

IN THE MATTER between **HNT**, Applicant, and **SH**, 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-

SH

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 30, 2024
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	PS, representing the Applicant
	KW, representing the Applicant
	SH, representing the Respondent
<u>Date of Decision:</u>	October 31, 2024

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of HNT as the Applicant/Landlord against SH as the Respondent/Tenant was filed by the Rental Office Sept 23, 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 27, 2024.

The Applicant alleged the Respondent repeatedly failed to pay rent when due and in full and had accumulated rental arrears, breached their obligation to maintain their utility account in accordance with the tenancy agreement, committed illegal activities by stealing electricity from the building, and caused disturbances. An order was sought for the payment of rental arrears, comply with their obligation to maintain their utility account, not commit illegal activities, not cause disturbances, termination of the tenancy, and eviction.

A hearing was scheduled for October 30, 2024, in Yellowknife by three-way teleconference. PS and KW appeared representing the Applicant. SH appeared representing the Respondent. At the hearing, I reserved my decision pending the receipt of documentation request and to further review the evidence and testimony.

Tenancy agreement

Evidence provided establishing a fixed term tenancy agreement between the parties from October 22, 2015 to April 30, 2016. After which time, converted to a month-to-month tenancy. The tenancy agreement was signed by all parties. I am satisfied a valid tenancy agreement was in place in accordance with the *Act*.

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

Arrears

The lease balance statement entered into evidence represents the Landlord's accounting of the rent and payments received against the Tenant's rental account. The statement indicated the Tenant's rent varied based on income and the calculated rent monthly at the time of the application was \$890.00.

The statement shows the last time the Tenant had a zero or positive balance was February 21, 2023, and the arrears at the time of the application were \$7,614.00. Based on the current rent charge, this equates to more than 8.5 months of unpaid rent. Also entered into evidence to support the claim were multiple statements regarding the status of the rent account, letters, and a signed "Agreement to Pay Rental Arrears".

The Agreement to Pay rent was signed January 24, 2024, and indicated the Tenant agreed to pay \$700.00 per month towards the rental arrears owing starting January 2024. In review of the lease balance statement, breached the agreement within 60-days.

An updated lease balance statement was provided. The statement indicates no rent had been paid for October and the arrears had increased to \$8,504.00, which is more than 9.5 months unpaid rent.

The Tenant testified they have been having issues with the adult children and they are supposed to pay their own portion of rent. The Tenant had called Income Support but could not obtain support. The Tenant was paying everything. The Tenant also testified the arrears were inaccurate and the Tenant and the Respondent had come up with a payment amount. They then had called to get the number reduced but was unable to get in contact them.

When provided the numbers, the Tenant acknowledged they did not adhere to the terms of the payment agreement.

I am satisfied the lease balance statement accurately reflects the current status of the Tenant's rent account. I find the Tenant has repeated failed to pay rent in full when due and have accumulated rental arrears in the amount of \$8,504.00.

Utilities and illegal activities

Subsection 45(1) of the *Act* specifies a tenant shall comply with the obligations under the tenancy agreement and with the rules of the landlord that are reasonable in all circumstances.

Under section 8 of the tenancy agreement between the parties, the Tenant is responsible for paying all of the utilities to the rental premises (including fuel oil, natural gas, wood, electricity, water, sewer services, and garbage disposal). As long as the Tenant is not in breach of the terms or promises of this Agreement, and/or the Tenant qualifies for a rent subsidy, the Landlord may assist the Tenant by contributing to the Tenant's utilities.

Subsection 46(1) of the *Act* specifies "A tenant shall not commit an illegal act or carry on an illegal trade, business or occupation, or permit another person to do so, in the rental premises or in the residential complex."

The Landlord's representative testified electricity had been disconnected some time in August 2024.

Entered into evidence were associated tenant notes from the Landlord detailing multiple incidences occurring from September 8 to September 16, 2024, where the security firm hired by the building owner discovered extension cords plugged in and drawing power from the hallway into the rental premises. Also included in the notes, was a notice from the building owner regarding the unauthorized electricity use and other issues regarding the Tenant.

Prior to the hearing, the Landlord provided an email chain with the building owner which indicated between October 4 and October 21, 2024, there were 14 recorded incidents of the Tenant continuing to draw electricity from the hallway of the rental complex into the rental premises and the hazard this has imposed. Also included, were photos of an extension cord plugged into the outlet connected to the hallway emergency lighting and running to the Tenant's rental premises.

The Landlord's representative referenced the photos of the emergency lighting and the extension cord running to the Tenant's rental premises. The representative testified the extension cord causes a hazard in itself. The outlet for the emergency light is not meant for anything other than emergency lighting. If too much power, the circuit breaker can pop and can leave the entire stairway without lighting in the event of an emergency. In essence breaking fire code and by doing this, other tenants are put in danger.

In response to the Landlord's claim, the Tenant testified they have had the electricity account reactivated.

Upon request of the Rental Officer, the Landlord provided confirmation the electricity account was reinstated on October 25, 2024.

I am satisfied with the evidence presented and the testimony of the Landlord's representative, the Tenant failed to comply with their obligation to pay utilities under subsection 45(1) of the *Act* and section 8 of the tenancy agreement. In light of the Tenant plugging into an outlet in the common area of the rental complex without authorization by the Landlord or the building owner, they effectively committed an illegal act of electricity theft and caused the building owner to incur an undue expense.

Disturbances

Subsection 43(1) of the *Act* states "A tenant shall not disturb the landlord's or other tenants' possession or enjoyment of the rental premises or residential complex".

Subsection 43(2) states “a disturbance caused by a person permitted by a tenant to enter the residential complex or rental premises of the tenant is deemed to be a disturbance caused by the tenant”.

The Landlord’s representative testified since 2022 there were multiple complaints regarding incidents occurring at the rental premises. The notes indicated:

- November 23, 2022 - someone urinating over the balcony and onto another rental unit, balcony leaving a yellow stain and strong odour;
- March 15, 2023 - incident from March 1, 2023 of noise coming from the rental premises, waking children;
- June 19, 2023 - incident from June 18, 2023, where security had been called over a noise complaint;
- June 23, 2023 - incident from June 21, 2023, report of a noise complaint;
- June 26, 2023 - Tenant attended the Landlord’s representative office to apologize for disturbances caused by their children;
- November 13, 2023 - Complaint of cannabis smell coming from the rental premises, disturbing other tenants;
- December 11, 2023 - Building owner contacting Landlord regarding a complaint received from another unit about the Tenant causing excessive noise, arguments, and partying;
- March 24, 2024 - Report of excessive noise coming from the rental premises. Municipal Enforcement had attended;
- May 8, 2024 - Report of people from the Tenant’s rental premise causing disturbances and harassing neighbours by knocking loudly on the door and leaving quickly. Security firm attending and asking the Tenant to address the issue with the occupant;
- June 5, 2024 - Report of security firm attending the Tenant’s rental premises regarding a disturbance where the Tenant and a guest were uncooperative;
- June 5, 2024 - Building owner reporting maintenance cleaning up garbage from the Tenant’s rental premises;
- October 8, 2024 - Email from building owner regarding the Tenant smoking with the door open and smoke drifting into other units;

- October 18, 2024 - Email from building owner regarding the Tenant smoking and smoke entering the hallway; and
- October 19, 2024 - Email from building owner regarding another building occupant with children being exposed and the hazard it causes to them (paraphrased).

Entered into evidence was a letter from the Landlord dated June 22, 2023, regarding disruptive behaviour. Also included, were two notices from the building owner to the Tenant. June 5, 2024 regarding a garbage complaint and one for a final noise complaint. The Landlord's representative testified they had met with the Tenant multiple times at the office regarding the disturbances.

The Tenant acknowledged they had talked to the Landlord's representative off-and-on but disputed talking with them multiple times.

The Tenant also disputed the report of urine. The Tenant stated a can was blown off the balcony and it was beer, they had gone down and cleaned it up.

Tenant comments and concerns

The Tenant disputed the Landlord's claim on all accounts. The Tenant testified they only saw security come up twice. They did not receive notice from the building or Landlord. They were unaware of a lot of the issues brought forward. They had not received notice or phone calls. They don't always receive notices that could have been put on the door, as she has teens and young adult children.

In regards to disturbances, the majority of the disturbances are hearsay, the Tenant's child and neighbour's child have issues with each other. They make a lot of complaints but there is no substantiation.

The Tenant raised a concern regarding the care of the rental premises by the Landlord. They have lived in the rental premises since 2017 with maintenance issues. The door is damaged, holes in it which can be seen through, nails sticking out. Maintenance has not work on the unit much in the past 9-years. The Landlord was aware of the damages, the building owner has been in to repair the door, but committed to looking into the issue with the door.

Termination of the tenancy agreement and eviction

In consideration of the testimony and evidence presented, the Tenant's repeated failure to pay rent on time, the amount of arrears that have accumulated, the Tenant failing to maintain their utilities, and the repeated and unreasonable disturbances, 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 \$8,504.00 (p. 41(4)(a));
- requiring the Tenant to comply with their obligation not to disturb the Landlord's or other tenants' possession or enjoyment of the rental premises or residential complex (p. 43(3)(a));
- requiring the Tenant to comply with their obligation to pay utilities in accordance to section 8 of the tenancy agreement (p. 45(4)(a));
- requiring the Tenant to comply with their obligation not to commit an illegal act or carry on an illegal trade, business, or occupation, or permit another person to do so, in the rental premises or residential complex (p. 46(2)(a));
- terminating the tenancy agreement on December 15, 2024 (p. 41(4)(c), p. 43(3)(d), 45(4)(e)), p. 46(2)(c)); and
- evicting the Respondent from the rental premises on October 16, 2024 (p. 63(4)(a)).

Jerry Vanhantsaeme
Rental Officer