

IN THE MATTER between **JC**, Applicant, and **HNT**, 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 **town of Inuvik in the Northwest Territories**.

BETWEEN:

JC

Applicant/Tenant

-and-

HNT

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: December 11, 2024

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: JC, the Applicant
MC, witness for the Applicant
CC and CK, representing the Respondent

Date of Decision: December 17, 2024

REASONS FOR DECISION

An application to a rental officer made by JC as the Applicant/Tenant against IHA on behalf of HNT as the Respondent/Landlord was filed by the Rental Office November 14, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Inuvik, Northwest Territories. The filed application was deemed served on the Respondent by email on November 30, 2024.

The Applicant claimed the Respondent had wrongfully locked them out of their rental unit despite paying rent. At the hearing, I clarified that they were seeking reinstatement of their tenancy and compensation for costs incurred for accommodation after they were locked out. They also claimed compensation for utility costs charged to their account after they were locked out of the rental unit.

A hearing was scheduled for December 18, 2024, and notices were provided to the parties. On November 26, 2024, the Applicant made a request to the Rental Office for an expedited date for the hearing considering they had been locked out of their rental unit. A Rental Officer agreed to hear the application on December 11, 2024, notices of the rescheduled hearing were provided by the Rental Office to the Applicant and Respondent by email deemed served November 30, 2024. JC, the Applicant/Tenant, appeared at the hearing along with their mother, MC. CC and CK appeared at the hearing representing the Respondent/Landlord.

Tenancy agreement

A copy of the written tenancy agreement was not provided with the application. At the hearing, the parties agreed that there was a tenancy agreement between the parties for subsidized public housing commencing on April 1, 2012. The Applicant also testified that their tenancy had been in place prior to that, probably 2009, and they had raised their children in this unit.

After the hearing, the Respondent provided a copy of the most recent tenancy agreement to the Rental Office confirming this tenancy had commenced in April 2012, and was on a month to month basis. The Respondent provided a lease balance statement showing amounts charged and rent paid on the Applicant's rental account. According to this statement, the assessed rent had been \$365 per month, and went to full market rent of \$1,625 per month in July 2024.

This tenancy was deemed abandoned by the Respondent on September 24, 2024 and the Respondent took possession of the rental unit.

I am satisfied a valid tenancy agreement was in place in accordance with the *Residential Tenancies Act* (the Act).

Reinstatement of the tenancy

The Applicant alleged that the Respondent had locked them out of the rental premises on October 15, 2024, without consent and without an eviction order, and they sought reinstatement of their tenancy.

They testified, and provided as evidence, two termination notices they received by mail, the first dated September 10, 2024, for termination of the tenancy on October 31, 2024, and the second dated October 7, 2024 for termination November 29, 2024. They also provided a letter they received from the Respondent dated October 21, 2024, detailing attempts to contact the tenant over the last six months, including inspections of the unit, prior to deeming the rental premises abandoned and taking possession of the rental premises on September 24, 2024.

The Applicant testified and provided evidence that payments were made in July of \$200 and August \$300 on the rent owing. A further payment of \$700 was made in October in response to the notice of termination, as well as a payment at the end of November of \$400. The Applicant testified they had always paid their rent, that some of their arrears were related to payments during COVID (CERB payments) and should be adjusted, and that they assumed with payments on their rental account made their tenancy would not be terminated and they could regain possession of the rental unit. However, on October 25th when they spoke to the Respondent, they were told that it was too late. They called again on November 1, 2024, and spoke to the Respondent, and were again denied entry.

At the hearing, I explained, a tenancy for subsidized public housing can be terminated by notice of the landlord under subsection 51(5) of the Act, or if the Landlord believes that a tenant has vacated or abandoned the rental premises they may regain possession of the unit. It was my opinion, based on the evidence received, and later confirmed by the Respondent, that the Landlord had taken steps to initiate termination of the tenancy by issuing the termination notice in September, but then had deemed the unit abandoned on September 24, 2024.

Their notice in October was, according to the Respondent, sent in error. I believed that this dual process, especially the notice in October, created understandable confusion on the part of the Applicant.

I further explained that based on the evidence and testimony, the tenancy had been deemed abandoned on September 24, 2024, (not October 15, 2024, as set out in the Application). I first needed to determine if it was reasonable for the Respondent to make that decision and take

possession of the rental premises on that date.

.../4

According to subsection 1(3) of the Act, “a tenant has abandoned the rental premises and the residential complex where the tenancy has not been terminated in accordance with this Act and

- (a) the landlord has reasonable grounds to believe that the tenant has left the rental premises; or
- (b) the tenant does not ordinarily live in the rental premises, has not expressed an intention to resume living in the rental premises, and the rent the tenant has paid is no longer sufficient to meet the tenant’s obligation to pay rent.

The Respondent provided, as evidence, an updated lease balance statement detailing charges and payments on the Applicant’s rent account up to November 2024, as well as their notes detailing attempted communication with the Applicant. They testified they had made repeated attempts to contact the Applicant over the last six months about a variety of issues including rental arrears, and had not received any response. They attempted communication by phone (at the number provided by the Applicant), by letter, and by leaving notices at the rental premises. These attempts are also detailed in the letter from the Respondent and provided as evidence by the Applicant dated October 21, 2024, which include efforts beginning in February to communicate with the Applicant with no response. They didn’t hear from the Applicant until October 25, when they received a call asking to be let into the unit as the lock had been changed.

The lease balance statement verifies the Applicant’s testimony about payments that had been made. It also shows that no payments were made November 2023 to February 2024, in March a large lump sum payment was made, and no rent was paid in April, May, June, September 2024.

According to the Respondent, inspections were carried out on the unit in June, July, August, and September 2024 to follow-up on concerns about the condition (lack of cleanliness) of the unit. Notices for these inspections were left with the son in June, and otherwise left at the rental premises 24 hours prior to the inspections. Although the Applicant’s son was at the house in June, no one appeared to be living in the unit in July, August, and September 2024, even though it was reported that the unit seemed to be a “bit more dirty”. In September, after not receiving any communication from the Applicant, finding no one at the rental premises, and no sign of anyone living in the unit, they determined that the tenancy had been abandoned.

The Respondent noted that during the inspection in August, they opened the windows to deal with the smell, they also observed the fridge door partially open with food in the fridge. When

they returned in September, the notice for this and the last inspection were still in the door, windows still open, and the fridge was still open with food rotting in the fridge.

.../5

The Applicant testified, and provided evidence, that they work seasonally in the summer and had to travel to Dawson for their work, and were in and out of town for employment and as a result of being sick. They also did not receive all of the calls, letters or notices, but did receive the termination notice in September and October. The Respondent pointed out that under the tenancy agreement the Tenant is responsible for notifying the Landlord if they are going to leave the rental premises for longer than seven days and they are responsible for checking their mail. I note that the copy of the tenancy agreement that was provided to the Rental Office after the hearing verifies the requirement under part 18, requiring the Tenant to notify the landlord by writing if they plan to leave the premises unoccupied for longer than seven days during the period from May 1st to September 30th each year.

The Applicant claimed their son had been living in the rental unit while they were away and was very introverted so may not have come out or was at work, they never had to provide documentation in the past, and payments were made during this period on the rent. They also disputed the amount owing for rent, stating there was an error related to payments received during COVID, and one of the occupants only turned eighteen in August 2024 and should not have to provide income information.

The Respondent replied that the payments were made by others and were thought to be on the arrears owing and were not sufficient to meet the current rent charged. Also, the Applicant should be aware of their responsibility to notify the landlord, they have done this before, and not only was there no one there when they did the inspections, in September there was no sign of anyone living there.

At the hearing, I found based on the evidence and testimony provided that the Respondent/Landlord was justified in determining the rental unit was abandoned under subsection 1(3) of the Act.

Consistent with paragraph 1(3)(a) of the Act, the Respondent had reasonable grounds to believe that the Applicant had left the rental premises. Firstly, they had not heard anything from the tenant since January 2024, despite repeated attempts to communicate. At the hearing, the Applicant did not at any time suggest that they had responded to the communications from the Respondent, prior to the call on October 25, 2024. Secondly, the Landlord had attended the rental premises repeatedly and found no one there, and most recently no sign of anyone living there.

Although the Act does not require that both (a) and (b) are satisfied, I would also suggest that this determination was also consistent with paragraph 1(3)(b) of the Act, as the tenant had not communicated with the landlord in many months, no one appeared to be living in the rental premises, and the rent paid was no longer sufficient to meet the tenant's obligations.

At the hearing, I found the Respondent justified in deeming the rental premises abandoned and denied the Applicant's request to reinstate their tenancy. I also pointed out that if the Applicant had made any reasonable attempts to communicate with the Respondent/Landlord during this period about their tenancy, the results of this hearing might very well be different.

At the hearing, the Applicant stated they had not been able to find accommodation in Inuvik, had been living in Dawson. They asked to be allowed to stay in the rental premises for the next month while they dealt with their possessions in the house and in the yard, and cleaned the unit. The Respondent denied them occupancy, but agreed to let them into the rental premises during working hours, and offered to give them a month to do this if they needed the time.

Additional obligations - utilities

The Applicant claimed they had paid utilities after they had been locked out of the rental unit and should be reimbursed. On December 10th, they provided, as evidence, copies of their power bills for the months September, October, and November 1 to 15, 2024. At the hearing, the Respondent agreed to reimburse the Applicant for these costs.

I reserved my decision at the hearing pending receipt of further information to support the Applicant's claim for reimbursement as I hadn't had a chance to thoroughly review the information provided late on the 10th and wanted to see what had been paid. The Applicant said this wouldn't be a problem and offered to send this information that day. I provided until end of day December 13, 2024 to provide this information, and stated if not received, I would make my decision based on the information I had received for the hearing. On December 13, 2024, I received an email from the Applicant claiming "that the amount for the power bills that I have paid and owe under my name from September 24- November 15, 2024 is \$1,305.10."

Based on the information received from the Applicant prior to the hearing, they have been invoiced a total of \$565.61 for power to the unit since the unit was deemed abandoned and the locks were changed until mid November 2024 as follows:

Month	Amount charged (not including penalties)
September	\$77.62 (1/4 charge \$310.47)
October	\$322.55
November	\$165.44
TOTAL	\$565.61

Under subsection 45(1) of the Act, additional obligations can be set out in a written tenancy agreement. In this case, the Applicant was responsible for setting up an account for power and paying the costs. They complied with this obligation, but had been charged for the last week of September, month of October, and half of November. It is my opinion that it was the Respondent's obligation to assume these costs once the tenancy was deemed abandoned in September. Under paragraph 39(2)(c), where on the application of a tenant, a rental officer determines the landlord has breached on additional obligation, the rental officer may make an order requiring the landlord to compensate the tenant for loss suffered.

Based on the statements provided, the total amount invoiced (not including penalties) for the period September 24, 2024 to November 15, 2024 is \$565.61. I am not sure how the Applicant came up with a total of \$1,305.10, but this is not supported by evidence. During this period, the Applicant has paid \$185.57 on the invoiced amount, currently owing \$380.04. It might be argued that their current loss is \$185.57, however, as the full amount has been invoiced to their account, and will be a debt that they will be required to pay, I will order the Respondent to compensate the Applicant for all the costs invoiced for this period totalling \$565.61.

Orders

An order will issue requiring the Respondent to pay the Applicant \$565.61 to compensate them for power costs invoiced to the Applicant after the tenancy was deemed abandoned (p. 39(2)(c)).

Janice Laycock
Rental Officer