

IN THE MATTER between **507398 NL**, Applicant, and **MM and NM**, 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:

**507398 NL**

Applicant/Landlord

-and-

**MM AND NM**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** April 16, 2025

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

**Appearances at Hearing:** DR, representing the Applicant  
MM, representing the Respondents

**Date of Decision:** April 16, 2025

### **REASONS FOR DECISION**

An application to a rental officer made by 507398 NL as the Applicant/Landlord against MM and NM as the Respondents/Tenants was filed by the Rental Office March 4, 2025. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served by email on the Respondent MM deemed served on March 8, 2025 and on N was served with the addendum application by personal service on April 7, 2025.

The Applicant alleged the Respondents failed to pay rent, resulting in the accumulation of rental arrears. An order was sought for the Respondents to pay arrears and pay future rent on time and in full.

A hearing was scheduled for April 16, 2025, by three-way teleconference. DR appeared representing the Applicant. MM appeared and confirmed they would be representing the Respondents. At the hearing, I gave an oral order based on the Respondent acknowledging the arrears and would verify the amount owing based on information to be provided by the Landlord and put into my reasons for decision.

#### *Tenancy agreement*

Evidence presented a fixed term tenancy agreement commencing April 30 and running to May 1, 2025.

The tenancy agreement is not in the approved form based on the following identified items:

- **Rent:** The rent shall be \$2,750 per month and shall be due payable in advance by the Tenants to the Landlord's agent at the Office. The Rent shall be paid on the first day of each month during the tenancy. Rent to be paid by cheque, certified cheque, or money order. A \$50.00 service charge will apply on NSF cheques and late rent is subject to a late charge of \$50.00 after the 3<sup>rd</sup> day of the month, and a \$5.00 per day until the rent is paid in full.

*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.*

*A tenant cannot be told to pay rent in advance of the date due.*

*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.*

*Section 3 of the Residential Tenancies Regulations states: "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.*

- **Security deposit:** The Tenants agree to pay the Landlord a security deposit equal to one month's rent. This security may be utilized by the landlord and may be applied by the landlord in such amount necessary to provide for: c) The standard re-rental fee is \$250.00. If the Tenant breaks a fixed term lease, he will automatically forfeit his security deposit.

*Section 18(4) states a landlord may only retain all or part of a security deposit, a pet security deposit or both for arrears of rent owing from a tenant or for repairs of damaged to the rental premises, caused by the tenant or a person permitted on the premises by the tenant.*

- **Refund:** Subject to the foregoing, the security deposit, or the balance thereof and statement of account shall be returned to the Tenants in accordance with the Landlord and Tenants Act.

*In the NWT, landlord -tenant relationships are governed by the Residential Tenancies Act and Residential Tenancies Regulations.*

- **Termination:** Where the lease is a month-to-month lease, the parties may terminate this lease as follows:

a) By the Landlord, by notice, in writing served on the tenant three consecutive months before the termination date, in the notice.

b) by the Tenant, by notice in writing, served on the Landlord last day of the month to be effective on the last day of the next month. Any notice received after the last day of the month is considered to be late notice. A tenant becomes automatically liable for the following month's rent. Landlords clarifying comment. "meaning the last day of the month immediately following the Tenants's termination of tenancy, the apartment must be available for the incoming tenant or Landlord may press charges against the over-holding tenant for use and occupancy of the apartment at a rate of double the rent calculated on a daily bases.

d) By the Tenant, by notice n writing: in the case of yearly tenancy, the Tenant may choose to renew this lease beyond the expiration date by giving notice on or before the last day of the month. Two months preceding the final month of the tenancy, requesting renewal of the lease, provided the terms of the renewal lease shall be determined by the Landlord.

*In general, a tenancy can last as long as the tenant wants to stay in the unit. When a Landlord wants the tenant to move out, they must make an application to the Rental Officer for the tenancy to end. This can happen if the tenant is repeatedly late paying the full rent; the tenant fails to repair damages caused by them or their guests; the tenant repeatedly disturbs the landlord and other tenants; the tenant has not done things they agreed to in the tenancy agreement; the tenant has overcrowded the rental premises; the tenant has not kept the premises in a state of ordinary cleanliness; the tenant has conducting illegal activities in the rental premises; the landlord needs the unit for their family; the rental property has been sold and the buyers want it for their own residence; the landlord plans to demolish the building, change its use or make extensive repairs.*

*In some situations, the landlord can ask a Rental Officer to end a tenancy with 10 days' written notice where the Tenant has repeatedly and unreasonably disturbed the landlord and other tenants; not followed a Rental Officer order; there is a serious problem that makes the landlord or other tenants unsafe; or the tenant has repeatedly failed to pay the full amount of rent or pay the rent on time.*

*A tenant in a month-to-month tenancy can terminate the tenancy with written notice to terminate on the last day of the month at least 30 days before that date. A tenant in over holding cannot be charged more than the monthly rent during the rent period.*

*In the case of a yearly (fixed term) tenancy, the parties can mutually agree to renew the tenancy the tenancy for another fixed term. When a fixed term tenancy agreement has not been renewed for another fixed term, the parties are deemed to have renewed the tenancy agreement as a month-to-month tenancy.*

- **Breach of Tenant Covenant:** If the Tenant's breach any of the above covenants or any other conditions of this lease, the Landlord, at his option, may terminate this lease by giving the Tenants a 14 DAY WRITTEN NOTICE or such longer period as he may allow.

*As noted earlier the landlord can only terminate a tenancy for specific reasons and would require an application to a Rental Officer.*

- **Abandoned Goods:** The day after a tenant vacates, the Landlord can dispose of any abandoned goods to a value of \$300.00.

*At times a tenant may leave personal items in the unit. In these situations, if the personal items are worthless, unsanitary, or unsafe to store, the landlord can throw them away. If this is not the case, the landlord has to give the Rental Officer and tenant a list of the items. If the Rental Officer finds that the abandoned personal property is not worth the cost of storing it, then he or she may permit the landlord to sell or dispose of the property. If not, the landlord must store the items in a safe place for at least 60 days. If the tenant wants the items back, the landlord may only charge the tenant reasonable removal and storage fees.*

- **Legal Expenses:** the Tenants agree to pay all Lawyer's fees and expenses of the Landlord incurred in enforcing any of the obligations of the Tenants under the lease.

*There is no specific provision in the Act to be awarded legal costs related to the filing of an application other than what is ordered by a Rental Officer. Costs incurred by either party would be at the sole cost of the party themselves.*

- **Maintenance Costs:** The Tenants shall be responsible for the costs of repairing plugged toilets, sinks, drains and for the cost of replacing all windows and screens broken by the Tenants or their guests.

*Not all items indicated are not considered to be maintenance but can be construed as tenant damages. The landlord is responsible to keep the rental premises and rental complex in a good state*

*of repair and follow all health, safety, maintenance and occupancy standard required by law.*

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- **Inspections:** The Landlord may at any reasonable time enter the Tenant's apartment to make inspections, repairs or in case of emergency and during the last month of the tenancy the Landlord shall have the right to show the apartment to prospective tenants, such entry to be made in accord with the Landlord and Tenants act. The Landlord also has the right of entry where rent is not paid or where it is reasonable to assume suite may be vacated.

*A landlord cannot enter a rental premises without the tenants authorization or unless in the case of an emergency or the landlord has deemed the rental premises as abandoned. A tenancy agreement can be deemed terminated based on abandonment, when the landlord has reasonable grounds to believe that the tenant has left the rental premises; or 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.*

- **Rules and Regulations - Maintenance**

The Tenants shall, at his own cost, repair plugged toilets, sinks, and drains, replace all glass broken or cracked by the Tenant or his guest, replace all light bulbs and fuses and maintain the carpet in his premises.

*A tenant can be held responsible for damages. However, situations may arise where some of the items indicated are connected to other rental units and cannot be directly related to the tenant and normal wear and tear need to be taken in to account.*

- The Tenant shall be responsible for professionally cleaning the carpets and drapes in the premises once per lease year and proving proof, upon request of professional cleaning to the Landlord. The Tenant, upon vacating, will clean the Premises to the same standard that exists when the Tenant took possession of the Premises, which includes cleaning all window coverings and having all carpets professionally steam cleaned. The Tenant will be charged for any professional steam cleaning that was not completed.

*The tenant is to maintain the rental premises and all the services and facilities provided by the landlord of which the tenant has exclusive use in a state of ordinary cleanliness. This does not mean steam cleaning is required.*

The Tenant shall not leave guests in charge of the premises or allow guests to stay overnight without first obtaining the Landlord's written consent.

*A landlord cannot unreasonably restrict a tenant's rights to have guests stay overnight. A tenant may also allow a guest to be in charge of the rental premises. However, the actions of the guest become the responsibility of the tenant.*

- **Safety:**

Only small pets are allowed on the premises. No large animals are allowed on the Premises either on a temporary or permanent bases. In the event that the owners discovers a pet being kept in the Premises at any time, and providing the owner has not given written consent to the presence of that particular pet, upon premises, a penalty shall be paid by the Tenant on demand, equal to FIFTY PER CENT of the current rent rate for each month or part of the month that this said pet is upon the Premises. In this paragraph, Premises includes the owner's communal area and Premises. For small pets a \$250.00 pet fee must be paid before the move in date, the Landlord must meet and approve the pets. All pets must be met and approved by the Landlord or Landlords representatives. An additional \$50/month charge to rent will be added for any extra cleaning costs that may occur.

*The Act provided for a pet security deposit to a maximum value of 50 percent of one month's rent. The additional monthly charge is disallowed as it is not considered rent and contrary to the Act.*

In my opinion, the contraventions described in the written tenancy agreement are contrary to the Act and therefore invalid.

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

#### *Arrears*

The Landlord testified the Tenants have fallen behind in their rent and missed promised payment dates. The Landlord stated since the application to a rental officer was made the Tenant had made a payment towards their rent account.

To support the Landlord's claim was a rent invoice and emails to the Tenants regarding the arrears and charges.

The rent invoice entered into evidence represents the Landlord's accounting of the calculated monthly rent and payments received against the Tenants' rent account. The invoice indicated the monthly rent charge was \$2750.00, and at the time of the application the Tenants had accrued \$4,235.30 in rental arrears. The arrears balance also included late payment penalties of \$148.00 plus \$7.40 GST for a total of \$155.40.

The Tenants did not dispute the Landlord's claim and stated they fell behind on the rent due to personal, work, and financial reasons. The Tenants committed to addressing the arrears and paying the rent on time. The Tenants requested time to address the arrears as they are recovering financially.

In review of the statement, it was noted the late fees charged were not in alignment with Section 3 of the Residential Tenancies Regulations, where 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. In doing the calculations for the penalties, based on payment dates: rent was not paid in October and November allowing for a \$36.00 penalty for October and a \$35.00 for November. The Tenants also paid the rent late in December allowing for a \$21.00 penalty. The total authorized penalties equals \$92.00.

Upon request, the Landlord provided an updated rent invoice. The updated invoice indicated the Tenants failed to pay March rent but in April 2025 paid \$4,000.00, leaving a balance owing in the amount of \$5,735.30. The balance owing included \$5,600.00 for arrears.

I am satisfied the Tenant owes \$5,600.00 in unpaid rent and \$92.00 in late payment penalties for a total of \$5,692.00.

I find the Tenants responsible for rental arrears in the amount of \$5,692.00.

#### *Orders*

An order will be issued:

- requiring the Tenants to pay the Landlord rental arrears in the amount of \$5,692.00 (p. 41(4)(a));  
and
- requiring the Tenants to pay future rent in full and on time (p. 41(4)(b)).

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Jerry Vanhantsaeme  
Rental Officer