

IN THE MATTER between **ST**, Applicant/Respondent, and **DD**, Respondent/Applicant.

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:

ST

Applicant/Respondent/Tenant

-and-

DD

Respondent/Applicant/Landlord

REASONS FOR DECISION

Date of the Hearing: April 25, 2025

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: ST, representing the Tenant

LG, witness for the Tenant

DD, representing the Landlord

Date of Decision: April 26, 2025

REASONS FOR DECISION

An application to a rental officer (file #18601) was made by ST as the Applicant/Tenant against DD as the Respondent/Landlord was filed by the Rental Office April 10, 2025. The filed application was personally served on the Respondent/Landlord on April 14, 2025.

The Tenant claimed the Landlord withheld vital services (water delivery) to the rental premises by refusing to allow a water account to be opened in their name with the service/billing provider and unwilling to accept rent. An order was sought for an order to not withhold vital services.

An application to a rental officer (file #18599) was made by DD as the Applicant/Landlord against ST as the Respondent/Tenant was filed by the Rental Office April 10, 2025. The filed application was personally served on the Respondent/Tenant on April 14, 2025.

The Landlord claimed the Tenant was permitted a temporary stay in the rental premises for a weekend, no tenancy would start until after the weekend. The Tenant and their guests have caused disturbances and possible suspicious activities taking place at the rental premises. An order was sought for termination of the tenancy agreement and eviction.

An expedited hearing was requested by the Applicant/Tenant citing the Respondent/Landlord was unreasonably withholding vital services (water) to the rental premises. The expedited hearing was scheduled for April 25, 2025, by three-way teleconference. ST appeared representing the Tenant. LG appeared as a witness for the Tenant. DD appeared as the Landlord.

Both applications were made regarding a rental premises located in Hay River, Northwest Territories. The rental premises is described as a three bedroom, one bath, stick-built bungalow with trucked water delivery located on a corner lot. As both applications dealt with the same rental premises, a common hearing was held.

For clarity, as the parties are both Applicants and Respondents, from this point forward the Tenant will be known as the Tenant and the Landlord as the Landlord.

Tenancy

The Tenant claimed the parties entered into an implied/oral tenancy agreement for the rental premises.

The Landlord claimed they allowed the Tenant to stay in the rental premises over a weekend (March 7 -9, 2025). No arrangements would be made for a tenancy until the following Monday (March 10, 2025). The Landlord claimed to enter into a tenancy agreement, the Tenant would require references and get all services in their name prior to moving in.

Entered into evidence from the Landlord was a written statement pointing to allowing the Tenant the temporary use of rental premises for the weekend. The statement also pointed to the Landlord's belief they had not entered into a tenancy agreement from the beginning due to lack of references, but requested a Rental Officer order an immediate eviction.

The Tenant's witness testified they provided the Landlord with the first month rent and security deposit. The Landlord did not dispute the claim and acknowledged receiving \$1,500.00 for March rent and later \$1,500.00 for security deposit. Both parties agreed no receipt was provided.

When questioned, the Landlord stated monthly rent was \$1,500.00 and the Tenant was to put utilities in their name. The Landlord confirmed a lease was with them during the visit to the rental premises on March 7, 2025 but was not signed by either party.

Vital services

The Tenant claims the Landlord has not allowed water delivery for the past 30-days. The Tenant has five children residing with them. Without water, they cannot clean themselves, wash dishes, clean the rental premises, or flush the toilet. The Tenant had water for March but not for April 2025. The Tenant has been using buckets to bring water to the rental premises.

The Tenant acknowledged as part of the tenancy they were to have utility accounts in their name. The Tenant attempted to do so but had difficulties and advised the Landlord of the issues. The Tenant was able obtain a sewage removal account. When attempting to obtain propane, the propane vendor raised questions regarding billing and challenges in doing so. The Tenant also stated the reason for not getting a water account was the community's requirement for the Landlord to provide authorization.

The Landlord testified the rental premises was empty since November 2024, prior to the Tenant moving. Water was not stopped or shut off but service to the rental premises was froze. Water in the tank was there already for March. The Landlord refuses to sign paperwork to allow the Tenant to obtain a water account. The Landlord stated they are paying for the rental premises and taking a loss.

Community bylaw #1786/UTIL/01, Part 3 (301)(2) "Establish and Terminate Service", where premises are occupied by a tenant or lessee, the Senior Administrative Officer may require that the application for service be submitted by the owner of the rental premises. Bylaw schedule "A", Tariffs" provides the rates for water consumption¹. The community website indicates the renter and property owner must sign connection and disconnection forms.²

The Rental Officer questioned and both parties acknowledged utilities under the tenancy agreement would be the responsibility of the Tenant. The Tenant confirmed they have the sewage account was in their name. The propane, electricity, and water account remains in the name of the Landlord. The Rental Officer questioned laundry, the Tenant stated laundry has not been done, due to not having water.

The Rental Officer also questioned if the Landlord had been invoiced for water to the rental premises for the March 2025. The Landlord was unsure. Upon request, the Landlord obtained and provided a water invoice for March. The invoice noted the rental premises consumed 3,472.00 imperial gallons of water at a cost of \$184.85.

Illegal activities and disturbances

The Landlord claims while the Tenant was temporarily occupying the rental premises, they were contacted by a neighbourhood watch regarding activities taking place at the rental premises. The Landlord stated the neighbourhood watch advised who was attending the rental premises and a number of them have criminal records or charges against them, one of which includes assault. The Landlord stated the tenancy was done in bad faith. The Landlord stated the Tenant's previous tenancies were ended based on the Tenant's actions. The Landlord stated they received constant calls advising the Tenant being involved with illegal activities (theft) and was charged. The Landlord stated they do not want to be connected to this type of activity. The Landlord stated they are concerned of being charged under section 588 of the Criminal Code and personal liability based on activities at the rental premises.

The Landlord also noted a person staying at the rental premises with the Tenant was previously residing at a shelter and questions if the Tenant is subletting out rooms. The Landlord stated the community watch said at one point there were 5 vehicles at the rental premises causing disturbances. As a result, RCMP were contacted. The Landlord also stated RCMP had attend rental premises.

.../5

¹<https://hayriver.com/wp-content/uploads/2021/06/Bylaw-1786.pdf>

²<https://hayriver.com/utilities/>

The Landlord stated they don't like receiving calls regarding the rental premises nor having people call the property a drug house. They stated they would place surveillance on the rental premise to observe activities taking place. The Landlord again expressed they cannot allow illegal activities take place at the rental premises. The Landlord also stated they could not confirm if stolen goods or illicit drugs are at the rental premises.

To support the Landlord's claim are photos, a letter from the neighbourhood watch, a note regarding possible civil litigation for other landlords within the community, based on negligence and section 588 of the criminal code.

In response to the Landlord's claim, the Tenant testified they were in contact with the Landlord. The Tenant advised they messaged the Landlord on April 1, 2025 with regards to the RCMP attendance. The Tenant stated they informed the Landlord the reason for RCMP attendance was personal and not for activities. The Tenant also questioned the neighbourhood watch authority, assumptions, and possibility of harassment. The Tenant spoke to a message sent to the Landlord and advised there was no other adult residing in the rental premises.

The Tenant referenced back to the lack of water and has been in contact with environment health for an inspection, the Landlord is not being fair based on unsubstantiated accusations. The Tenant also stated there was no discussion regarding references until after moving into the rental premises.

The Tenant also spoke to a photo. The photo was taken at their workplace not the rental premises. The Tenant owns a business. The Landlord stated the photo was sent to them, they did not search it out, and about a specific person but was not the person they thought.

The Landlord also pointed to when they had talked to the Tenant regarding another person staying at the rental premises, the person was not allowed to be there. The Landlord expressed concerns for their property, their reputation, liability on them for activities in the rental premises, and safety of the community and was taking steps to address the issue.

The Rental Officer requested and the Landlord spoke to what the neighbourhood watch was and what they did. The Rental Officer also questioned and the Tenant spoke to their charges from January 13, 2025 and the reasoning.

Terminating the tenancy agreement

The Landlord testified they would be willing to return the rent and security deposit back for the Tenant to vacate the rental premises. They are taking a loss, paying utilities, and not receiving rent. They would be willing to take the financial loss to have the Tenant vacate. The Landlord testified the Tenant advised they would be moving out on April 1, 2025, a new tenant was to move in but the Tenant did not vacate.

.../6

The Tenant did not dispute the Landlord's claim regarding vacating the rental premises on April 1, 2025, but advised the Landlord the place they were going to relocate to did not pan out. The message also pointed to the Landlord not adhering to the Act for provisions of vital services, remedies, and termination requirements. The message also requested the Landlord allow the Tenant to continue renting until June 2025 (end of the school year).

The Tenant read into the record and provided a message regarding rent, payment, and the requirements for the Landlord to terminate the tenancy agreement. The Tenant also pointed to subsections 30(5) "Notice of Substantial Breach" and 32(1) "Payment to a Rental Officer".

The Tenant stated they would vacate the rental premises with appropriate termination notice.

The Rental Office advised the parties they can terminate with a mutual agreement on a specific date.

Rental Officer findings

In view of the evidence and testimony, I find the following:

Tenancy agreement

Subsection 9(1) states a tenancy agreement may be oral, written or implied. This means a landlord and tenant do not have a signed tenancy agreement to establish a legal tenancy.

The Landlord provided the keys, obtained March rent, and obtained a security deposit from the Tenant. While the Landlord is willing to return the funds received, as no receipt is given, the tenancy is not ended until the parties mutually terminate the tenancy agreement in accordance with section 50 of the Act. I am satisfied a valid tenancy agreement is in place in accordance with the subsection 9(1) of the Act.

I note much of the issues with the tenancy could have been alleviated if a written tenancy had been entered into and terms for the tenancy had taken place before occupancy of the rental premise. Which could include utilities being in place and the number of authorized occupants.

I find the Landlord breached Subsection 36.1(1) of the Act by not providing a receipt for payment.

Vital services

Subsection 33(1) of the Act indicates "vital service" to include, heat, fuel, electricity, hot and cold water and any other public utility.

Subsection 33(2) states no landlord shall, until the date the tenant vacates or abandons the rental premises (a) withhold or cause to be withheld the reasonable supply of a vital service that the landlord is obligated to supply under the tenancy agreement; or (b) deliberately interfere with the supply of a vital service, whether or not the landlord is obligated to supply that service under the tenancy agreement.

Subsection 33(3) states where, on the application of a tenant, a rental officer determine the landlord has breached the prohibition imposed by subsection (2), the rental officer may make an order: (a) requiring the landlord to not withhold vital services; (b) requiring the landlord to not withhold vital services again; (c) requiring the land to compensate the tenant for losses suffered as a direct result of the breach; (d) direct the tenant to pay to the rental officer all or part of his or her rent that would otherwise be payable to the landlord; (d.1) directing that all or part of the rent paid under paragraph (d) be used to pay for vital services; or (e) terminating the tenancy agreement on a dated specified in the order and ordering the tenant to vacate the rental premises on that date.

Under the implied tenancy agreement, utility accounts were to be set-up as part of the tenancy. However, when the Landlord provided keys, accepted the rent and security deposit, they waived that portion of the tenancy agreement to allow the Tenant to reside in the rental premises. I also note the Landlord could invoice the Tenant for the utility charges during the period until the Tenant was able to set-up the utility account.

I find the Tenant responsible for March utility costs in the amount of \$184.85.

I also find the Landlord breached their obligation by withholding a vital service and disrupted the Tenant's quiet enjoyment of the rental premises due to the disruption of vital services. An abatement of 25% will be applied to the rent starting April 1, 2025 and remain in place until such time vital services are restored to the rental premises.

Illegal activities and disturbances

The Landlord claimed issues started immediately when the Tenant moved into the rental premises, as they were contacted regarding what was considered to be repeated disturbances and suspicious activities going on at the rental premises and is constantly being called regarding the rental premises. The Landlord pointed to the concerns outlined and provided to them by the neighbourhood watch. The Landlord also expressed concern for guests and engaging in criminal behaviour and as a Landlord being in contravention of section 588 of the Criminal Code. The Landlord also pointed to the Tenant being charged under the Criminal Code.

The Tenant expressed they have been unfairly targeted with assumptions and hearsay. It was also pointed out the charges occurred prior to the tenancy starting.

Subsection 46(1) of the Act states "A tenant shall not commit an illegal act or carry on an illegal trade, business or occupation, or permit another person to do so, in the rental premises or in the residential complex."

Subsection 43(1) of the Act states "A tenant shall not disturb the landlord's or other tenants possession or enjoyment of the rental premises or residential complex."

Subsection 34(1) of the Act, states" No landlord shall disturb a tenant's possession or enjoyment of the rental premise or residential complex."

While there is no definitive proof of illegal activities occurring at the rental premises, based on the testimony and evidence provided, the Landlord's quiet enjoyment of the rental premises has been disturbed.

As for the charges, they were just under 2 months prior to the Tenant moving into the rental premises, and cannot be taken into account for two reasons. 1. It was before the tenancy occurred and 2. Did not take place at the rental premises itself.

It can also be said the Landlord has disturbed the Tenant's quiet enjoyment of the rental premises for not only withholding vital services but also trying to terminate the tenancy without due cause and in a manner outlined within the Act.

I find both parties breached the other's quiet enjoyment of the rental premises and rental complex.

Terminating the tenancy agreement and eviction

The Landlord claimed there was no tenancy agreement in place as nothing was signed. As noted earlier, there was a payment for rent, security deposit, and the Tenant took occupancy of the rental premises prior to a formal tenancy agreement being signed. As outlined under subsection 9(1), whether inadvertently or not, an implied tenancy was put in place.

While the Landlord is concerned about being in contravention with the Criminal Code as outlined in their testimony and evidence, a landlord cannot simply end a tenancy by returning rent and security deposit. A landlord must provide valid reasoning and proper notice as required under the Act. The Landlord's request for termination of the tenancy agreement and eviction is **denied**.

Orders

An order will be issued:

1. requiring the Landlord to provide to the Tenant receipt for payment of rent and security deposit free of charge (ss. 36.1(1));
2. requiring the Tenant to pay to the Landlord the cost of water for the month of March 2025, in the amount of \$184.85 (ss. 33(1));
3. requiring the Landlord to comply with their obligation to provide vital services to the rental premises and not breach that obligation again (p. 33(3)(a), p. 33(3)(b));
4. requiring the Landlord apply a 25% credit of current and future rents charged on the tenancy starting April 1, 2025 and each month there after until such time satisfactory proof of vital services being restored to the rental premises (p. 33(3)(c), p. 34(3)(c));
5. Requiring the Tenant to pay April 2025 rent and all future rent to the Rental Officer to be held in trust until such time vital services are restored (p. 33(3)(d));
6. requiring the Landlord to comply with their obligation not to disturb the Tenant's possession or enjoyment of the rental premises and must not breach that obligation again (p. 34(2)(a), p. 34(2)(b)); and
7. requiring the Tenant to comply with their obligation not to disturb the Landlord's possession or enjoyment of the rental premises, and must not breach that obligation again (p. 43(3)(a), p. 43(3)(b)).

To clarify with respect to how parts 4 and 5 affect the current tenancy and future rent. The Tenant is required to pay the abated rent to the Rental Officer until evidence is provided by either party showing vital services being restored to the rental premises. Any notice of a rent increase for the tenancy will need to be provided to the Rental Officer to ensure proper calculations for rent charges.

Jerry Vanhantsaeme
Rental Officer