

IN THE MATTER between **NWTCSC**, Applicant, and **VS**, 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:

NWTCSC

Applicant/Landlord

-and-

VS

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: August 14, 2024

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: AM, representing the Applicant

VS, representing the Respondent

Date of Decision: August 23, 2024

REASONS FOR DECISION

An application to a rental officer made by NWT CSC as the Applicant/Landlord against VS as the Respondent/Tenant was filed by the Rental Office June 5, 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 June 14, 2024.

The Applicant alleged the Respondent had repeatedly failed to pay rent and accumulated rental arrears. An order was sought for payment of rental arrears, termination of the tenancy agreement, and eviction.

A hearing was scheduled for August 14, 2024 in Yellowknife by three-way-teleconference. AM appeared representing the Applicant. VSB appeared representing the Respondent. Due to the severity of the application, the hearing was adjourned *Sine Die* for both parties to provide supporting documents.

Preliminary matters

At the start of the hearing, the Rental Officer questioned proof of service. The Applicant had not provided the proof of service email to the Rental Office as required as part of the service of the application package. Upon request at the start of the hearing, the Applicant's representative confirmed and provided the email. During the hearing, the Respondent had advised they had not received the email as they no longer correspond via email due to being hacked. The Respondent advised they did however receive a copy of the application package in their mailbox. The Respondent attended the Rental Office for the hearing as they did not realize the hearing was by teleconference. The Respondent also advised they were prepared to continue with the hearing. The Rental Officer allowed the hearing to proceed.

Tenancy Agreement

The Applicant entered into evidence a fixed term residential tenancy agreement between the parties commencing July 1, 2023 and ending June 30, 2024. The tenancy agreement was signed by the Respondent only. The calculated rent for the tenancy was \$1,075.00 per month. I am satisfied a valid tenancy agreement is in place in accordance with subsection 9(4) of the Act.

Rental calculations and arrears

The statement of account entered into evidence in the application represents the Landlord's accounting of the monthly assessed rents and payments made against the Respondent's rent account. The statement at the time of the application indicated the Respondent's rent charge was \$1,075.00. The Respondent had accumulated rental arrears in the amount of \$3,306.00. The arrears amount also included an \$81.00 interest charge.

An updated statement of account was provided prior to the hearing showing the Respondent had made a \$50.00 payment towards the rent on July 1, 2024, and the interest charged had increased to \$159.00.

The Rental Officer questioned the charging of interest. The Applicant advised the interest charge is the late payment penalty. The Rental Officer recommended correcting the recording of the fees to better reflect the *Residential Tenancies Regulations*.

To have a better understanding of the rent charged for the term of the tenancy, a full tenancy statement of account was requested and provided. The statement provided indicated the rent charged during the fixed term tenancy was \$1,075.00. The Respondent paid their calculated rent from July 2023 through March 2024. The Respondent failed to pay rent for the last three months of the fixed term and had an arrears balance of \$3,328.00.

The Respondent did not dispute the claim and testified the last payment was March 2024. The Respondent provided into evidence multiple notices from the Applicant regarding unpaid rent, lease renewal, the new calculated rent being charged, and notice of rent increase.

During the hearing, the Respondent disputed the Applicant's method of calculating rent. The Respondent testified and provided into evidence rent charges from previous tenancies of a much lower amount when they were at a higher income then to a higher rent at a lower income.

The Rental Officer questioned method of payment, the Respondent testified they primarily pay via email. The Rental Officer also questioned the Applicant's method of calculating rent. The Applicant testified rent is calculated based on 30% of gross income from the previous tax year, and there is also a minimum rent charge.

The updated statement of account provided showed the rent charge at the end of the fixed term being reduced to \$770.00 per month. Both parties agreed a new fixed term tenancy agreement had not been signed.

In review of the income documents provided by the Respondent, I find the rent calculated by the Applicant to be correct, the rent charged for the fixed term tenancy in question to be \$1,075.00. In review of the statement of account, as of July 31, 2024, the Respondent has accumulated rental arrears in the amount of \$3,945.00.

Parking

During the hearing, the Respondent testified the Applicant had increased parking fees without notice. The Respondent testified in January 2022, they obtain parking from the Applicant for \$125.00 per month above the rent charged, and in June 2023, parking increased to \$155.00 without notice. Parking is not included in the tenancy agreement and cannot be ruled upon.

Abandonment

Prior to the hearing, on August 9, 2024, the Applicant contacted the Respondent and Rental Office via email to advise they had to enter (break into) the rental premises due to a leak and needed to rekey the lock as their keys did not work. The Applicant also noted they had not seen the Respondent for a period of time and assumed the unit was abandoned. The Applicant also stated they would wait for the hearing to take place. The Respondent testified they had sent an email advising they had not abandoned the unit.

Lock Change

As noted in the Abandonment section of the order regarding the lock change, the Applicant testified they had to get access to the rental unit due to a leak but could not use their keys. They had to break into the unit. They also testified a locksmith confirmed the core had been changed as none of their keys would fit and had to be re-keyed. The Respondent disputed the Applicant's claim. They advised the lock had not changed and still had their original key provided. The Respondent also testified, they have a personal security issue and their key still works. When questioned on when they had last accessed the rental premises, the Respondent testified they were last in the unit on August 5, 2024, they have mobility issues, recovering from surgery, but access the unit to get personal items. In confirmation, the Respondent claims they had accessed the unit since. The Respondent later testified, they had paid for a locksmith to change the lock with the approval of the Applicant. The Applicant disputed the claim, testifying they did not give approval for a lock change as indicated in the tenancy agreement.

The Applicant testified the lock has been returned to the current lock and new key needs to be provided to the Respondent.

No claim for lock change was made.

Summations

The Applicant continued with their claim in regards to seeking rental arrears, termination of the tenancy agreement, and eviction.

The Respondent continued with their dispute of the rent calculations in relation to previous years to the tenancy agreement in question. The Respondent testified they had gone to Health and Social Services regarding the change in rent and the issues regarding the Applicant.

Termination of the tenancy agreement and eviction

Subsection 41(1) A tenant shall pay to the Landlord the rent when lawfully required by the tenancy agreement on the dates specified by the tenancy agreement.

While the Respondent did seek rental assistance from one possible resource, it is undetermined as to whether they sought assistance from other possible resources to assist in maintaining their tenancy. The Respondent continually referred back to previous tenancies as their basis and how they were charged a lower rent at higher incomes.

As a result of the evidence provided, the Applicant's testimony, and the Respondent not disputing the nonpayment of rent, as required under both the tenancy agreement and the *Act*, I find that the Respondent has repeated failure to pay rent when required, and accumulated rental arrears. I am satisfied termination of tenancy agreement and eviction are justified. A conditional termination of tenancy and eviction will be ordered.

Orders

An order will be issued:

- requiring the Respondent to pay to the Applicant rental arrears in the amount of \$3,945.00 (p. 41(4)(a));
- requiring the Respondent to pay future rent on time (p. 41(4)(b));
- terminating the tenancy on December 31, 2024, unless \$1,000.00 is paid towards the rental arrears and the monthly rents for September through December are paid in full (p. 41(4)(c), ss. 83(2)); and
- evicting the Respondent on January 1, 2025, should the tenancy be terminated.

Jerry Vanhantsaeme
Rental Officer