

IN THE MATTER between **AT and HT**, Applicants, and **NRR**, 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 **city of Yellowknife in the Northwest Territories**;

BETWEEN:

AT AND HT

Applicants/Tenants

-and-

NRR

Respondent/Landlord

REASONS FOR DECISION

<u>Date of the Hearing:</u>	April 16, 2025
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	HT, representing the Applicant
	MHS, representing the Applicant
	SM, representing the Respondent
<u>Date of Decision:</u>	April 17, 2025

REASONS FOR DECISION

An application to a rental officer made by AT and HT as the Applicants/Tenants against NRR as the Respondent/Landlord was filed by the Rental Office March 12, 2025. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was personally served on the Respondent April 4, 2025.

The Applicants alleged the Respondent breached their obligation to pay power in accordance with the tenancy agreement and served the Applicants with a "10-Day Notice of Termination" for nonpayment of fees and Respondent failed to provide a copy of the signed tenancy agreement to the Applicants when requested.

A hearing was scheduled for April 16, 2025, by three-way teleconference. HT and MHS appeared representing the Applicants. SM appeared representing the Respondent. I reserved my decision to review the evidence and testimony.

From this point forward the Applicants will be known as the Tenants and the Respondent as the Landlord.

Tenancy issues

The Tenants' representative testified the Tenants entered into a tenancy agreement with the Landlord in January 2022. To support the claim was a "Lease Ledger" showing a security deposit was paid on January 18, 2022 and the first rent charge commenced February 1, 2022.

The Tenants' representative testified the Landlord was unwilling to provide the Tenants with a copy of the signed tenancy agreement.

The Tenants' representative stated from the start of the tenancy the Tenants paid the rent, which included electricity, and on January 19, 2024, the Landlord commenced charging electricity. To support the claim, submitted into evidence was the "Lease Ledger" showing electricity, administration fees, and GST.

After filing the application to a rental officer, the Landlord provided a new 'Lease Ledger' which did not include the charges. The Tenants' representative testified the Landlord had told them they could not adjust the ledger, and on April 8, 2025 an email was sent to the Tenants containing a new tenancy agreement which was backdated. The backdated tenancy agreement included utilities but required the Tenants to pay more towards the security deposit. The Tenants' representative stated the original tenancy only had the security deposit charged at the beginning of the tenancy and they were part of that conversation. The Tenants' representative stated the Tenants received multiple calls which was basically harassing and scaring the Tenants. The Tenants' representative stated the Tenants should be compensated but they are not looking for monetary compensation.

In response to the claim, the Landlord's representative stated there was a miscommunication regarding utilities. The Landlord's representative stated when the tenancy started the Tenants were not charged utilities. When a market search was done, the property came up with a new exception list. The list showed the Tenants had to be charged. When it was discovered what the Tenants should not have been charged, the Landlord looked to resolve the matter, reversed the charges and a new tenancy agreement was provided to the Tenants. The new tenancy agreement included what was demanded by the Tenants. The Landlord's representative testified charges on the ledger cannot be reversed unless approval is given by management. The Landlord's representative stated they did not refuse giving the tenancy agreement to the Tenants but was missed.

The Tenants' representative stated they attended the Landlord's office multiple times and was advised the Tenants are responsible. It was also noted the Landlord staff were polite and did work to address the issue but the new tenancy agreement provided showed the Tenants were responsible to pay another \$1,175.00 towards the security deposit, when at the time the Tenants entered into the tenancy, they paid a higher rent, which included power versus those who paid their own utilities. The Landlord advertised utilities to be included and only 50% of the monthly rent as a security deposit. The Tenants' representative questioned if the security deposit remains the same or if the Tenants need to pay the remainder. The Landlord's representative referred to section 14 of the Act, where the tenants are responsible to pay 50% at the start of the tenancy and the remainder within 3 months of the start of the tenancy.

The Rental Officer questioned the tenancy agreement submitted into evidence. The Tenant's representative stated the Tenants signed a tenancy agreement with the Landlord at the commencement of the tenancy. The Landlord's representative testified, they believe there was a signed tenancy agreement in place. The tenancy agreement provided is a new tenancy agreement, not the original. As it was identified the tenancy agreement provided by the Landlord is new, it is not reflective of the tenancy in question and not considered for the hearing. The Landlord advised the Tenant's have \$25.00 owing, and notices sent are base on the balance.

Determinations

At the end of the hearing, the Landlord's representative confirmed there was a signed tenancy agreement but it could not be found. The tenancy agreement provided is new and backdated to the start of the tenancy and is not considered. As the tenancy agreement to the tenancy could not be provided, I have determined the tenancy is an implied tenancy and believe since the Landlord did not make an application to have the remainder of the security deposit the amount paid was that agreed to when the Tenants moved into the rental premises.

In review of the 10-day notice of termination, the notice itself is not consistent with the paragraph 54(1) of the Act. The notice provided indicates the Landlord can terminate the tenancy for cleanliness, which is incorrect, and the Landlord can also terminate the tenancy on other fees, which is also incorrect. A 10-day notice of termination can only be issued on: (a) the tenant repeatedly and unreasonably disturbing the landlord and other tenants quiet enjoyment; (b) the tenant or their guests causing damages and the tenant has failed to comply with an order of a rental officer made under paragraph 42(3)(a) to (e); (d) the tenant has not complied with an order of a rental officer to rectify a breach of an additional obligation to the tenancy agreement; (e) the tenancy agreement has been frustrated; (f) the safety of the landlord or other tenants of the residential complex has been seriously impaired by an act or omission of the tenant or persons permitted in the rental premises or residential complex by the tenant; or (g) the tenant has repeatedly failed to pay the full amount of rent or to pay the rent on the dates specified in the tenancy agreement.

When I look at the notice provided the Landlord gave notice for other fees, which based on the lease statement is related to power charges. While the Landlord did say whenever there is an amount owing, the system automatically sends notice, when sending the 10-day notice, if the file had been reviewed, it would have been discovered when the tenancy started power charges were included in rent, then for 8 months they were applied against the rent account, and then stopped again. By failing to do so, the Landlord has caused stress to the Tenants, which has also disturbed their quiet enjoyment.

I also note the updated Lease Ledger does contain a balance owing of \$25.00. Based on the Landlord's representative's testimony, the Tenants will continue to receive notice for arrears until the balance is paid.

Order

An order will be issued:

- requiring the Landlord not to disturb the Tenants' quiet enjoyment of the rental premises or residential complex (p. 34(2)(a)).

Jerry Vanhantsaeme
Rental Officer