

IN THE MATTER between **809656 ALBERTA LTD.**, Applicant, and **ANNIE GOOSE**, 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:

809656 ALBERTA LTD.

Applicant/Landlord

- and -

ANNIE GOOSE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 62(2) of the *Residential Tenancies Act*, the respondent shall pay compensation to the applicant for lost rent in the amount of one thousand sixteen dollars (\$1016.00).

DATED at the City of Yellowknife, in the Northwest Territories this 14th day of January, 2004.

Hal Logsdon
Rental Officer

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AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act");

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BETWEEN:

809656 ALBERTA LTD.

Applicant/Landlord

-and-

ANNIE GOOSE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 13, 2004

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Talib Rasheed, representing the applicant
Annie Goose, respondent
Arlene Hache, representing the respondent

Date of Decision: January 19, 2004

REASONS FOR DECISION

The applicant alleged that the respondent abandoned the premises with one days notice and that as a result, he lost 25 days of rent before re-renting the premises. The applicant sought an order requiring the respondent to pay compensation for the alleged losses in the amount of \$1079. The applicant testified that he showed the apartment to prospective tenants after the respondent vacated but was only able to re-rent it on September 26, 2003. There was no written tenancy agreement but the ledger indicates that the respondent took occupancy on or about August 15, 2003 and paid a prorated rent for that month.

The respondent stated that she had taken the apartment on the understanding that certain items would be repaired by the landlord. A handwritten list of items needing repair was provided by the applicant as evidence. The respondent stated that it was her understanding that the landlord would undertake the repairs while she was out of town. When she returned, the repairs were not completed and she elected to vacate the premises.

A tenancy agreement was formed when the respondent took occupancy in August. Section 48 of the *Residential Tenancies Act* restricts any person from terminating a tenancy agreement except in accordance with the Act. The Act permits a rental officer, on the application of a tenant, to terminate an agreement when the landlord is found to be in breach of an obligation. A tenant may also give proper notice to terminate a tenancy agreement. No mechanisms for termination of a tenancy agreement other than those contained in the Act are permitted in a tenancy agreement as

the Act prohibits any tenancy agreement from containing provisions which are inconsistent with the Act.

When a tenant vacates rental premises without the tenancy agreement being terminated, it is abandonment. Section 62 sets out the liability of a tenant who abandons rental premises. A tenant who abandons rental premises remains liable to the landlord, subject to the landlord's efforts to mitigate loss, for loss of future rent which would have come due had the tenancy agreement continued.

In this matter, I find the tenant abandoned the rental premises. The landlord showed the premises to prospective tenants but was unable to re-rent the premises until September 26. The landlord rented the premises at a lower rent that was charged to the respondent. In my opinion, the landlord took reasonable steps to mitigate loss and incurred a loss of rent which would have come due if the respondent had not vacated. Regardless of what agreement the tenant claims to have had with the landlord regarding repairs during her absence, it would not have been sufficient to terminate the tenancy agreement as it is not consistent with the termination provisions of the Act.

The ledger evidence indicates that the landlord collected \$279 from the new tenant which was prorated rent for September. The respondent would have paid \$1295. Therefore the loss of the landlord is \$1295 - \$279 or \$1016.

An order shall issue requiring the respondent to pay compensation to the applicant in the amount of \$1016.

Hal Logsdon
Rental Officer