

IN THE MATTER between **HNT**, Applicant, and **DB**, 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:

HNT

Applicant/Landlord

-and-

DB

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: September 26, 2024

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: PS, representing the Applicant

Date of Decision: October 3, 2024

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of HNT as the Applicant/Landlord against DB as the Respondent/Tenant was filed by the Rental Office August 19, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was personally served on the Respondent on August 30, 2024.

The Applicant alleged the Respondent failed to pay rent on time and in full resulting in the accumulation of rental arrears, has not reported income as required by the tenancy agreement, caused damages to a rental premises, and caused disturbances. An order was sought for the payment of arrears and tenant damages, pay future rent on time, termination of the tenancy agreement, and eviction.

A hearing was held September 26, 2024, by three-way teleconference. PS 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)*. The hearing was adjourned *Sine Die* to allow the Applicant to provide documents requested by the Rental Officer to support the claim.

Preliminary matters

Under section 3 of the tenancy agreement, the Respondent was moved to a different unit as the rental premises they were located in was deemed to be no longer suitable. Tenant damages claimed in the application were based on the move-out inspection of the former unit. The application for the disturbances and the termination of the tenancy agreement is based on the current tenancy.

Tenancy Agreement

Evidence provided established a tenancy agreement between the parties for subsidized public housing commencing October 28, 2020. I am satisfied a valid tenancy agreement was in place in accordance with the *Act*.

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. The statement indicated the Respondent's rent varied based on income and the calculated rent monthly at the time of the application was \$1,625.00. The statement shows the last time the Respondent had a zero balance was July 1, 2023.

It also included a claim for damages in the amount of \$9,170.71 and payments toward the damages in the amount of \$210.00. Damages are not considered arrears. After removing the damage claim, the statement of account shows the Respondent as having accumulated rental arrears in the amount of \$3,452.00. Also entered into evidence were rent invoices, arrears letters, and a notice of reporting of income for a subsidy letter, sent to the Respondent.

The Rental Officer questioned if any payments had been made towards the rent after the application. Upon request, an updated balance statement was provided and showed no payments had been made and the arrears had increased to \$5,077.00.

In the application, the Applicant also noted the Respondent had not provided their income required by paragraph 6 of the tenancy agreement.

I am satisfied the lease balance statement accurately reflects the current status of the Respondent's rent account. I find the Respondent had repeated failed to pay rent in full when due and have accumulated rental arrears in the amount of \$5,077.00.

Damages

The Applicant claimed costs for repair for outstanding damages to the rental premises. Entered into evidence was the lease balance statement with invoices charges and payments, invoices, tenant check-in/out unit condition report, notice of damages to the Respondent, photographs, and building owner cost damage sheet.

The Rental Officer also questioned if the payments made towards the damages had already been taken into account and also a claim for damages had not been included. The Applicant's representative testified the payments had not been taken into account. Documents to support the Applicant's claim was requested and provided.

During the hearing, the Rental Officer noted the claim for damages was not aligned with the unit move-in/out inspection sheet. The Applicant's representative testified the staff member who conducted the move-out had accidentally used the Respondent's inspection form for a different unit. **The information on the move-out inspection form provided was not for Respondent's former unit.** In the notice letter sent to the Respondent, the correct damages were indicated in an attachment. The Rental Officer noted this information should have been better clarified to the parties by either correct the inspection sheet rather than just stroking out sections. **Accuracy of the information provided is paramount, as it can cause confusion on a claim for a tenant.**

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:

- **\$288.75 claimed and approved** - Invoice #130720 - Maintenance charge back, tenant observed dumping furniture beside dumpster. Lease balance statement indicates Respondent made payment towards charge. **Supported evidence.**
- **\$144.38 claimed and approved** - Invoice #113212A - Lock change. **Supported by testimony and evidence.**
- **\$8,737.58 claimed and approved** - Invoice #133788A - Tenant damages found on former unit after transfer under section 3 of the tenancy agreement. Issues clarified on the discrepancy between the move-out inspection form and information provided to Respondent. **Supported by evidence and testimony.**

\$ 9,170.71	Total damages claimed and approved
\$ 210.00	Total payments
\$ 8,960.71	Balance owing on damages

Disturbances

The Applicant alleged that the Respondent has repeatedly breached their obligation to not disturb other tenants contrary to subsection 43(1) of the *Act* which states “A tenant shall not disturb the landlord’s or other tenants’ possession or enjoyment of the rental premises or residential complex”.

The Applicant’s representative testified the Respondent and their guests have caused constant disturbances combined by high traffic, alleged drug dealing, and fighting outside by guests. To support the Applicant’s claim, were associated notes regarding drug dealing, security reports, emails to the Applicant, and notices sent to the Respondent regarding unauthorized occupants and illegal activities occurring in the unit. This claim was supported by detailed warning notices to the Respondent, and emails to the Applicant, with regards to the Respondent’s previous and current rental premises.

The Applicant also testified they had requested a meeting with the Respondent but they did not attend.

I am satisfied the Respondent is responsible for the reported disturbances. I find the Respondent has repeatedly failed to comply with their obligation not to cause disturbances.

Termination fo tenancy agreement and eviction

In consideration of the testimony and evidence presented, the Respondent's repeated failure to pay their rent and the amount of rental arrears that have accumulated, failure to report income, and the Respondent being responsible for causing disturbances, I am satisfied termination of the tenancy agreement and eviction are justified. However, as the application had a request to pay future rent on time, a conditional termination and eviction will be issued.

Orders

An order will be issued

- requiring the Respondent to pay to the Applicant rental arrears in the amount of \$5,077.00 (p. 41(4)(a));
- requiring the Respondent to pay future rent on time (p. 41(4)(b));
- requiring the Respondent to report income in accordance with paragraph 6 of the tenancy agreement and not breach that obligation again (p. 45(4)(a), p. 45(4)(b));
- requiring the Respondent to pay to the Applicant the cost of repairs in the amount of \$8,960.71 (42(3)(e));
- termination of tenancy:
 - (a) October 31, 2024, unless the household income is reported in accordance with paragraph 6 of the tenancy agreement, \$500.00 is paid towards the rental arrears and tenant damages, the monthly rent for October is paid in full, and there are no further disturbances caused by the Respondent or their guests;
 - (b) November 30, 2024, unless \$500.00 is paid towards the rental arrears and tenant damages, the monthly rent for November is paid in full, and there are no further disturbances caused by the respondent or their guests; or
 - (c) December 31, 2024, unless \$500.00 is paid towards the rental arrears and tenant damages, the monthly rent for December is paid in full, and there are no further disturbances caused by the Respondent or their guests (p. 41(4)(c), p. 42(3)(f), p. 45(4)(e) and ss. 83(2)).

- evicting the Respondent from the rental premises:
 - (a) November 1, 2024, if the termination of the tenancy becomes effective October 31, 2024;
 - (b) December 1, 2024, if the termination of the tenancy becomes effective November 30, 2024; and
 - (c) 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