

IN THE MATTER between **KATHLEEN MANGELANA AND DANIEL ROGERS**,  
Tenants, and **902754 NWT LIMITED**, Landlord;

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 **INUVIK, NT**.

BETWEEN:

**KATHLEEN MANGELANA AND DANIEL ROGERS**

Tenants

- and -

**902754 NWT LIMITED**

Landlord

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 30(4)(a) of the *Residential Tenancies Act*, the landlord shall comply with the obligation to maintain the rental premises in a state of good repair by completing the repairs contained in Schedule A of this order no later than January 31, 2003.
2. Pursuant to section 30(4)(d) of the *Residential Tenancies Act*, the landlord shall pay the tenants compensation related to loss suffered as a result of the landlord's failure to repair the rental premises in the amount of four thousand five hundred dollars (\$4500.00). The compensation shall be paid to the tenants in the form of a rent credit.

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3. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the tenants shall pay the landlord rent arrears after deduction of compensation in the amount of one thousand four hundred dollars (\$1400.00).

DATED at the City of Yellowknife, in the Northwest Territories this 29th day of November, 2002.

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Hal Logsdon  
Rental Officer

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BETWEEN:

**KATHLEEN MANGELANA AND DANIEL ROGERS**

Tenants

-and-

**902754 NWT LIMITED**

Landlord

**REASONS FOR DECISION**

**Date of the Hearing:** November 26, 2002

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

**Appearances at Hearing:** Kathleen Mangelana, tenant  
Daniel Rogers, tenant  
Talal Khatib, representing the landlord

**Date of Decision:** November 29, 2002

**REASONS FOR DECISION**

The tenants filed an application against the landlord on October 8, 2002. The landlord filed an application against the tenants on October 17, 2002. As the applications refer to the same rental premises and the same tenancy agreement, with the consent of both parties, the matters were heard at a common hearing.

The tenants alleged that the landlord had failed to maintain the rental premises in a state of good repair and sought an order requiring the landlord to repair the premises and to pay compensation related to alleged losses suffered as a result of the alleged failure to repair. Prior to the hearing, the rental premises were inspected by the rental officer who reported the following observations to the parties at the hearing.

1. There were no door knobs on one bedroom door or on the upstairs storage room door.
2. The radiator covers in one bedroom and the living room were not properly attached and the radiator in the front porch was inoperable.
3. The upstairs smoke detector was improperly installed.
4. The bathroom exhaust fan was inoperable.
5. Areas of floor tile in all rooms is missing or damaged.
6. There are no bifold doors on any closets in the premises.
7. The front exterior door and jamb is damaged.
8. The front window in the living room is broken (inner pane).
9. No light fixture in dining room.

10. Stair railings on both front and rear stairs are loose.
11. There were no fire extinguishers on the premises.
12. Large gaps exist between several switch boxes and the wall finish.
13. The thermostat cover is missing.
14. The wall and ceiling surfaces throughout the premises are in poor condition with numerous holes, cracks and poorly patched areas. The entire interior is in need of paint.
15. The rear door and jamb do not provide a weather tight seal.
16. Most of the kitchen cabinet doors are missing.
17. Most of the kitchen drawers and drawer fronts are missing.
18. One burner on the range does not operate properly.
19. There is no finish surface on the interior stairs.
20. The bath tub hot water tap is leaking and the knob is missing.
21. The mirror door on the vanity cabinet is missing.
22. The hanger bar in the bedroom closet is missing.
23. The crank handles for opening windows are missing.
24. There are no shades for any ceiling light fixtures.
25. There is no top on the exterior garbage container.

The tenants also alleged that there had been frequent sewage leakage from the utilidette access but there was no evidence of leakage when the inspection was conducted. The tenants testified that they had verbally requested the landlord to repair these items on March 1, 2002 but he had not attended to the repairs. The tenants acknowledged that they had withheld rent in October and

November, 2002 in an effort to have the repairs completed.

The landlord testified that he was not notified of the requirement for the repairs but did send a person to the premises to attend to plumbing concerns. He testified that the person was denied entry and provided a written statement from Mr. Fred Arey to that effect. The landlord stated that the tenants had agreed to take the premises "as is". The landlord alleged that the tenants had failed to pay rent and stated that the current arrears of rent was \$6800. He provided a statement of rent which indicated that amount as outstanding. The landlord sought an order requiring the tenants to pay the alleged rent arrears and termination of the tenancy agreement.

The tenants disputed the allegations pertaining to rent and provided a statement of rent owing which indicated rent arrears to September 30, 2002 in the amount of \$2900. The parties agreed to accept that figure plus the October and November rent of \$1500/month as accurate. In the matter of rent arrears, the parties agree that the rent arrears to November 30, 2002 are \$5900. The tenants acknowledged that they did deny Mr. Arey entry to the premises but noted that they were not given any notice of the landlord's intent to enter. No evidence of any notice to enter was provided.

A partial document which the landlord claimed was the tenancy agreement between the parties was entered in evidence. That document outlined a required security deposit in the amount of \$1000. A receipt, provided by the tenants, indicated that \$906.97 had been paid as partial payment of a security deposit. Article 15 of the tenancy agreement and section 15 of the

*Residential Tenancies Act* require that a written condition report be signed by the parties. There was no evidence that a condition report was done.

In my opinion, the extent to which the landlord has permitted the rental premises to deteriorate amounts to a substantial breach of the landlord's obligation to maintain the premises in a state of good repair. The premises are in an extreme state of disrepair. The tenants' knowledge of the state of non-repair at the commencement of the tenancy does not serve to relieve the landlord of his obligation to maintain or repair the premises.

The fact that the tenants did not permit Mr. Arey to enter the premises on the one occasion does not serve to relieve the landlord of his obligation to repair. Pursuant to section 26 of the *Residential Tenancies Act*, the landlord must provide written notice of his intent to enter. In my opinion, the tenants had a right to refuse Mr. Arey entry as no notice was given and their action can not be considered as interference with the landlord's right to enter in order to carry out repairs.

In my opinion, the landlord was, or should have been, aware of the condition of the premises and the need for repairs. The landlord failed to sign a condition report as required by section 15 of the Act. In my opinion, such a report would have indicated most of the same deficiencies as my inspection report. There is no evidence to indicate that any of the damages to the premises are the result of the tenants' negligence. The tenants' testimony concerning their verbal notice to the landlord is credible.

In my opinion, reasonable compensation for loss suffered as a result of the landlord's failure to repair is \$4500. This represents a one-third reduction of the rent for each month of the tenancy to date (March-November, 2002). An order shall be issued requiring the landlord to compensate the tenants in the amount of \$4500 in the form of a rent credit. The order shall also require the tenants to pay the remaining rent arrears, after application of the compensation, in the amount of \$1400. The order shall also require the landlord to undertake the repairs contained in Schedule A of the order. These repairs shall be completed on or before January 31, 2003. Should the landlord fail to complete repairs in accordance with the order, the tenants may make an application to pay rent to a rental officer until repairs are completed. The landlord's request for an order terminating the tenancy agreement is denied.

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Hal Logsdon  
Rental Officer