

IN THE MATTER between **CW**, Applicant, and **PG**, 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:

CW

Applicant/Landlord

-and-

PG

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 22, 2024
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	AS, representing the Applicant
	PS, representing the Applicant
	PG, representing the Respondent
<u>Date of Decision:</u>	October 23, 2024

REASONS FOR DECISION

An application to a rental officer made by TPM on behalf of CW as the Applicant/Landlord against PG as the Respondent/Tenant was filed by the Rental Office September 6, 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 September 22, 2024.

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

A hearing was scheduled for October 22, 2024, in Yellowknife by three-way teleconference. AS and PS appeared representing the Applicant. PG representing the Respondent. Due to the severity of the application, the hearing was adjourned *Sine Die* to allow for the parties to provide information requested by the Rental Officer.

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

Tenancy Agreement

Evidence provided establishing a fixed term tenancy agreement between the parties for commencing November 10, 2023 until July 31, 2024. After which time the tenancy became month-to-month.

In review of the tenancy agreement, the Rental Officer raised questions regarding context of four sections.

- Late charge - reference to Rental Act which does not exist;
- Termination - requiring a tenant to give 60 days notice for termination of the tenancy. Paragraph 52(1)(b) states 30 days;
- Rent payment - charge of \$35.00 for each time a payment. (*charge was not in line with what was claimed in the application*). A claim for costs can be done but cannot be deemed a fee.

- Early termination fee - term lease tenancy early termination charge of \$300.00 plus GST. Fees can not be charged for termination of a tenancy.

The Landlord's representative acknowledged the issues with the tenancy agreement. Any contravention of the *Act* is invalid.

Rental arrears

The Landlord's representative entered into evidence a client aged detail report showing the Tenant had failed to pay rent on time and in full for three months for a total of over \$9,000.00. The Landlord's representative also testified there was an unpaid balance on the security deposit and they have not received any word from the Tenant regarding a payment plan that would be sufficient to address the arrears.

The representative also stated up to the point of the hearing, there are over \$15,000.00 in arrears in the past 5 months. As a result, it has caused a financial burden on the Landlord.

The Tenant did not dispute the Landlord's claim. The Tenant testified they had personal and financial issues with their former roommate, requiring assistance from the Courts and RCMP to have them removed.

The Tenant also stated their employment ended putting them into financial difficulties. They did contact the bank to withdraw from retirement savings to cover the debt but was unsuccessful due to the type of investment and could not obtain government assistance due to owning a home.

The Tenant had also testified they had emailed the Landlord's representative, their home outside of the NWT is up for sale and once sold would cover the arrears. The Tenant is also waiting to hear if they have employment within the near future.

The Rental Officer questioned the charges included on the aged report over the rent. The Landlord's representative acknowledged and withdrew the extra charges and were only applying charges authorized within the *Act* and *Residential Tenancies Regulations*.

The Rental Officer also questioned if any payments had been made in October 2024. Both parties agreed no payment had been issued.

The Rental Officer requested and received from the Landlord's representative a lease ledger accounting of the rent, charges, and payments received against the Tenant's rent account from the start of the tenancy. The lease ledger is in line with the tenancy agreement showing the rent being charge at \$3,000.00 per month. The ledger indicates \$1,500.00 is owing towards the security deposit. A security deposit cannot be counted as rent.

The ledger also shows the Tenant breached subsection 41 of Act and tenancy agreement by failing to pay the monthly rents for July through October 2024. The rent charged including NSF fees from July to September was \$3,045.00 and the charge for October as \$3,000.00, for a total of \$12,135.00 owing. Also, entered into evidence was a rent invoice to support an NSF charge of \$45.00 for July. As there were no other supporting documents to show NSF charges for August and September, \$90.00 will be deducted from the Tenant's rent account.

I find the Tenant has repeatedly failed to pay rent in full when due and have accumulated rental arrears in the amount of \$12,045.00.

Other issues

Landlord communications.

During the hearing, the Tenant brought forward they had received demeaning text messages from the Landlord on obtaining payment. The Landlord's representative acknowledged the messages and testified they had discussed the issue with the Landlord.

Summations

Utilities

The Landlord's representative stated they had a concern due to unpaid water bill and heat. The Tenant stated heat is being maintained and will address the water bill when they get funds.

Advertising rental premises for rent

The Tenant claims they were offended that the rental premises was listed for rent prior to the hearing taking place with expected occupancy of November 1, 2024. When questioned about this, the Landlord's representative acknowledged the listing, no lease agreements have been signed, or showing having taken place. It is only listed to have a replacement tenant in place if an eviction order is issued.

Termination fo tenancy agreement and eviction

In consideration of the testimony and evidence presented, the Tenant's repeated failure to pay their rent and the amount of rental arrears accumulated, I am satisfied termination of the tenancy agreement and eviction are justified.

Orders

An order will be issued:

- requiring the Tenant to pay to the Landlord rental arrears in the amount of \$12,045.00 (p. 41(4)(a));
- Terminating the tenancy agreement on November 30, 2024 (p. 41(4)(c)); and
- Evicting the tenant from the rental premises on December 1, 2024 (p. 63(4)(a)).

Jerry Vanhantsaeme
Rental Officer