

IN THE MATTER between **POLAR DEVELOPMENTS LTD.**, Applicant, and **JASON GREENE**, 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:

POLAR DEVELOPMENTS LTD.

Applicant/Landlord

- and -

JASON GREENE

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 loss of future rent in the amount of seven hundred five dollars (\$705.00).

DATED at the City of Yellowknife, in the Northwest Territories this 9th day of June, 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:

POLAR DEVELOPMENTS LTD.

Applicant/Landlord

-and-

JASON GREENE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: June 8, 2004

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Lindsay Henderson, representing the applicant
Jason Green, respondent
Gordie Greening

Date of Decision: June 8, 2004

REASONS FOR DECISION

The applicant alleged that the respondent had vacated the premises without providing proper notice and sought compensation for lost rent as a result of the early termination. The tenancy agreement between the parties was made for a term commencing on April 14, 2003 and ending on April 30, 2004.

The tenants gave notice on April 13, 2004 to terminate the tenancy agreement on April 30, 2004. The applicant testified that they were unable to re-rent the premises until May 15, 2004 and sought compensation for 14 days rent in the amount of \$705. The rent for the premises was \$1560/month. The applicant testified that apartments in the complex are advertised for rent in the newspaper and that on receiving the notice to quit from the tenants, she invited all applicants who sought an apartment of that size to view the premises. The applicant testified that the premises were re-rented on May 15, 2004.

The respondent testified that he and the joint tenant had requested the landlord to release them from the tenancy agreement. He provided a letter to the landlord in evidence. He stated that in his opinion, this constituted sufficient notice to terminate. He also testified that he had called the landlord after he had vacated to inquire about an apartment and was told there were no vacant units.

Section 51(1) of the *Residential Tenancies Act* sets out the tenant's required notice to terminate a

term tenancy agreement.

51. (1) Where a tenancy agreement specifies a date for the termination of the tenancy agreement, the tenant may terminate the tenancy on the date specified in the agreement by giving the landlord a notice of termination not later than 30 days before the termination date.

Section 55 sets out the required contents of notices of termination.

55. (1) A notice of termination by a tenant or a landlord shall be in writing and must

- (a) be signed by the tenant or the landlord or an agent of the tenant or the landlord;**
- (b) identify the rental premises to which the notice applies;**
- (c) state the date on which the tenancy is to terminate; and**
- (d) state the reason for the termination of the tenancy.**

In my opinion, the notice provided to the landlord by the tenants in October, 2003 is not a notice to terminate the tenancy agreement on April 30, 2004 because it fails to set out that date as required by Section 55(1)(c). It is, in my opinion, simply a request for the landlord to mutually agree to terminate the tenancy agreement as soon as possible. This is a reasonable request.

Section 50 of the Act permits a landlord and tenant to mutually agree to terminate a tenancy agreement.

50. A landlord and tenant may agree in writing after a tenancy agreement has been made to terminate the tenancy on a specified date and the tenancy is terminated on the date specified.

However, the parties did not mutually agree to terminate the tenancy anytime after October 17, 2003 and it fell to the tenants to terminate the agreement by proper notice pursuant to section 51.

When a tenant fails to give adequate notice to terminate a tenancy agreement, the tenant remains liable, subject to the landlord's reasonable efforts to mitigate loss, for rent that would have come

due had proper notice been given. The landlord stated that they take applications from persons who wish to rent and show available premises to applicants. The landlord stated that they had two applications from prospective tenants who had requested an apartment of the size vacated by the respondent but neither wanted to rent it, preferring to rent premises in another building operated by the landlord. The landlord also stated that inquiries about apartments in their properties are directed to complete an application and qualified applicants are shown available apartments. She stated that a telephone inquiry about vacancies would normally be invited to complete an application.

I find the respondent failed to give proper notice to terminate the tenancy agreement and that the landlord took reasonable steps to mitigate loss. In my opinion, the requested compensation of \$705 accurately represents the losses of the landlord directly related to the tenants' failure to give notice.

An order shall issue requiring the respondent to compensate the applicant for lost rent in the amount of \$705.

Hal Logsdon
Rental Officer