

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

CW

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 21, 2024

Place of the Hearing: Yellowknife Northwest Territories

Appearances at Hearing: PS, representing the Applicant
KW, representing the Applicant
CW, representing the Respondent

Date of Decision: December 18, 2024

REASONS FOR DECISION

An application to a rental officer made by YHA on behalf of HNT as the Applicant/Landlord against CW as the Respondent/Tenant was filed by the Rental Office September 17, 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 failed to sign a tenancy agreement and to maintain the rental premises in an ordinary state of cleanliness. An order was sought for the Respondent to sign a tenancy agreement and to comply with their obligation to maintain the rental premises in an ordinary state or cleanliness and not breach that obligation again.

A hearing was scheduled for October 29, 2024, both the Applicant and Respondent appeared at the hearing. The Respondent advised they received the application and was unable view the application on their phone. The Respondent was advised they had been served a month prior and based on the Act, the hearing could proceed. However, in the interest of fairness the Applicant was ordered to personally serve the application on the Respondent. The application was personally served on the Respondent on October 30, 2024. The hearing proceeded on November 21, 2024. PS and KW appeared representing the Applicant. CW appeared representing the Respondent. MC from ICM attended in support of the Respondent.

Tenancy agreement

Evidence provided established a month-to-month tenancy agreement between the parties commencing July 10, 2023. The tenancy agreement was signed by the Landlord's representative. I am satisfied a valid tenancy agreement is in place in accordance with subsection 9(4) of the Act.

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

Unsigned tenancy agreement

The Landlord representative testified they filed an application as the Tenant was reluctant to sign a lease agreement. The Landlord acquired the rental complex in a purchase agreement. The Landlord claimed the Tenant decided to remain in the rental complex when other tenants had vacated. The Landlord created a new lease and sent to the Tenant by email. The Tenant Relations Officer attempted work with the Tenant to sign the lease agreement but the Tenant was reluctant to do so. The Landlord's representative stated when preparing the application to a Rental Officer, they had noticed the tenancy agreement had not been signed and had sent a second notice to the Tenant and informing them of the importance signing the agreement. They also stated that they had informed the Tenant that should there be any mobility issued they would attend the rental premises. The Landlord requested a Rental Officer order the Tenant to sign a tenancy agreement.

The Tenant testified they talked with the Housing Authorities Manager they wanted to get into Avens and being a public housing tenant created an issue for them in this regard and they had no desire to be a public housing tenant. The Tenant testified there were other residents in the rental complex that were provided larger units with laundry. The Tenant stated they had returned from treatment and was put into a separate unit from which was agreed upon with the Housing Authority Manager and therefore refused to sign the lease. The Tenant also testified they were ensured by letter they would be moved into another suitable unit so the Landlord could complete renovations to the rental complex. Due to the Tenant's health, was unable to prepare for the move. The Tenant also testified they were unaware of the tenancy agreement being sent to them via email and do not always check email. The lease sent by mail was not picked-up until just prior to evacuation, was misplaced and just found and still in the envelope but would not have signed due to the way the move took place.

The Rental Officer informed the parties a tenancy agreement can be oral, written or implied. And under subsection 9(4) of the Act states: "A tenancy agreement is deemed to be in writing where it has been signed by one party or his or agent, given to the other party or his or her agent and the landlord permits the tenant to take occupancy of the rental premises".

As the Tenant has been in possession of the rental premises since July 10, 2023, a valid tenancy agreement is in place and therefore meets the requirements of the Act. The Landlord acknowledged this and withdrew the request from the application.

Ordinary cleanliness

The Landlord's representative testified the Tenant's rental premises is in a level of hoarding and due to the Tenant's health condition creates a safety concern for egress and for first responders and poses a fire hazard. The Landlord's representative also testified a fire inspection was carried out and the rental premises was in a particular level of hoarding, affecting the Tenant's ability to exit should there be an issue.

To support the Landlord's claim was a Fire Inspection Report from the city of Yellowknife dated October 23, 2023 and an email dated July 29, 2024, from the Landlord's Maintenance Manager regarding the condition of the rental premises. The Fire Inspection Report indicated the Tenant's rental premises contained large amounts of combustible materials but did not affect the means of egress now deemed an immediate threat to safety of the occupant. The report also defined hoarding situations and dangers hoarding can pose. The report noted the clutter in the rental premises did not pose an immediate threat to safety of the occupant or emergency services. It also indicated the required clearances for sprinklers had been met at the time of the application but due to the clutter, created a fire load greater than that the sprinkler system could handle. Also, the clutter impedes the Tenant's ability to access the washroom, which could be deemed a health concern.

The Maintenance Manager testified the amount of personal items in the rental premises creates a challenge for regular or preventative maintenance and delays building repair projects. The Maintenance Manager testified they had hired a moving company to move items so they could access areas for work to be done and they took the opportunity at that time to move a stove into the rental premises as before this time they could not put one in due to the amount of personal items.

The Tenant disputed the Landlord's claim regarding of hoarding and cleanliness. The Tenant testified they maintain a clean household. The Tenant testified the rental premises they were moved into during the renovation was not the rental premises agreed upon with the Housing Authorities Manager. During the move, the Landlord engaged the use of a moving company to move them and also put them into a hotel for a night. The Tenant testified they had to visit the Housing Authority Office to get the keys for the new rental premises when the movers were at their door. They did not have time to prepare the new location for the move to fit their personal effects properly.

The Tenant testified when they had vacated their previous unit it was clean; the new rental premises was not in an acceptable condition. The Tenant stated they are clean tenant and due to health conditions they cannot use harsh chemicals. The Tenant stated as the rental premises was not in an ordinary state of cleanliness or that of a cleaner having been through the rental premises, they did not have the movers put items in an unclean area. The Tenant claimed they were living out of boxes due level of cleanliness.

The Tenant acknowledged the orderliness of their personal items. The Tenant stated the movers provided by the Landlord was to move items to storage which would withstand storage. They stated items during the move were not organized appropriately, as medical supplies were packed for storage versus being sent to the Tenants new rental premises, as a result items needed to be disposed of.

The Tenant claimed they are working to address orderliness of the rental premises. They have purchased items to assist with organization of their personal items.

During the summation, the Landlord's representative stated they had not been in the rental premises since July 29, 2024. Any changes to the condition of the rental premises after that date are not known. The Tenant stated the reason for much of the issue regarding organization of their rental premises is the way the move was conducted and the fact the movers provided by the Landlord would only take direction from the Landlord not the Tenant and the move was unorganized. The Tenant also stated they have been unwell to address the issue until recently.

Tenant concerns

The Tenant testified they had contacted the Tenant Relations Officer for the Landlord regarding a stove from another unit as it fit their needs. They testified the stove in the rental premises was unclean and had an odour when being used and did not meet their needs in relation to a letter provided from their doctor and removed it from the rental premises.

The Tenant stated there was no discussion regarding a stove until the Maintenance Manager attended the rental premises without proper notice. The Tenant also stated notices were not specific to what was being done when entering a rental premises. Notices had been put under the door and the Tenant did not see them as they were away until the Maintenance staff arrived at the rental premises. The Tenant also disputed the Landlord's attempt to contact them by other means. The Tenant also claimed at times maintenance staff attend the rental premises without proper notification. The Maintenance Manager disputed the claim regarding notices. Notification was given in accordance with the Act. They only enter a unit unannounced in the event of an emergency, and have never done so in the Tenant's rental premises.

The Tenant also testified they had issues with the Landlord regarding requests to do things such as paint the rental premises.

The Tenant testified repairs are required in the rental premises and stated this is something the Tenant needed to do whereas nobody else in the building was required to do. The Tenant was also advised they would require authorization from a Landlord to make any type of modification to a rental premises. If a Tenant was to make any type of unauthorized modification, they can be deemed damages.

The Tenant was in belief a security deposit was to make a rental premises livable. The Rental Officer advised the Tenant what a security deposit can be retained for.

The Tenant also stated they had obtained letters from medical professionals outlining health conditions and requirements for recovery and healthy living. Upon request, the letters were provided. One letter echo the claim made by the Tenant regarding the move and condition of the rental premises.

As noted earlier, the Tenant claimed the rental premises given was not in a clean state and had pointed this out to the Landlord via email.

The Landlord's Representative testified and provided photo evidence and the entry inspection report which indicates some deficiencies but not all. The Landlord also testified they try to allocate based on best use of inventory. If possible, they will try to accommodate a tenant but cannot always accommodate based on request. Upon request of the Rental Officer, the move-in inspection form and photos of the rental premises were requested from the Landlord and photos taken of the rental premises by the Tenant were provided. In review of the inspection report and photos of the rental premises to be somewhat accurate in regards to noted damages. However, photos provided by the Tenant show a stark contrast to what is the inspection report reported in regards to the cleanliness of the kitchen itself as there is evident uncleanliness and paint damaged in the kitchen.

The Tenant also expressed concerns of insects in the rental premises and accessibility ramp to the building.

Transfer and repairs to rental complex

The Maintenance Manager advised the Tenant was moved from their previous unit to the current unit was based on the requirement for repairs and upgrades to ensure the rental complex was safe. The Maintenance Manager testified they worked in the unoccupied areas first to avoid disruption to the occupants of the rental complex. The Maintenance Manager testified they tried to make the first floor livable, then transferred existing tenants from other floors to the main floor and carry out repairs on the other floors uninhibited.

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Conclusion

In acknowledgement of the Tenants concern on not receiving the rental premises in good condition, the application was made by the Landlord regarding maintaining the unit in an ordinary state of cleanliness and to not breach that obligation again. This claim itself is based on the organization of the contents within the rental premises and the hazards it creates. The Tenant acknowledged they have been unwell and recently started to address the issue of orderliness. I do find the Landlord's claim to have the rental premises put into a state of ordinary cleanliness to be justified.

Orders

An order will be issued:

- requiring the Tenant to comply with their obligation to maintain the rental premises in an ordinary state of cleanliness by February 28, 2025 and not breach that obligation again (p. 45(4)(a), p. 45(4)(b)).

Jerry Vanhantsaeme
Rental Officer