

IN THE MATTER between **DONALD EADY AND MICHELLE EADY**, Applicants,  
and **GEORGE ILIOPOULOS AND LISA ILIOPOULOS**, 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 **TULITA, NT**.

BETWEEN:

**DONALD EADY AND MICHELLE EADY**

Applicants/Landlords

- and -

**GEORGE ILIOPOULOS AND LISA ILIOPOULOS**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 62(2) of the *Residential Tenancies Act*, the respondents shall pay the applicants compensation for lost rent in the amount of one thousand three hundred dollars (\$1300.00).

DATED at the City of Yellowknife, in the Northwest Territories this 9th day of July,  
2003.

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Hal Logsdon  
Rental Officer

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-and-

**GEORGE ILIOPOULOS AND LISA ILIOPOULOS**

Respondents/Tenants

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>July 3, 2003</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife via teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>Donald Eady, applicant George Iliopoulos, respondent Lisa Iliopoulos, respondent</b>
<b><u>Date of Decision:</u></b>	<b>July 8, 2003</b>

**REASONS FOR DECISION**

The tenancy agreement between the parties was terminated on or about November 30, 2002 when the respondents vacated the rental premises. The applicants testified that the tenancy agreement between the parties was made for a term commencing on September 1, 2002 and ending on June 30, 2003. The applicants testified that despite their reasonable efforts to re-rent the premises after the respondents vacated, they were unable to do so. They testified that the premises were eventually sold in May, 2003. The applicants sought an order requiring the respondents to pay compensation directly related to lost rent in the amount of \$9100.

The applicants also alleged that the respondents had failed to fill the oil tank and replenish the wood used for fuel after vacating the premises. They sought an order requiring the respondents to pay for this fuel which was used (\$800 for oil and \$120 for wood).

The applicants also sought compensation for linens which were allegedly purchased for the respondents shortly after taking occupancy in the amount of \$120.

The respondents denied that the tenancy agreement was made for a term and testified that they filled the oil tank when they vacated the premises and did not use any of the wood. The respondents stated that they did not give written notice to the applicants and moved because the rent was too high and because family members suffered from allergies which were caused by the dog hair in the house.

Section 9(1) of the *Residential Tenancies Act* states "a tenancy agreement may be oral, written or implied." The parties agreed that the tenancy agreement was not made in writing.

The applicant suggested that since the respondents were teaching in the community, it was natural that the agreement should be made for the school year, September through June. The applicant also indicated that he collected the first and last month's rent and stated that the last month's rent cheque was cashed shortly after the tenancy commenced. Presumably it was not dated June 1, 2003. The applicant also suggested that the post dated cheques tendered by the respondents indicated a term agreement, although the post dated payments did not extend beyond the February, 2003 payment.

In my opinion, the evidence is not sufficient to conclude that the oral agreement between the parties was made for a term. It is not uncommon for tenants to provide post-dated rent cheques to a landlord when the tenancy is periodic, particularly when the parties reside in different locations. In any case the cheques provided do not reflect the alleged full term of the agreement.

Notwithstanding that the collection of the last month's rent in advance is prohibited under the *Residential Tenancies Act*, it is not necessarily indicative of a term agreement. In jurisdictions where collection of the last month's rent is permitted, it is commonly collected for both term and periodic agreements. There is no evidence that the cheque was specifically tendered for the June, 2003 rent. There is no reason why the term of the agreement should have necessarily coincided with the school year. I must conclude on the evidence, that the agreement between the parties was month-to-month.

Section 52 of the *Residential Tenancies Act* sets out the requirements for termination of a tenancy agreement by a tenant by notice and section 55 requires that such notice be made in writing. The parties agreed that no written notice was provided. The Act requires notice of no less than 30 days.

When a tenant vacates rental premises without terminating the tenancy agreement in accordance with the Act, the tenant has abandoned the premises. The reasons given by the respondents as to why they felt it necessary to vacate the premises are not relevant in my opinion. Whether they found the premises too expensive or whether their family member suffered from allergic reactions, they could have easily given notice to terminate.

Section 62 of the Act permits a rental officer to make an order requiring a tenant who has abandoned rental premises to compensate the landlord for loss of future rent, subject to the landlord's reasonable efforts to mitigate such losses.

In my opinion, the applicant took reasonable measures to mitigate the loss caused by the abandonment of the premises by advertising the premises promptly at a reasonable rent. However, since the tenancy agreement must be considered month-to-month, the applicants' liability is limited to the required notice period of one month or \$1300. An order shall be issued requiring the respondents to pay the applicant compensation for lost rent in the amount of \$1300.

In my opinion, there is insufficient evidence to support the applicant's allegations that the oil

tank was not filled at the termination of the tenancy agreement or that wood had been used. No invoices for replacement of these commodities were presented and the respondents denied the allegations. The request for compensation for these items is therefore denied.

In my opinion, the provision of the linens is not a part of the tenancy agreement and compensation is outside my jurisdiction. The request for compensation is denied.

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Hal Logsdon  
Rental Officer