

IN THE MATTER between **CANDICE MANUEL**, Applicant, and **943455 NWT LIMITED O/A J&J ACCOMMODATIONS**, 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 **INUVIK, NT**.

BETWEEN:

CANDICE MANUEL

Applicant/Tenant

- and -

943455 NWT LIMITED O/A J&J ACCOMMODATIONS

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 18(5) of the *Residential Tenancies Act*, the respondent shall return the security deposit and accrued interest to the applicant in the amount of seven hundred eleven dollars and nineteen cents (\$711.19).

DATED at the City of Yellowknife, in the Northwest Territories this 29th day of July, 2004.

Hal Logsdon
Rental Officer

IN THE MATTER between **CANDICE MANUEL**, Applicant, and **943455 NWT LIMITED O/A J&J ACCOMMODATIONS**, Respondent.

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:

CANDICE MANUEL

Applicant/Tenant

-and-

943455 NWT LIMITED O/A J&J ACCOMMODATIONS

Respondent/Landlord

REASONS FOR DECISION

<u>Date of the Hearing:</u>	July 28, 2004
<u>Place of the Hearing:</u>	Yellowknife, NT via teleconference
<u>Appearances at Hearing:</u>	Candice Manuel, applicant Christopher Manuel, representing the applicant David Joujan, representing the respondent
<u>Date of Decision:</u>	July 29, 2004

REASONS FOR DECISION

The respondent stated that the legal name of the company was 943455 NWT LTD., O/A J&J Accommodations. The style of cause of the order shall be amended accordingly. The applicant alleged that following the termination of the tenancy agreement, the respondent retained the security deposit when there were no rent arrears or necessary repairs to the premises. The applicant sought the return of the \$700 deposit.

The applicant testified that she moved in with April and Bob Manuel on July 1, 2003. April and Bob Manuel vacated the premises on July 31, 2003 and the applicant began to pay rent to the respondent. The applicant testified that the \$700 security deposit paid by April and Bob Manuel was left with the landlord to cover her required security deposit. The applicant gave notice on January 4, 2004 to terminate the agreement at the end of February, 2004 and vacated the premises. The premises were inspected by the landlord's agent and no damages were noted. There were no rent arrears.

After the applicant vacated, the respondent advised her that the tenancy agreement was a term agreement which did not expire until June 30, 2004. The respondent presented her with the term agreement between himself and April and Bob Manuel, whose names had been crossed off and Candice Manuel's name substituted. The applicant testified that she had not seen the tenancy agreement before that date and did not sign any written agreement.

The respondent did not dispute the testimony of the applicant but stated that, in his opinion, the tenancy agreement between April and Bob Manuel was not terminated until Candice Manuel vacated. The respondent stated that he considered the applicant an occupant only. The respondent acknowledged that the deposit was retained for compensation for the March rent and testified that he was unable to rent the premises in that month.

The *Residential Tenancies Act* defines a tenant as follows:

"tenant" means a person who pays rent in return for the right to occupy rental premises and his or her heirs, assigns and personal representatives.

The landlord received rent from Candice Manuel from August, 2003 to February, 2004 and gave her the right to occupy the premises.

There is no evidence to indicate that April and Bob Manuel intended to remain as tenants after July 31, 2003. In my opinion, they abandoned the premises and the term agreement was terminated by reason of their abandonment. By permitting Candice Manuel to continue to occupy the premises and accepting rent from her, the landlord entered into a new verbal agreement. The parties agree that the security deposit was transferred from the former tenants to the applicant to serve as the applicant's security deposit.

The tenancy agreement between the applicant and respondent must be assumed to be month-to-month. The applicant's notice was sufficient. In any case, compensation for lost rent may not be deducted from a security deposit.

I find the deposit, paid on behalf of the applicant by the former tenants, to be \$700 and the accrued interest (calculated for the applicant's term of tenancy) to be \$11.19. I find no grounds for the landlord's retention of this deposit. An order shall issue requiring the respondent to return the deposit and the accrued interest to the applicant in the amount of \$711.19.

Hal Logsdon
Rental Officer