

IN THE MATTER between **URBCO INC.**, Applicant, and **JO HOGAN AND BRIAN HATCH**, 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, **HAL LOGSDON**, Rental Officer, regarding the rental premises at **YELLOWKNIFE, NT.**

BETWEEN:

**URBCO INC.**

Applicant/Landlord

- and -

**JO HOGAN AND BRIAN HATCH**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents shall pay the applicant rent arrears in the amount of four thousand seven hundred forty two dollars and twenty three cents (\$4742.23).

DATED at the City of Yellowknife, in the Northwest Territories this 21st day of May, 2002.

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Hal Logsdon  
Rental Officer

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**URBCO INC.**

Applicant/Landlord

-and-

**JO HOGAN AND BRIAN HATCH**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** May 1, 2002  
Continued on May 15, 2002

**Place of the Hearing:** Yellowknife, NT

**Appearances at Hearing:** Sharon Hysert, representing the applicant  
Kate Hurley, representing the applicant  
Jo Hogan, respondent  
Brian Hatch, respondent (May 1, 2002)

**Date of Decision:** May 21, 2002

**REASONS FOR DECISION**

The hearing was convened on May 1, 2002. At that time the parties indicated that the tenancy agreement had been terminated but the applicant had not yet produced a statement of the security deposit. The hearing was adjourned to May 15, 2002 to allow the applicant time to prepare a statement of the security deposit.

When the hearing was continued on May 15, 2002 the applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and by failing to repair damages to the rental premises which were the result of the respondents' negligence. The applicant provided a copy of the security deposit statement which indicated deductions of rent arrears (\$6195) and carpet damages (\$200) from the security deposit and accrued interest (\$822.77) leaving a balance owing to the applicant in the amount of \$5572.23. The applicant sought an order requiring the respondent to pay rent arrears of that amount.

The respondent did not dispute the amount of the security deposit, calculated interest or the allegations concerning the carpet damage. The respondent did dispute the amount of rent alleged to be owing, claiming that only \$3492.50 was owed in rent. The respondent submitted a calculation indicating how this balance was obtained.

The applicant provided a copy of the tenant ledger as evidence. The applicant testified that they were only seeking rent arrears which accrued from January 1, 2001 to the end of the tenancy as

they had written off all previous amounts. The applicant also provided a reconstructed ledger which indicated transactions from January 1, 2001 in chronological order with a running balance. This ledger indicated a balance of \$6195. After considerable questioning of the parties and a thorough examination of the evidence submitted I find the difference of \$2702.50 to be the result of the following:

1. The respondent prorated the April rent while the applicant charged the full month's rent. The difference is \$562.50.
2. The applicant has debited 7 alleged NSF cheque amounts totalling \$1850.
3. The applicant has applied 7 NSF charges totalling \$140.
4. The respondent has added all rent payments from the ledger. The applicant has used the rent credits from the reconstructed ledger. The reconstructed ledger does not include a credit of \$150 (entry YK 1707-03).

Notice to terminate a month to month tenancy agreement can only be effective on the last day of a rent period. Any notice that would have been given by the respondents could only have been effective on April 30, 2002. In my opinion, it is not unreasonable for the landlord to have not been able to re-rent the premises until May 1, 2002 as most tenants commence new tenancy agreements on the first of the month. The remainder of April's rent is technically compensation for lost rent, but in my opinion is reasonable.

The applicant provided copies of 3 cheques which were returned from the respondents' bank for insufficient funds totalling \$1250. The applicant did not provide any evidence regarding the 4

other cheques alleged to have been returned other than the ledger entries, indicating that the payments had been reversed. In my opinion, a landlord who alleges that cheques have been returned from a bank due to insufficient funds should be able to provide evidence of the returned cheque, other than a ledger entry, if challenged. The applicant has not done so. Similarly the NSF charges should apply to only those 3 cheques which were demonstrated to have been NSF.

The ledger and the reconstructed ledger should have identical credit entries from January 1, 2001 to the end of the tenancy. They do not. In my opinion, the ledger is the more accurate evidence. A credit entry (YK 1707-03 in the amount of \$150) does not appear on the ledger reconstruction. This appears to be an omission. The rent credits as per the ledger total \$13,700.

I find the rent arrears to be \$5365, calculated as follows:

Rent - January/2001	\$1030	
Rent Feb 01/01 to Jan 31/02	13,200	
Rent Feb 01/02 to Apr 30/02	3525	The tenant can not give notice for the middle of a month - reasonable for the landlord to claim damages for the remainder of April.
NSF charges (3@\$20)	60	Evidence supports three NSF cheques
Rent paid	(13,700)	As per ledger
Cheques returned NSF	150	YK 1855-02
	550	YK 1977-04
	550	YK 2009-05
<b>Rent Arrears</b>	<b>\$5365</b>	

Taking the security deposit into account I find the net rent arrears owing to be \$4742.23

calculated as follows:

Security deposit and interest	\$822.77
Rent arrears	(5365.00)
Carpet damages	<u>(200.00)</u>
<b>Amount owing applicant</b>	<b>\$4742.23</b>

An order shall be issued for the respondents to pay the applicant rent arrears in the amount of \$4742.23.

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Hal Logsdon  
Rental Officer