

IN THE MATTER between **NRR**, Applicant, and **RN and SA**, Respondents;

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:

NRR

Applicant/Landlord

-and-

RN AND SA

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	January 15, 2025
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	SM, representing the Applicant
	RN, representing the Respondent
	SA, representing the Respondent
<u>Date of Decision:</u>	January 16, 2025

REASONS FOR DECISION

An application to a rental officer made by NRR as the Applicant/Landlord against RN and SA as the Respondents/Tenants was filed by the Rental Office November 25, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served by personal service and email on the Respondents on November 25, 2024 for personal service and November 28, 2024 by email.

The Applicant alleges the Respondents have failed to pay rent on time, caused damages, and the tenant and their guests caused disturbances. An order was sought for payment for amounts due, termination of the tenancy agreement, and eviction.

A hearing was scheduled for January 15, 2025, in Yellowknife by three-way teleconference. SM appeared representing the Applicant. RN and SA appeared on behalf of the Respondents. I reserved my decision to review the evidence and testimony.

Preliminary matters

The Applicant also testified they had attempted to serve the application by email on November 25, 2024 and R's email bounced back. The Applicant's representative testified themselves and one other person attended the Respondent's rental premises to personally serve the application package. The Applicant's representative stated R refused the documents twice, and threw them at the Applicant's representative's feet. The Applicant's representative left the application package at the door with R. R claimed he did not remember putting the application at the Applicant's representative feet. R also confirmed he had his copy of the application.

Tenancy Agreement

Evidence provided establishing a fixed term tenancy agreement between the parties from August 1, 2021 to July 31, 2022. The fixed term tenancy agreement was renewed. The initial tenancy agreement was not signed. The last renewal was signed by all parties.

Prior to the hearing, SA stated she was guarantor for her son RN. The Rental Officer advised S her name was on the tenancy agreement and therefore deemed to be a Tenant.

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

From this point forward the Applicant/Landlord will be known as the Landlord and the Respondents/Tenants will be known as the Tenants.

Rental arrears

The lease ledger entered into evidence represents the Landlord's accounting of the rent and payments received against the Tenants' rental account from the start of the tenancy. At the start of the tenancy, the rent charged was \$1,450.00 and at the time of the application to a rental officer had increased to \$1,560.00 per month.

The ledger also indicated tenant damages in the amount of \$1,352.25. Damages are not considered rental arrears.

The lease ledger indicated the last time the Tenants were in a zero or positive balance on the rent account was July 31, 2024. The ledger indicated \$1,500.25 was owed at the time of the application. After removing the tenant damage charges, there was a balance owing in the amount of \$148.00, largely due to late payment penalties authorized in accordance with section 3 of the *Residential Tenancies Regulations*.

To support the Landlord's claim, submitted into evidence are numerous letters to the Tenants advising them of their arrears' status both before and after the positive balance date.

Prior to the hearing, an updated lease ledger was provided. The updated ledger showed payments of \$1,560.00 was received by the Landlord from a rental assistance program on December 1, 2024 and then again on December 27, 2024. The Landlord applied the payment effectively clearing the Tenants' damages claim and rent for December. The balance owed on the statement was \$1,500.25.

The Rental Officer questioned the payments. The Tenants advised the payments were to cover the rent for December 2024 and January 2025, not damages. After removing the damage claim from the arrears balance, I find the balance owing remained at \$148.00.

I am satisfied the Tenants have failed to pay the rent in full when due and accumulated rental arrears in the amount of \$148.00.

Disturbances

The Landlord's representative alleged the Tenants and their guests caused disturbances within the rental complex. To support the Landlord's claim, entered into evidence were three noise complaint warning letters dated December 3, 2021, April 18, 2022, and November 22, 2022.

Also entered into evidence was a security report from:

- November 2, 2024 - where the Tenant contacted the security requesting assistance to remove non-tenants who were loitering inside the rental premises. Security later returned to the rental premises requesting to conduct a security check but was refused by the Tenant. Security subsequently left.
- November 7, 2024 - a resident of the rental complex reported to security a fire extinguisher was discharged in the common areas. The person discharging the extinguisher was found, detained, and turned over to RCMP. Security footage indicated the person who discharged the fire extinguisher was a guest of the Tenants.

January 14, 2025 update:

The Landlord's representative provided an email from the security provided regarding two other incidents:

- November 20, 2024 - Three people found loitering in the rental complex. When approached, two had gained access to the Tenants' rental premises.
- November 30, 2024 - Six people found loitering at the rental complex. Three were outside and remainder inside the building. One later gained access to the Tenants' rental premises.

In response to the claim, R denied responsibility for the person who had discharged the fire extinguisher as their guest. R testified the person had come to his rental premises, he let them enter to a warm-up, once discovering they were intoxicated, asked them to leave. R stated, he was unaware the person discharged a fire extinguisher. Security footage showed the person left the Tenants' rental premises, obtained and discharged the fire extinguisher. R also stated he did not recall the noise complaints. The Tenants were advised when a person enters their rental premises, they become the responsibility of the Tenants. R acknowledged he was unaware of the rules regarding guests. Reference was provided to the Tenants.

The Rental Officer questioned access to the building. R confirmed keys are used. The Landlord's representative also confirmed keys were used as there have been issues with FOBS. Upon request, R testified he had not provide keys to others for entry to the rental complex or rental premises. R also testified he had lost keys in the past and obtained replacement keys from the Landlord. He had not requested a lock change due to cost.

The Rental Officer also questioned the updated incident reports. R stated he was unaware of the incidents. He also stated people always access the complex and continually bother them and others in the rental complex. The Rental Officer questioned and was advised by the Landlord they do not have video footage of the two updated incidents, only written statements from the security contractor were provided. S also stated people block doors open, resulting in open access to the rental complex and caused concern for their safety as well.

The Landlord confirmed there is no record for a request of a lock change or report of a forced entry or broken door. Access to the rental premises would have been allowed by the Tenants. The Landlord also acknowledged if a person gets access to the rental complex, does not mean they have access to the Tenants' rental premises with consent. The Landlord's representative expressed their focus was a safe and peaceful living environment for all tenants and not to allow unauthorized individuals access to the rental complex or units.

The November 20 and 30th, security reports from security patrols substantiate there have been some incidents of individuals found loitering in the residential complex. However, the reports did not indicate the Tenants gave access to any of those people into the rental complex. When confronted by security, some individuals vacated the rental complex and others attended and gained access to the Tenants' rental premises. There were no further reports of the now guests causing disturbances.

Tenants are permitted to have as many visitors as they wish, as long as they do not cause disturbances. High traffic to and from the rental premises does not in and of itself cause disturbances, although it could contribute to disturbing incidents. I am not satisfied there is sufficient evidence to substantiate disturbances being caused by the Tenants or their guests in the rental complex, other than that caused by the person who, after leaving the Tenants' rental premises, discharged the fire extinguisher.

Damages and cleaning costs

The Applicant claimed costs for repair to broken windows, replacement of a fire extinguisher, and cleaning of the residue from the fire extinguisher discharged within the rental complex. Entered into evidence were maintenance requests, invoices, email correspondence regarding damages, security footage, and incident reports.

Under subsection 42(1) of the *Act*, a tenant shall repair damages to the rental premises caused by their wilful or negligent conduct of the tenant or persons permitted on the premises by the tenant, and under subsection 42(3)(e) of the *Act*, where, on the application of a landlord, a rental officer determines that a tenant has breached the obligation imposed by this section, the rental officer may make an order (e) requiring the tenant to pay any reasonable expenses directly associated with the repair or action.

The Rental Officer reviewed the claim with the evidence and testimony provided to determine if the Tenants were responsible for the damages, cleaning, and if the costs for the work were reasonable.

The following are the amounts claimed and my findings:

- **\$992.25 claimed and approved** - two window panes damaged and replaced. Email from window installer to the Landlord's representative outlining the damages to the window and cause of the damages. An email entered into evidence noted the window had been broken from inside. R claimed the person who broke the windows had been charged and responsible for the repairs. S also stated the person who caused the damages did so when R was not home and it was done from outside. The Tenants were advised they still remain responsible for damages and would need to address the costs with the person through an outside forum. **Supported by testimony and evidence.**
- **\$360.00 claimed and approved** - guest of the Tenants discharged a fire extinguisher within the common areas of the rental complex. The responsibility was acknowledged when discussing disturbances. **Supported by testimony and evidence.**

\$1,352.25	Total Approved costs
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I am satisfied the Applicant's claim for the cost of damages and repairs are accurate.

Tenant claim

In response to the claims, Sa stated she resides in a different community, not at the rental premises. S stated when at the rental premises, many people knock at the door but are not allowed in rental premises. In regards to noise, they also hear noise from adjacent rental units. The rental complex is not a safe place for a variety of reasons and had incidents with others inside the building herself.

S also stated the building has door knobs missing and garbage is located throughout the rental complex. Issues that occur in the rental complex are not all their fault.

Termination of the tenancy agreement

In review of the evidence provided and testimony of all parties, I find the arrears balance and costs associated with the damages are the responsibility of the Tenants. In relation to disturbances, I find the incident of the discharge of the fire extinguisher by the Tenants' guest as the only outlying issue and the issues of people loitering in the building are not the responsibility of the Tenants' until they are deemed to be a guest of the Tenants. The Landlord's request for termination of the tenancy agreement and eviction is **denied**.

Orders

An order will be issued:

- requiring the Tenants to pay to the Landlord rental arrears in the amount of \$148.00 (p. 41(4)(a));
- requiring the Tenants to pay future rent on time (p. 41(4)(b));
- requiring the Tenants to not cause any further damages to the rental premises or rental complex (p. 42(3)(b)).
- requiring the Tenants to pay to the Landlord the costs of repairs and cleaning in the amount of \$1,352.25 (p. 42(3)(e));
- requiring the Tenants to comply with their obligation to not cause disturbances and not breach that obligation again (p. 43(3)(a), p. 43(3)(b)).

Jerry Vanhantsaeme
Rental Officer