

IN THE MATTER between **HNT**, Applicant, and **RM**, 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 **designated authority of Wrigley in the Northwest Territories**.

BETWEEN:

HNT

Applicant/Landlord

-and-

RM

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: August 15, 2024

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: GG, representing the Applicant

RM, representing the Respondent

DJM, senior administrator for PKFN, representing the Respondent

AH, Legal Counsel for PKFN

Date of Decision: September 4, 2024

REASONS FOR DECISION

An application to a rental officer made by FSHA on behalf of HNT as the Applicant/Landlord against RM as the Respondent/Tenant was filed by the Rental Office March 18, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Wrigley, Northwest Territories. The filed application was served on the Respondent by registered mail on April 22, 2024.

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

A hearing was scheduled for May 22, 2024. The Applicant did not attend, nor did anyone on their behalf. The Respondent did not attend. DM attended on the Respondents' behalf. As the Applicant did not attend, the hearing was rescheduled and a first failure to appear notice was served on the Applicant. The hearing was rescheduled to August 15, 2024, by three-way teleconference. GG appeared representing the Applicant. RM appeared representing the Respondent. DJM assisting the Respondent, AH, Legal Counsel for PKFN, attended observing only.

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

Tenancy agreement

The Landlord entered into evidence a written tenancy agreement between the parties for market housing. The tenancy was set-up as a fixed term tenancy from Jan 30, 2022, to June 30, 2022. After which time, the tenancy continued on a month-to-month basis. The tenancy agreement was only signed by the Landlord's representative. I am satisfied there is a valid tenancy agreement in place in accordance with subsection 9(4) of the *Act*.

In review of the tenancy agreement, it was noted in section A(1), in the event of late payment by the Tenant, interest shall accrue in accordance with the provisions of the *Act*. The Rental Officer questioned the charging of interest. The Landlord's representative testified they did not charge interest.

Rental arrears

The Landlord entered into evidence a lease balance statement for the Tenant's rent account. The statement represents the Landlord's accounting of the monthly rent and payments against the Tenants account.

The statement provided in the application, ran from the start of the tenancy on January 30, 2022 through to March 4, 2024. According to the statement, the Tenant owed \$31,140.65 in rental arrears as of February 29, 2024. During this time, only two payments had been received: January 21, 2022 in the amount of \$1,240.00 towards the security deposit and a payment of \$200.00 towards rent on February 9, 2023.

As the hearing was rescheduled, an updated lease balance statement was provided on August 14, 2024, and showed the Tenant had made one further payment of \$250.00 on April 18, 2024. The arrears balance, according to the updated lease statement, showed the Tenant had accrued further arrears and as of July 31, 2024 had an arrears balance of \$37,140.00.

Also submitted into evidence were three letters dated January 16, 2024, and two on February 26, 2024, from the Landlord's representative in regards to the arrears and the requirement to address the arrears in order to maintain the tenancy. Also, submitted into evidence was the Landlord's associated tenant note list with regards to activities and conversation with the Tenant.

During the hearing, the Tenant brought forward their reason for not paying rent was they were given a rental unit after their home had been destroyed by fire. The Tenant stated the rent was high, they were not working, and no money and starting again. They also stated they cannot afford the rent charge and they also had other issues with the rental premises.

Subsection 41(1) of the Act states "a tenant shall pay to the landlord the rent lawfully required by the tenancy agreement on the date specified by the tenancy agreement". I find the Tenant has accumulated rental arrears as of July 30, 2024 in the amount of \$37,140.00.

Tenant comments and concerns

As noted earlier under rental arrears, the Tenant also testified they did not have heat for three months, kitchen lighting would turn on themselves and the unit is infested with mice. The Tenant has been in and out of the community as their spouse has been sick, so they have been travelling back and forth from Edmonton. They also testified they are not ignoring their responsibilities to the Landlord.

The Tenant also testified there are other issues within the rental premises, such as missing door knobs among other things. They also stated, they have asked for repair assistance but have gotten no reply from the Landlord.

The Tenant testified they took the unit as they were desperate. They also testified their mother had resided in the unit previously.

The Tenant's representative testified when the Tenant's home burnt there was no available adequate housing in the community, Tenant had no option when it came to taking residence in the rental premises. The Tenant's representative also testified they had assisted the Tenant with letters and phone calls to the Landlord about getting the unit repaired. In the year and half since in the job, he has not seen anything done with regards to repairs, simply because they say the Tenant owed the Landlord money.

The Rental Officer questioned the Tenant if there were any written correspondence to the Landlord regarding the condition of the rental premises. The Tenant claimed they had copies of letters sent, the response they received was only about arrears and signing a lease. They also stated they were not in the community. They also discussed home ownership issues.

The Rental Officer questioned the Landlord's representative on if they had copies of the letters submitted to the Landlord. The Landlord's representative stated they did not have copies. The Tenant further stated the letters were sent to HNT's DD.

As the Tenant had pointed out, they had letters to and responses back from the Landlord, copies of the letters were requested. The Respondent provided a May 15, 2023 letter regarding the concerns regarding the family issues and problems with the rental premises; an April 22, 2024, letter from the MHNT regarding the provision of temporary accommodations to the Tenant during the repairs to her home, the rental premises was a market unit not public housing; the Tenant indicated they would be able to pay rent for at least 6 months; contact the Landlord's representative to discuss rental arrears and enter into a repayment plan based on the Tenant's financial situation, and notice of maintenance and preventative maintenance inspections and should there be issues they are not aware of to also contact the Landlord's representative.

The Tenant's representative further testified housing concerns in Indigenous community are an issue in the community. The Tenant is the only income earner, due to spouse medical issues and treatment requirements she is required to take time from work. In regards to the Tenant paying rent and arrears, they do not know how the GNWT expects a person with large arrears to pay it down and they are set-up to fail. If the Tenant is evicted, there is no place for them to go until other units come into the community through CMHC. The Rental Officer advised the parties, they do not have influence on policies of the GNWT, they can only make rulings under the Residential Tenancies Act and Regulations. The Rental Officer also questioned the Tenant's representative on if they had approached the Landlord regarding conversion from market housing to public housing geared to income. The Tenant stated their MLA had assisted them in getting the housing right after their fire and were not sure as to why they got this unit, they were desperate and took it. The Tenant's representative questioned more in regards to the conversion of the rental premises to public housing. They were advised to contact the Landlord's representative as the Rental Officer has no influence on this but may be an option.

Entered into evidence was an August 22, 2024 letter sent to HNT DD regarding a discussion from August 15, 2024. The Letter described the situation with the Tenant's home that was damaged by fire; lack of housing in the community; condition of the rental premises and issues as to why they have withheld rent and that they would like to have a rent they could afford and an arrears repayment plan. No response was provided.

Termination of the tenancy agreement and eviction

By way of the August 22, 2024 letter to HNT, the Tenant acknowledged their responsibility for the debt and offered a solution.

Under the *Act*, a Tenant is responsible to pay rent, they cannot refuse to pay rent. Also under the *Act*, should a Landlord fail to maintain their obligations, a Tenant can make an application to a rental officer themselves.

As noted earlier, Subsection 41(1) of the *Act* states “a tenant shall pay to the landlord the rent lawfully required by the tenancy agreement on the date specified by the tenancy agreement”.

Based on the evidence and the testimony, I am satisfied the Tenant has repeatedly breached their obligation under the *Act* and termination of the tenancy agreement and eviction are justified.

A conditional termination and eviction order will be issued.

Orders

An order will be issued:

- requiring the Respondent to pay rental arrears in the amount of \$37,140.00 (p. 41(4)(a));
- requiring the Respondent to pay future rent on time (p. 41(4)(b));
- termination of the tenancy:
 - (a) September 30, 2024, unless \$300.00 is paid towards the arrears and the monthly rent for September is paid in full;
 - (b) October 31, 2024, unless \$300.00 is paid towards the arrears and the monthly rent for October is paid in full and on time;
 - (c) November 30, 2024, unless \$300.00 is paid towards the arrears and the monthly rent for November is paid in full and on time; and
 - (d) December 31, 2024, unless \$300.00 is paid towards the arrears and the monthly rent for December is paid in full and on time (p.41(4)(a), p. 41(4)(c), ss. 83(2)).
- evicting the Respondent from the rental premises:
 - (a) October 1, 2024, if the termination of the tenancy becomes effective September 30, 2024;
 - (b) November 1, 2024, if the termination of the tenancy becomes effective October 31, 2024;
 - (c) December 1, 2024, if the termination of the tenancy becomes effective November 30, 2024; or
 - (d) January 1, 2025, if the termination of the tenancy becomes effective December 31, 2024; (p. 63(4)(a), ss. 83(2)).

Jerry Vanhantsaeme
Rental Officer