

IN THE MATTER between **TROY LEDUC AND DEIDRE LEDUC**, Applicants, and **BARRY WILSON AND SHARON WILSON**, 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:

**TROY LEDUC AND DEIDRE LEDUC**

Applicants/Tenants

- and -

**BARRY WILSON AND SHARON WILSON**

Respondents/Landlords

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 18(5) of the *Residential Tenancies Act*, the respondents shall return a portion of the security deposit to the applicants in the amount of three hundred sixty nine dollars and ninety three cents (\$369.93).

DATED at the City of Yellowknife, in the Northwest Territories this 11th day of July, 2002.

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Hal Logsdon  
Rental Officer

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-and-

**BARRY WILSON AND SHARON WILSON**

Respondents/Landlords

**REASONS FOR DECISION**

**Date of the Hearing:** July 9, 2002

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

**Appearances at Hearing:** Troy Leduc, applicant  
Deidre Leduc, applicant  
Barry Wilson, respondent (by telephone)  
Sharon Wilson, respondent (by telephone)

**Date of Decision:** July 11, 2002

**REASONS FOR DECISION**

The applicants testified that they vacated the premises several days prior to May 31, 2002 and that they had paid rent to the end of that month. They testified that they had left the premises in a reasonable state of cleanliness and that there were no damages to the premises. The applicants testified that they had provided the respondents with a \$500 security deposit and that the deposit had not been returned. The applicants sought the return of their security deposit and accumulated interest.

The applicants indicated that no condition report was completed at the commencement of the tenancy that would establish the condition of the premises or the contents. The applicants also indicated that the respondents had told them on May 8, 2002 that the premises were to be sold and that they would have to vacate the premises by July 1, 2002. The applicants testified that the respondents had told them after they vacated the premises in May that their security deposit would be retained as compensation for the June rent. The applicants indicated that they had given the respondents verbal notice on May 23, 2002 that they would be vacating the premises at the end of that month.

The respondents acknowledged that there was no written tenancy agreement or condition report and that no statement of the security deposit had been issued. The respondents filed a defence directly with the rental officer on July 8, 2002 outlining reasons why the security deposit was retained. In this defence they listed seven items which they alleged were damaged, missing, or

left in an unclean state and requested that compensation of \$273.79 be awarded in addition to the security deposit. The respondents indicated that the values claimed were based on new replacement value of comparable items sold by Sears.

Living room blinds damaged	\$349.99
Shower curtain missing	\$69.99
Bathroom drape missing	\$54.99
Shade missing	\$39.99
Shade damaged	\$39.99
Clean up of garbage and outdoor trash	\$150.00
BBQ propane tank empty	\$30.00
GST on replaced items	\$38.84

Section 18 of the *Residential Tenancies Act* sets out what may be deducted from a security deposit at the end of a tenancy and the landlord's obligation to provide an itemized statement.

18. (1) Subject to this section, where a landlord holds a security deposit the landlord shall, within 10 days after the tenant vacates or abandons the rental premises,
  - (a) return the security deposit to the tenant with interest; and
  - (b) give the tenant an itemized statement of account for the security deposit.
- (2) 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 the rent.
- (3) Where the landlord objects to returning all or part of the security deposit on the grounds that a tenant has caused damages to the rental premises and repairs to the rental premises are necessary or the tenant is in arrears of rent, the landlord shall, within 10 days after the tenant vacates or abandons the rental premises,
  - (a) send a notice to the tenant and a rental officer of the intention of the landlord to withhold all or part of the security deposit;
  - (b) give the tenant an itemized statement of account for the security deposit;
  - (c) give the tenant an itemized statement of account for the repairs or arrears of the rent; and
  - (d) return the balance of the security deposit with interest to the tenant.

Although the respondents' July 8, 2002 document filed with the rental officer could serve as a

statement of the security deposit, there is no indication that the applicants received a copy from the respondents. Clearly the respondents have failed to comply with the provisions of section 18. At the hearing, the applicants were provided with the respondents' July 8, 2002 document and indicated that they were prepared to speak to the matter. In the interest of resolving this matter, I believe it is prudent to consider the document as the statement of security deposit which has been provided to the tenants, albeit late and by the rental officer. I urge the respondents to familiarize themselves with the obligations of landlords in the NWT should they continue to rent residential property and remind them that contravention of section 18 is an offense under the Act.

After careful consideration of the evidence provided at the hearing I find the following:

1. The vertical blinds in the living room were removed by the applicants and put in the storage shed. There is no evidence as to their condition at the beginning of the tenancy. The respondent claims they were damaged, the applicants dispute the allegations. The onus lies with the respondents to provide evidence to support the allegation. While I find no evidence of damage, other than the respondents' disputed testimony, the applicants should have reinstalled the blinds as they were when the tenancy commenced. In my opinion compensation for the re-installation of the blinds in the amount of \$100 is reasonable.
2. The respondent claims the shower curtain and bathroom drapes were missing and the applicant claims they were removed and placed in the storage shed. There is no evidence as to their condition at the commencement of the tenancy. In my opinion the applicants' testimony is credible in light of their admission that

another item was discarded. However, the applicants should have reinstalled the items as they were at the commencement of the tenancy. In my opinion compensation for the re-installation of the items in the amount of \$25 is reasonable.

3. One window shade was discarded by the applicants as it was damaged. There is no evidence to indicate it's condition at the commencement of the tenancy or evidence to suggest it was damaged by the applicants. In my opinion, the applicants should have notified the respondents prior to discarding it and reasonable compensation for loss is \$10.
4. There was no evidence to suggest that the ripped shade was damaged by the applicants. The requested compensation is denied.
5. There was no direct evidence of the clean-up work required or the details of work done by Andre Fortin or evidence to suggest the work was made necessary by the action of the applicants. The requested compensation is denied.
6. There was no evidence to suggest the propane was full at the commencement of the tenancy or the refilling cost. The requested compensation is denied.

I also note that although the respondents did not justify the retention of the security deposit because of lost rent for the month June, 2002 it was mentioned by the respondents and was perceived by the applicants as the principal reason. As outlined in section 18 of the Act only costs of repairs of damage caused by a tenant to the rental premises and arrears of the rent can be deducted from a security deposit. As the applicants had paid rent to May 31, 2002 and vacated on

or before that date, there are no rent arrears. Any claims for lost rent must be the subject of an application by the landlord.

In summary I find that certain deductions from the security deposit are justified but that a portion of the security deposit must be returned to the applicants. I find that amount to be \$369.93 calculated as follows:

Security Deposit	\$500.00
Interest	4.93
Blind installation	(100.00)
Shower curtain and drrape installation	(25.00)
Window shade replacement	<u>(10.00)</u>
<b>Amount due applicants</b>	<b>\$369.93</b>

An order shall be issued for the respondents to return a portion of the security deposit to the applicants in the amount of \$369.93.

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Hal Logsdon  
Rental Officer