

IN THE MATTER between **YVONNE BUXTON AND ALLAN BUXTON**,
Applicants, and **POLAR DEVELOPMENTS LTD.**, 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, **HAL LOGSDON**, Rental Officer,
regarding the rental premises at **YELLOWKNIFE, NT.**

BETWEEN:

YVONNE BUXTON AND ALLAN BUXTON

Applicants/Tenants

- and -

POLAR DEVELOPMENTS LTD.

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 18(5) of the *Residential Tenancies Act*, the respondent shall return the balance of the security deposit to the applicants in the amount of six hundred fourteen dollars and fifty cents (\$614.50).

DATED at the City of Yellowknife, in the Northwest Territories this 25th day of January,
2002.

Hal Logsdon
Rental Officer

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BETWEEN:

YVONNE BUXTON AND ALLAN BUXTON

Applicants/Tenants

-and-

POLAR DEVELOPMENTS LTD.

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: January 22, 2002

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Yvonne Buxton, applicant (by phone)
Allan Buxton, applicant (by phone)

Date of Decision: January 22, 2002

REASONS FOR DECISION

The respondent was served with a notice of attendance on January 10, 2002 but failed to appear at the hearing. The hearing was held in their absence.

The tenancy agreement between the parties was terminated on September 28, 2002. The respondent produced a statement of the security deposit on October 29, 2001 deducting \$614.50 for loss of rent for half of the month of October. No other deductions were made and the balance was returned to the applicants.

Section 18(2) of the Residential Tenancies Act states:

A landlord may, in accordance with this section, retain all or part of the security deposit for repairs of damage caused by a tenant to the rental premises and for any arrears of rent

Compensation for loss of future rent is not arrears of rent. As stated by Vertes J.Z in *Greenway Realty Ltd. and N.C Roy*, [1998] CV 07484, "Nowhere in the Act is the landlord authorized to retain a security deposit as compensation for loss of future rents. That is an economic loss claim."

Should a landlord suffer loss of future rent due to improper notice or abandonment by a tenant, an application may be made to a rental officer seeking an order for compensation. No part of a security deposit may be retained pending the outcome of such an application.

Sections 18(3) and 18(4) of the Act require the landlord to complete a itemized statement of account for the security deposit within 10 days after the tenant vacates or abandons the rental premises unless the landlord is unable to determine the correct amount of the repairs. I note that the respondent failed to comply with that obligation, issuing the statement on October 29, 2001 some 31 days after the applicants vacated the premises. I see no reason for this delay.

I find no evidence to support the withholding of a portion of the security deposit. An order shall be issued for the respondent to return the withheld portion of the deposit to the applicants in the amount of \$614.50.

Hal Logsdon
Rental Officer