

IN THE MATTER between **HNT**, Applicant, and **RB and DS**, 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 **self government of Gameti in the Northwest Territories**;

BETWEEN:

**HNT**

Applicant/Landlord

-and-

**RB AND DS**

Respondents/Tenants

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>March 27, 2025</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>MD, representing the Applicant</b>
<b>Date of Decision:</b>	<b>March 27, 2025</b>

### **REASONS FOR DECISION**

An application to a rental officer made by GHA on behalf of HNT as the Applicant/Landlord against RB and DS as the Respondents/Tenants was filed by the Rental Office February 26, 2025. The application was made regarding a residential tenancy agreement for a rental premises located in Gameti, Northwest Territories. The filed application was Served on the Respondents by email and deemed served on March 3, 2025.

The Applicant alleged at the end of the tenancy the Respondents had outstanding rental arrears. After applying the security deposit against the arrears, there was still a balance owing. An order was sought for payment of the arrears balance.

A hearing was scheduled for March 27, 2025, by three-way teleconference. MD appeared representing the Applicant. The Respondents did not appear, nor did anyone on their behalf. The hearing proceeded in the Respondents absence as provided for in subsection 80(2) of the Residential Tenancies Act. At the hearing I reserved my decision to further review the evidence and testimony.

#### *Tenancy Agreement*

Evidence provided establishing a month-to-month tenancy agreement between the parties for June 22, 2023 through to December 1, 2024. The tenancy agreement was signed by all parties.

A portion of the tenancy agreement is not in the approved form based on the following item:

- **Paragraph 1(b) “covenants”:** The Tenant covenants with the Landlord as follows: The Tenant shall pay to the Landlord, in addition to the Rent, a service and administration charge in the amount of TWENTY-FIVE AND XX/ 100 dollars (\$25.00) for each and every cheque which the tenant’s bank or financial institution refuses to honour together with the Landlord’s actual amount from time to time charged to it by its financial institution and such charges may be collected as rent.

*Subsection 41(1) states a tenant shall pay to the landlord the rent lawfully required by the tenancy agreement on the dates specified in the tenancy agreement.*

*Section 13 of the Act prohibits penalties from being imposed when a breach occurs. Section 41(4) of the Act provides for remedies for when a tenant fails to comply with their obligation to pay the rent in full and when due. those remedies do not include compensation to the*

*landlord for losses suffered as a direct result of the breach. Consequently, it is also inappropriate and in contravention of the Act for the Landlord to claim administrative costs for NSF rent payments.*

*Subsection 41(2) A tenant who pays his or her rent later than the dates specified by the tenancy agreement is liable to a penalty calculated in accordance with the regulations.*

*Section 3 of the Residential Tenancies Regulations state: "For the purposes of subsection 41(2) of the Act, a late payment penalty respecting the rent due under a tenancy agreement must not exceed \$5 plus \$1 for each day after the due date that the rent is late, to a maximum of \$65.*

The contravention described in the written tenancy agreement is contrary to the Act and therefore invalid.

From this point forward the Applicant is known as the Landlord and the Respondents as the Tenants.

#### *Security deposit*

The Landlord entered into evidence a letter regarding the application of the Tenants security deposit. The Letter outlined a balance owed to the Landlord for rental arrears and cleaning costs and the amount of the security deposit and interest earned. The letter indicated the Tenants paid \$1,430.00 as a security deposit and the interest earned was \$0.08. The total amount retained was \$1,430.08 and applied to the cleaning costs and arrears.

#### *Cleaning costs*

An entry inspection report dated June 22, 2023, was entered into evidence establishing the condition of the rental premises at the commencement of the tenancy. An exit inspection report was entered into evidence establishing the rental premises was returned in a good condition with some cleaning required. One of the Tenants attended and signed-off on the exit inspection. Also entered into evidence were photos and an invoice for cleaning in the amount of \$500.00.

The lease balance statement included the cleaning cost and the application of a portion of the security deposit to zero out the cleaning charge. The remaining \$930.08 security deposit balance is to be applied to the arrears.

### *Arrears*

The lease balance statement entered into evidence represents the Landlord's accounting of the rent and payments received against the Tenant's rental account from the start of the tenancy. The statement indicated a monthly rent charge \$1,430.00. The statement also indicated the last time the Tenants' were in a zero or positive balance was July 1, 2024.

The statement also noted two NSF charges dated July and December 2024 totalling \$50.00 and a \$25.00 payment in December 2024 for an NSF charge. The statement also contained the cleaning charge in the amount of \$500.00. Cleaning charges are not considered rent. Payment of the cleaning charge was addressed earlier.

Before applying the remainder of the security deposit, the Tenants had an outstanding rental arrears balance of \$1,455.00.

Section 13 of the Act prohibits a landlord from charging any penalties for non-payment of rent other than late payment penalties calculated in accordance with section 41(2) of the Act and section 3 of the Regulations. The NSF fees charged in July and December 2024 totalling \$50.00 are disallowed and the \$25.00 payment towards the NSF charge will be credited to the rent account, leaving a balance owing of \$1,405.00.

After deducting the remaining security deposit balance of \$930.08 from the balance owing, I find an arrears balance owing in the amount \$474.92.

### *Orders*

An order will be issued:

- requiring the Tenants to pay to the Landlord rental arrears in the amount of \$474.92 (p. 41(4)(a).

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Jerry Vanhantsaeme  
Rental Officer