

IN THE MATTER between **RLD**, Applicant, and **OW**, 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:

RLD

Applicant/Landlord

-and-

OW

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	December 4, 2025
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	JL, Legal Counsel for the Applicant
	AR, representing the Applicant
	LSS, representing the Applicant
<u>Date of Decision:</u>	December 5, 2025

REASONS FOR DECISION

An application to a rental officer made by MRL On behalf of RLD as the Applicant/Landlord against OW as the Respondent/Tenant was filed by the Rental Office on October 9, 2025. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served on the Respondent by email and deemed served on October 18, 2025.

The Applicant alleged the Respondent has been incarcerated for a period of time and as such abandoned the rental premises. The Applicant also alleged the Respondent has outstanding rental arrears. The Applicant claimed the tenancy agreement between the parties is frustrated as the Applicant requires vacant possession of the rental premises and residential complex due to the requirement of extensive repairs. An order was sought for arrears, and an expedited timeline for termination of the tenancy agreement and eviction.

An expedited hearing was requested by the Applicant citing safety concerns for the residential complex and tenants due to a fire, resulting in the requirement for complete remediation and renovation. The request was granted and scheduled for November 7, 2025, by three-way teleconference. DC appeared as Legal Counsel for the Applicant. AR and LSS appeared as representatives for the Applicant. The Respondent did not appear. The Rental Office received additional evidence from prior to the application date. It was noted the additional evidence was served to the Department of Justice because the Respondent was incarcerated. Due to the concern of service, and natural justice, the Rental Officer directed the Applicant use an appropriate method of service to ensure the Respondent received the application packaged and have ample opportunity to participate in the hearing. The Applicant engaged the services of a process server who on October 23, 2025, served the application on the Respondent at the correctional facility. I am satisfied an appropriate method of service was done.

The rescheduled hearing took place on December 4, 2025, by three-way teleconference. JL appeared as Legal Counsel for the Applicant. AR and LSS appeared as representatives for the Applicant. The Respondent did not appear, nor did anyone on their behalf. Pursuant to subsection 80(2) of the Act, the hearing proceeded in the Respondent's absence. I reserved my decision for the Applicant to provide requested documents and to review the evidence and testimony.

Preliminary matters

Legal counsel stated the Respondent has been incarcerated for an extended period of time and not been at the rental premises. Legal counsel stated they had contacted the correctional

centre and confirmed the Respondent was there and that any correspondence provided to the Department of Justice, and the correctional centre would be brought to the Respondent's attention. It was also confirmed with the Respondent's case manager that all documents received were provided to the Respondent. This included documents prior to the original hearing date.

Tenancy agreement

Evidence presented established a fixed term tenancy agreement was in place between the Respondent and the previous Landlord from March 1, 2022 to February 28, 2023. The tenancy was renewed as a month-to-month tenancy.

On February 2, 2023, the Applicant purchased the residential complex from another landlord. The Applicant and the Respondent did not enter into a new tenancy agreement.

Subsection 19(1) of the Act states, where there is a change of landlord, all rights and obligations arising under the Act, and any other additional rights and obligations arising under a written tenancy agreement, bind the new landlord.

As the parties did not enter into a new tenancy agreement, the terms and conditions of the tenancy agreement with the Respondent's original landlord remain in place. I am satisfied a valid tenancy agreement is in place in accordance with the Act.

From this point forward the Applicant will be known as the Landlord and the Respondent as the Tenant.

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.

Subsection 54(1) of the Act states, a landlord may, at any time, give a tenant a notice of termination of at least 10-days, where; (g) the tenant has repeatedly failed to pay the full amount of the rent or to pay the rent on the dates specified in the tenancy agreement.

The Landlord claimed the Tenant failed to pay rent on time and in full, resulting in the accumulation of arrears. As a result of the arrears, on October 2, 2025, the Landlord issued a 10-day notice of termination. The notice was provided to the Tenant by email to the Department of Justice and via courier.

Legal counsel advised the initial amount of arrears in the application was incorrect and revised the balance from the \$15,177.50 to the actual amount of \$3,402.50 being owed. Counsel noted

the Landlord had been in contact with the Tenant, requesting them to address the arrears. As supported by a text conversation between the parties.

Legal counsel also confirmed the 10-day notice was provided to the Tenant at the correctional facility.

Based on the evidence and testimony provided, I am satisfied the Tenant has outstanding arrears in the amount of \$3,402.50.

Frustrated contract and remediation and repair

Subsection 7(1) of the Act states, the *Frustrated Contracts Act* applies to a tenancy agreement.

Subsection 54(1) of the Act states, a landlord may, at any time, give a tenant a notice of termination of at least 10-days, where; (e) the tenancy agreement has been frustrated.

Subsection 59(1) of the Act states a landlord may apply to a rental officer to terminate a tenancy if the landlord: (a) requires possession of the rental premises for the purpose of; (iii) making repairs or renovations so extensive as to require a building permit and vacant possession of the rental premises; and (b) has obtained all the necessary permits or other authorizations that may be required.

Subsection 59(1.1) of the Act states, a rental officer who determines that a landlord, in good faith, requires the rental premises for a reason referred to in subsection (1) may make an order: (a) terminating the tenancy (i) in the case of a periodic tenancy, on the last day of a period of the tenancy that is not earlier than 90 days after the application is made.

Subsection 59(1.2) of the Act states, notwithstanding subsection (1.1), if the rental officer determines that the landlord requires the rental premises for a reason relating to the safety of the tenant or the public, or to satisfy a standard or requirement imposed by law, the rental officer may terminate the tenancy agreement on an earlier date.

Legal counsel stated the Landlord required vacant possession of the rental premises and residential complex due to the requirement of extensive repairs. Because of the repair requirements, the Landlord requested an expeditious timeline for termination of the tenancy agreement and eviction.

Counsel stated the Landlord at the time of the application had a building permit for work in the residential complex. The permit was dated November 13, 2025. However, it was noted the permit was not in place, but still requested an expedited termination.

Counsel stated the contract had been frustrated based on the building being in an unsafe

condition, and needs to be vacated due to fire, asbestos and security hazards. It was also noted the Landlord is facing regulatory compliance issues by allowing the residential complex remain occupied. Counsel spoke to a fire occurring, the response of the fire department, and damages to the residential complex, which initiated a visit from the Fire Marshal. The visit determined the complex was not code-compliant, gave an order and time line for the Landlord to address the deficiencies. If the deficiencies were not addressed, the complex was to be vacated. It was noted that the Landlord was unable to obtain a fire prevention contractor to meet the outline requirements and when they attempted to do the work themselves, it was stifled by vandalism and theft.

It was also claimed the Landlord's insurance provider had concerns of work taking place in the residential complex, specifically based on the presence of disturbed asbestos.

Legal counsel stated the Fire Marshal attended a second time, observed the residential complex was still not in compliance and remained occupied. It was stated the Landlord has taken multiple steps to get the complex into compliance.

To support the Landlord's claim, entered into evidence, was an order from the Fire Marshal dated September 12, 2025, correspondence with a fire prevention contractor, photos of the general condition of the residential complex, security logs, an asbestos testing report, and an affidavit of the Landlord's representative. The affidavit contained three orders from the Fire Marshal and a letter from the repair contractor regarding work required and the need to have the residential complex vacated for safety purposes during the remediation and repairs.

Counsel also noted the residential complex is constantly being broken into and criminal activities constantly take place.

Because of the issues, there has been 24 hour security and fire watch put in place. It was noted there are regular arrests and security personnel are concerned for their safety. It was also noted a complete overhaul of the complex's security system is required.

In review of the evidence and testimony, it was found that the contractor's letter stated that restoration cannot commence until the building was completely vacated. *The presence of exposed asbestos and numerous other health and safety hazards make it unsafe for any occupancy during the restoration process. As set out by the WSCC's employer health-and-safety framework for the NWT, safe control of the work environment is mandatory before starting remediation. No one can be permitted to reside in the building while work is ongoing.*

As it was not included in the application, the Rental Officer requested and was provided a copy

of the November 13, 2025, demolition permit. Investigation found the permit application was done on November 7, 2025, the day the original hearing was to take place.

While it was most likely not intentional, I find the Landlord did not fully comply with the application requirements under subsection 59(1), as the permit had not been obtained prior to the application, as required under paragraph 59(1)(b). I find the Landlord's claim under subparagraph 59(1)(a)(iii) to be **invalid**.

Abandonment

Subsection 1(3) of the Act states, a tenant has abandoned the rental premises and the residential complex, where the tenancy has not been terminated in accordance with the Act and (a) the landlord has reasonable grounds to believe that the tenant has left the rental premises; or (b) 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.

Subsection 48(2) of the Act states, no landlord shall regain possession of a rental premises unless (a) the tenant has vacated or abandoned the rental premises.

Subsection 62(1) of the Act states, where a tenant abandons a rental premises the tenancy agreement is terminated on the date the rental premises were abandoned by the tenant remains liable, subject to section 5, to compensate the landlord for loss of future rent that would have been payable under the tenancy agreement.

Legal counsel stated there is reasonable grounds to say the Tenant abandoned the rental premises and has no intention on returning. Counsel stated a family member of the Tenant obtained permission, attended and removed some of the Tenant's belongings from the rental premises, then gave the keys to security. The family member left certain items in the rental premise due to concerns of asbestos contamination.

Counsel also noted they talked to the Tenant, and the Tenant gave no indication they planned to return to the rental premises. It is the Landlord's belief that the Tenant had accepted the termination of tenancy as belongings had been removed and the keys returned.

As the Tenant did not attend the hearing, there is a possibility the rental premises has been vacated. However, because of the Tenant being incarcerated, and there is no indication the Tenant gave the Landlord authorization to store or dispose of the remaining items. I cannot fully ascertain the unit to be deemed abandoned.

Termination of the tenancy agreement and eviction

Subsection 30(1) of the Act states, A landlord shall: (a) provide and maintain the rental premises, the residential complex and all services and facilities provided by the landlord, whether or not included in a written tenancy agreement, in a good state of repair and fit for habitation during the tenancy, and; (b) ensure that the rental premises, the residential complex and all services and facilities provided by the landlord comply with all health, safety and maintenance and occupancy standards required by law.

Subsection 54(1) of the Act provides for a landlord to give a tenant at least 10-days written notice to terminate the tenancy agreement when the tenancy agreement has been frustrated as noted in paragraph (e) and for rental arrears as noted in paragraph (g).

Subsection 54(4) of the Act specifies that where a notice is given under subsection 54(1) the landlord must make an application to a rental officer for an order to terminate the tenancy agreement. The termination of the tenancy under section 54 is not enforceable or binding without an order by a rental officer.

As the notice to terminate ended on October 12, 2025, and the application to a rental officer was received by the Rental Office on October 8, 2025 and filed on October 9, 2025, I am satisfied the Landlord filed the application within a sufficient period of time to solidify the termination of the tenancy agreement.

While at no fault of the Tenant, I am satisfied the tenancy agreement between the parties has been frustrated due to the fire, the presence of disturbed asbestos, and Landlord's requirement to remediate the hazardous material and to renovate the residential complex to ensure the National Fire Code is met, and the accumulated rental arrears. An order for termination of the tenancy agreement and eviction is justified.

Orders

An order will be issued:

- requiring the Tenant pay to the Landlord rental arrears in the amount of \$3,402.50 (p. 41(4)(a));
- terminating the tenancy agreement between the parties on December 31, 2025 (p. 41(4)(c), p. 54(1)(e), p. 54(1)(g));
- evicting the Tenant from the rental premises on January 1, 2026 (p. 63(4)(a)).

Jerry Vanhantsaeme
Rental Officer