

IN THE MATTER between **AF and MF**, Applicants, and **JMZ**, 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 **town of Hay River in the Northwest Territories**;

BETWEEN:

AF AND MF

Applicants/Landlords

-and-

JMZ

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: February 18, 2025

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: AF, representing the Applicant

MF, representing the Applicant

Date of Decision: February 19, 2025

REASONS FOR DECISION

An application to a rental officer made by AF and MF as the Applicants/Landlords against JMZ as the Respondent/Tenant was filed by the Rental Office January 22, 2025. The application was made regarding a residential tenancy agreement for a rental premises located in Hay River, Northwest Territories. The filed application was personally served on the Respondent February 5, 2025.

The Applicant requested an order to terminate the tenancy agreement for the use of the rental premises as a residence for the Landlord's child returning from school.

A hearing was scheduled for February 18, 2025, by three-way teleconference. AF and MF appeared representing the Applicants. The Respondent did not appear, nor did anybody on their behalf. The Respondent was served notice of the hearing by personal service on February 5, 2025. The hearing proceeded in their absence pursuant to subsection 80(2) of the *Residential Tenancies Act (Act)*. I reserved my decision to further review the evidence and testimony.

Tenancy agreement

Evidence presented established a fixed term tenancy agreement between the parties from March 10, 2024 to March 10, 2025. The tenancy agreement was signed by all parties. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

From this point forward, the Applicants are known as the Landlords and the Respondent is the Tenant.

Rental premises

The rental premises is located in the basement of the Landlords' home. The Tenant rented and had exclusive use of the bedroom, shared use of the basement bathroom, laundry, and the kitchen for cooking. The basement contained small appliances and a bar fridge for the Tenant's use.

Agreement to termination of tenancy agreement

Entered into evidence was an "Agreement to Terminate a Tenancy Agreement" provided by the Landlord to the Tenant. The agreement was only signed by the Landlord. Also, entered into evidence was a text message photo of the agreement sent to the Tenant. The Rental Officer questioned the method of service of the agreement. The Landlord stated they placed it on the door. They also stated they were not on speaking terms with the Tenant.

The Rental Officer pointed out posting a document is not an approved form of service under the Act and Regulations.

Terminating of tenancy

Subparagraph 58(1)(a)(ii) of the Act provides for a landlord to apply to terminate a tenancy where the landlord requires possession of the rental premises for use as a residence by the spouse, child or parent of the landlord.

In the Landlords' application, and testimony by the Landlords, they explained that the rental premises was to going to be used for their child returning from school and the remaining bedrooms were going are to be used by other family members and they wanted to end the tenancy agreement on the dated in the agreement and that was the reason why they had provided the "Agreement to Terminate a Tenancy Agreement" to the Tenant.

The Landlord testified after the "Agreement to Terminate a Tenancy Agreement" had been provided, Tenant left without notifying the Landlords. After a period of time the Landlords entered the rental premises with the assistance of the RCMP, found the rental premises void of personal items and the keys left in the rental premises.

The Rental Officer also questioned if the Tenant's rent was current. The Landlords confirmed the rent was only paid up to February 10, 2025.

Determinations

The Tenant retained rights to maintain the room in the Landlords' home as their rental premises until the tenancy agreement had been terminated. However, after being provided the "Agreement to Terminate a Tenancy Agreement" the Tenant chose to vacate.

Section 1(3) of the Act speaks to the condition which must be met to determine whether or not a tenant has abandoned the rental premises. Paragraph 1(3)(b) specifies that if the tenancy has not been terminated in accordance with the Act, 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 rental premises can be considered abandoned. As the current rent was not paid and rental premises was inspected and found to be void of personal items and the keys left, although they could have, the Landlords have not deemed the premises abandoned and did not reclaim possession.

The Landlords testified they were unsure as to whether they were entitled to do so as application to a rental officer had already been made under Paragraph 58(1)(a).

In review of the evidence and testimony, I am satisfied the Landlords in good faith required possession of the rental premises for use by a child.

Where the Rental Officer is satisfied under subparagraph 58(1)(a)(ii) of the Act, the Rental Officer may order the termination of a fixed-term tenancy for the last day of the fixed-term, in this case, the last day of the fixed-term is March 10, 2025.

Orders

An order will be issued:

- terminating the tenancy agreement between the parties on March 10, 2025 (sp. 58(1.1)(a)(ii);
- evicting the Respondent from the rental premises on March 11, 2025(p. 63(4)(a)).

Jerry Vanhantsaeme
Rental Officer