of the fan. The representative looked into the issue and was unable to provided information of the fan being replace after 2014, when they started record keeping. In review, the average lifespan of a range hood is 12 to 18 years depending on the quality. As the hood itself could not be traced back past 2014, I can only assume the life coming to an end with one to two years remaining. The material cost for the hood is charged at \$135.98 working out to \$11.33 per year. Giving one year remaining of useful life, the depreciated value of the fan is \$11.33 plus labour of \$53.00 for a total of \$64.33 plus GST. **\$67.55 approved**; and
19. **\$341.25, claimed and approved** WO #434655, charge for cleaning unit. **Supported by evidence.**

\$2,970.54 TOTAL COSTS APPROVED

After applying the remainder of the security deposit in the amount of \$995.18, the balance remaining for tenant damage is \$1,975.36. Based on the evidence provided and testimony of the Applicant's representative, I find the Respondent responsible for damages and cleaning of the rental premises in the amount of \$1,975.36.

Orders

An order will be issued:

- requiring the Respondent to pay the Applicant the cost of repairs and cleaning in the amount of \$1,975.36 (p. 42(3)(e), p. 45(4)(d)).

Jerry Vanhantsaeme
Rental Officer