

IN THE MATTER between **SARAH COMRIE**, Applicant, and **GORDON HUMPHRIES**, 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:

SARAH COMRIE

Applicant/Tenant

- and -

GORDON HUMPHRIES

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 18(5) of the *Residential Tenancies Act*, the respondent shall return the balance of the security deposit to the applicant in the amount of two hundred twenty eight dollars and seventy seven cents (\$228.77).

DATED at the City of Yellowknife, in the Northwest Territories this 4th day of March, 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");

AND IN THE MATTER of a Hearing before **Hal Logsdon**, Rental Officer.

BETWEEN:

SARAH COMRIE

Applicant/Tenant

-and-

GORDON HUMPHRIES

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: **March 2, 2004**

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

Appearances at Hearing: **Sarah Comrie, applicant**
Gordon Humphries, respondent

Date of Decision: **March 4, 2004**

REASONS FOR DECISION

The applicant entered into a tenancy agreement in December, 2000 and provided the landlord with a \$1350 security deposit. She stated that she paid \$300 of the deposit on or about November 1, 2000 another \$300 on or about December 1, 2000 and the balance on March 1, 2001. In August, 2003 the premises were sold to the respondent who became the landlord. The applicant terminated the tenancy agreement on December 31, 2003.

On January 23, 2004 the respondent notified the applicant in writing that he was retaining the security deposit and accrued interest of \$222.74 which was the amount of adjustment on the sale of the property in consideration of the security deposit. He provided an itemized statement of deductions in the amount of \$390 and suggested to the applicant that he would not pursue payment of the balance.

The applicant filed an application to a rental officer on January 26, 2004 referring the determination of the deposit to the rental officer.

The applicant provided a letter from the original owner/landlord stating that the original deposit was \$1350 and that it had been paid in full by March 1, 2001. The letter also stated that the applicant had been given permission to mount a TV bracket to the wall and that there was a tear in the screen at the commencement of the tenancy agreement which was noted in a move-in report. The applicant testified that on the termination of the tenancy agreement the premises were

clean and provided a letter from the two persons who cleaned the premises outlining the cleaning that had been performed.

The respondent presented a cheque payable to the applicant from the former landlord for \$1261.53 and stated that his deductions for the repair of the TV bracket hole, cleaning, and repair of the screen were reasonable. He stated that the premises were not clean and that the cupboards, walls and oven required cleaning.

The rental officer instructed the applicant to ensure that the cheque would clear and appear at 1:30 that afternoon. The applicant appeared and confirmed that she had cashed the cheque.

The responsibility for the security deposit is the respondents as he became the landlord on the sale of the premises. The incorrect adjustment on the sale price does not relieve him of the obligation to deal with the entire amount of the deposit and the accrued interest. However, \$1261.53 was ultimately returned to the tenant leaving only the determination of the balance which is \$228.77 including the accrued interest which I find to be \$140.30.

The damaged screen appears to have been noted on the initial inspection of the premises. The former landlord has confirmed that it was damaged at the commencement of the tenancy. From the evidence, this is not damage that was done by the applicant. The TV mount was approved by the former landlord and the applicant stated that the hole was patched and ready for paint. In the circumstances, I do not consider this to be damage. The applicant testified that the premises were

clean and presented other evidence supporting her claim. The onus is on the landlord to provide the balance of evidence. I do not find sufficient evidence to support the requirement for additional cleaning.

In summary, the deductions made by the respondent are in my opinion, unsupported by the evidence. An order shall issue requiring the respondent to return the balance of the deposit and accrued interest in the amount of \$228.77 which I calculate in the following manner:

Security deposit	\$1350.00
Interest on deposit	140.30
Amount returned	(1261.53)
Balance owing	\$228.77

Hal Logsdon
Rental Officer