

IN THE MATTER between **HRMHPL**, Applicant, and **LS and RM**, 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 **town of Hay River in the Northwest Territories**;

BETWEEN:

**HRMHPL**

Applicant/Landlord

-and-

**LS AND RM**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** May 20, 2025

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

**Appearances at Hearing:** TR, representing the Applicant

**Date of Decision:** May 21, 2025

### **REASONS FOR DECISION**

An application to a rental officer made by HRMHPL as the Applicant/Landlord against LS and RM as the Respondents/Tenants was filed by the Rental Office March 21, 2025. The application was made regarding a residential tenancy agreement for a rental premises located in Hay River, Northwest Territories. The filed application was emailed and personally served on the Respondents. The email was deemed served on May 9, 2025 and personal service on May 12, 2025.

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

A hearing was scheduled for May 20, 2025, by three-way teleconference. TR appeared representing the Applicant. The Respondents did not appear nor did anyone on their behalf. The Respondents were served by both email and personal service and deemed served. The hearing proceeded in the Respondents' absence pursuant to subsection 80(2) of the *Residential Tenancies Act (Act)*. I reserved my decision subject to the Applicant providing a requested document and to further review the evidence and testimony.

#### *Tenancy agreement*

Evidence presented established a fixed term tenancy agreement between the parties from November 1, 2024 to October 31, 2025 and signed by all parties.

In review of the tenancy agreement, it was found to have inaccuracies and contraventions of the Act as noted below:

- **Rent** - Rent collected more than 45 days past the date is due will incur a \$50 penalty fee.

*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.*

*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.*

- **Security deposit** - The Lessee shall provide a security deposit of \_\_\_\_% of the rent or \$2,100 to the Lessor prior to occupying the Leased Premises ("Deposit").

*Subsection 14(1)(b) of the Act states a landlord may require or receive a security deposit from a tenant, in the case of monthly tenancy an amount equal to the rent for a period not exceeding one month rent.*

*The tenancy agreement noted the rent charged was \$1,280.00. The security deposit requirement exceeds the authorized amount.*

- **Lessee's covenants** - The Lessee hereby covenants with the Lessor as follows:

(p) to vacate the Leased Premises at the expiration or termination of the tenancy leaving the Leased premises in a clean, washed, broom swept, and under damaged condition, reasonable wear and tears excepted, and free of all personal property.

*Subsection 49(1) of the Act states when a tenancy agreement ends on a specific dated, the landlord and tenant are deemed to renew the tenancy agreement on that date as a monthly tenancy with the same rights and obligations as existed under the former tenancy agreement, subject to any rent increase that complies with section 47.*

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 is known as the Landlord and the Respondents as the Tenants.

#### *Rental premise and residential complex*

The residential complex is described as a 44 unit building consisting of one and two bedroom units, with the Tenants residing in a one bedroom unit on the first floor.

#### *Security deposit*

The tenancy agreement notes the rent charge is \$1,280.00 and a security deposit of \$2,100.00. Section 14 of the Act establishes a Landlord can receive a security deposit up to one month's rent. In the case of a tenancy other than a weekly tenancy, the security deposit the Landlord can request the Tenant pay 50% at the commencement of the tenancy and the remainder can be paid within three months of the commencement of the tenancy.

The Rental Officer questioned why the security deposit was set at \$2,100. The Landlord's representative testified the rent is subsidized through Canada Mortgage Housing Corporation for the rental premises and other units within the rental complex are set at \$2,100.00. The Rental Officer pointed out as the tenancy agreement does not indicate the rental premises is subsidized housing the only allowed amount for a security deposit is \$1,280.00.

#### *Rental arrears*

Subsection 41(1) of the Act requires a Tenant to pay rent to the Landlord in accordance the terms set out in the tenancy agreement.

The Landlord's representative testified since entering into a tenancy agreement, the Tenants only made two payments towards the rent. No payments had been made towards the rent since the application to a rental officer had been made.

To support the Landlord's claim entered into evidence are Tenant Statements, emails, and a letter to one of the Tenants regarding the rent account and nonpayment of the security deposit.

The Tenant Statement entered into evidence represents the Landlord's accounting of the rent received against the Tenants' rent account. The statement indicates the monthly rent charge was \$1,280.00 and that the tenancy started in arrears. It also indicates a security deposit balance was applied to the rent account in the amount of \$2,100.00. Security deposits are not considered rent. After removing the security deposit from the statement, I find an arrears balance of \$4,360.00. The balance equated to more than 3.25 months of unpaid rent.

Upon request, the Landlord provided an updated statement supporting their claim for nonpayment of rent, with the arrears increasing to \$6,920.00.

I am satisfied the Tenant Statement accurately reflects the current status of the Tenants' rent account. I find the Tenants repeatedly failed to pay rent in full when due and accumulated rental arrears in the amount of \$6,920.00.

#### *Termination of the tenancy agreement and eviction*

In consideration the Landlord's testimony and evidence presented, and Tenant's historical pattern of breaching the terms of their tenancy agreement by failing to pay rent and the accumulation of rental arrears, I am satisfied the Landlord's request for termination of the tenancy agreement and eviction is justified.

#### *Orders*

An order will be issued:

- requiring the Tenants to pay to the Landlord rental arrears in the amount of \$6,920.00 (p. 41(4)(a));
- terminating the tenancy agreement on June 6, 2025 (p. 41(4)(c));
- evicting the Tenants on June 7, 2025 (p. 63(4)(a)).

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Jerry Vanhantsaeme  
Rental Officer