

IN THE MATTER between **HNT**, Applicant, and **LA**, 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 **Janice Laycock**, Rental Officer, regarding a rental premises located within the **community of Lutsel K'e in the Northwest Territories**.

BETWEEN:

**HNT**

Applicant/Landlord

-and-

**LA**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** December 4, 2024

**Place of the Hearing:** Yellowknife, Northwest Territories

**Appearances at Hearing:** MD, representing the Applicant  
LA, the Respondent

**Date of Decision:** December 4, 2024

### **REASONS FOR DECISION**

An application to a rental officer made by HNT as the Applicant/Landlord against LA as the Respondent/Tenant was filed by the Rental Office November 4, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Lutsel K'e, Northwest Territories. The filed application was personally served on the Respondent November 12, 2024.

The Applicant claimed the Respondent had not paid their full rent when due and had accumulated significant rental arrears, had sublet their rental unit in breach of the tenancy agreement, and had conducted illegal activities on the rental premises. An order was sought for payment of rental arrears, termination of the tenancy agreement, and eviction

A hearing was held December 4, 2024, by three-way teleconference. MD appeared representing the Applicant. The Respondent, LA, appeared about twenty minutes into the hearing. I reserved my decision at the hearing pending receipt of an updated lease balance statement and proof of service of the notice of termination.

#### *Tenancy agreement*

The Applicant provided, as evidence, the written tenancy agreement between the parties for subsidized public housing commencing on February 10, 2021, and continuing month to month. The assessed rent based on household income was \$70 per month until June 2024, after that date the rent based on assessed income was increased to \$325 per month.

The Applicant provided, as evidence, notice of the termination of the tenancy on September 30, 2024, and testified the notice had been personally served on the Respondent on August 23, 2024, and had also been served by registered mail. At the hearing, the Respondent disputed service and said they had not received the notice of termination and were not aware of issues with their tenancy until they received the application.

At the hearing, I reserved my decision and asked the Applicant to provide proof of service of the notice of termination on the Respondent. After the hearing, the Respondent reported they were unable to provide proof of service and withdrew their testimony stating the notice of termination had been served.

Based on their initial evidence, I understood the tenancy had been terminated on September 30, 2024, by notice, as provided for under subsection 51(5) of the *Residential Tenancies Act* (the Act), “where a tenancy agreement for subsidized public housing provides for a monthly tenancy, or is renewed as a monthly tenancy under subsection 49(1), a landlord may terminate the tenancy on the last day of the period of the tenancy by giving the tenant a notice of termination no later than 30 days before that day.” However, with this further information and considering the testimony of the Respondent, I find that notice of termination was not provided as required under the Act and the tenancy was not terminated and continues.

I am satisfied there is a valid tenancy agreement between the parties in accordance with the Act.

#### *Rental arrears*

The lease balance statement provided, as evidence, represents the Landlord’s accounting of monthly rents and payments received against the Respondent’s rent account. According to the statement provided with the application, dated November 1, 2024, the Respondent had outstanding arrears of \$1,681.24 at the end of October 2024. This amount includes outstanding tenant damages owing totalling \$663. When this amount is deducted from the arrears the total amount owing for rent was \$955.24.

At the hearing, the Applicant testified that since the application was filed, there have been additional charges of \$650 (rent for November and December), and the Respondent had made one further payment in November of \$400, bringing the rental arrears currently owing to \$1,205.24.

I asked the Applicant to provide a copy of the updated lease balance statement. A copy was provided after the hearing confirming the Applicant’s testimony.

I am satisfied the lease balance statement accurately reflects the current status of the Respondent’s rent account and find they have rental arrears currently owing (including November and December’s rent) in the amount of \$1,205.24.

#### *Breach of obligation - subletting*

In their application, the Applicant claimed the Respondent breached their obligations under the tenancy agreement by subletting their subsidized public housing unit and they had encouraged illegal activities on the rental premises.

According to the Applicant, in May 2024, the Respondent sought, and was provided, permission by the local housing authority to maintain their public housing unit while they sought treatment outside of the community. The authority consented to the Respondent's cousin house-sitting for them while they were away.

In July 2024, the Respondent returned to the community and regained possession of the rental premises. The Applicant received reports from the Respondent's cousin, that the Respondent had kicked them out and changed the lock, had wanted them to sell weed, and had charged and received rent from them. The Respondent's cousin provided screen shots of text messages of their discussions as well as etransfers for \$1,150 for rent and wifi.

In their application and testimony, the Applicant claimed that on July 19, 2024, the Respondent reached out to their office and in the call confirmed that they had rented out their unit to their cousin.

Part 16 of the written tenancy agreement titled Assignment and Subletting, states "The Tenant shall not assign this Agreement or sublet the Premises, in whole or in part." This is consistent with subsection 23(8) of the Act that states that sections relating to assignment or subletting do not apply to subsidized public housing.

After the Applicant confirmed that the Respondent had sublet the rental premises in breach of their tenancy agreement, they took steps to terminate the tenancy, including sending a notice of termination. As previously discussed, the Respondent testified they did not receive this notice. This was supported after the hearing when the Applicant reported they were unable to confirm that service of the notice had occurred.

At the hearing, the Respondent testified that their cousin was mentally unstable, and making all kinds of allegations that were not true. They denied any sale of weed at the rental unit, claiming they had decided not to proceed with this. They stated that the payments were for replacement of furniture that the cousin had damaged and other costs, but also stated that they had three kids and needed the payments to pay their costs while away at treatment.

Based on the evidence and testimony, I find the Respondent breached their obligation under the tenancy agreement, by subletting their subsidized public housing unit, during the period they were out of the community May to July 2024. Based on the Respondent's testimony, it is my opinion that although the Respondent may have considered selling weed (marijuana) at the rental premises, they did not proceed with this plan, and no further action is required on that issue.

*Termination of the tenancy agreement and eviction*

In their application, the Applicant sought termination of the tenancy agreement for repeated breaches of the Respondent's obligation to pay rent when due and subletting the rental premises in violation of the tenancy agreement.

At the hearing, the Respondent repeatedly interrupted both the Applicant and myself, called the Applicant names, swore, and threatened to end the call because "we were just going to kick them out anyway". I cautioned the Respondent about their behaviour and encouraged them to participate in the hearing and to tell us what they were prepared to do.

The Respondent testified that they had three kids and many expenses including payments on their truck, that others in their community had much higher arrears owing, and they had been a good tenant. After calming down, they also promised to pay off the arrears owing in full and to pay their rent when due.

At the hearing, I asked the Applicant if they would consider a conditional termination, based on the Respondent's promise to pay arrears owing. The Applicant stated that they wanted to proceed with the termination and eviction and were mainly concerned that the Respondent had lied to their landlord and had breached their obligation by subletting their unit in violation of the tenancy agreement and the Landlord's policies.

I reserved my decision at the hearing, in order to review the additional information requested and consider the issues raised.

Although subletting the unit is a clear breach of the tenancy agreement, I am not convinced that this breach alone, justifies termination of the tenancy agreement and eviction. However, despite their claim that they are a good tenant, the Respondent has repeatedly not paid their rent when due. According to the lease balance statement, the Respondent paid no rent in five-month period from August to December 2023, they also paid no rent in February, March, April, July and October 2024.

It is my opinion that termination of the tenancy agreement and eviction are justified, but considering the Respondent's promise to pay, that they have no previous rental officer order against them, and are unlikely to sublet their rental unit again, it is my opinion that the termination should be conditional.

I will order the termination of the tenancy agreement on February 28, 2025, unless the Respondent can pay their rental arrears totalling \$1,205.24, in full, and pays rent when due for the months of January and February 2025. If the tenancy is terminated, the Respondent will be evicted on March 1, 2025.

I encourage the Respondent to comply with these conditions. If they do, their tenancy can continue and they will not be evicted. I also encourage them to make themselves aware of the conditions in their tenancy agreement and not breach these conditions again.

*Orders*

An order will issue:

- requiring the Respondent to pay their rent owing in the amount of \$1,205.24 (p. 41(4)(a));
- requiring the Respondent to pay their rent on time in the future (p. 41(4)(b));
- requiring the Respondent to comply with their obligations under the written tenancy agreement and not breach these obligations again (p. 45(4)(a) and p. 45(4)(b));
- terminating the tenancy agreement on February 28, 2025, and the Respondent to vacate the rental premises on that date, unless the rental arrears totalling \$1,205.24 are paid in full, and rent for January and February 2025, are paid on time (p. 41(4)(c) and ss. 83(2)); and
- if the tenancy is terminated then the Respondent will be evicted from the rental premises on March 1, 2025 (p. 63(4)(a)).

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Janice Laycock  
Rental Officer