

IN THE MATTER between **THE EXECUTIVE LTD.**, Applicant, and **MERRILL COOPER AND LEONARD HAYNES**, 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 **YELLOWKNIFE, NT.**

BETWEEN:

**THE EXECUTIVE LTD.**

Applicant/Landlord

- and -

**MERRILL COOPER AND LEONARD HAYNES**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondents shall pay compensation to the applicant for repairs of damages caused by the negligence of the respondents in the amount of three thousand one hundred seventy dollars and eleven cents (\$3170.11).

DATED at the City of Yellowknife, in the Northwest Territories this 23rd day of June, 2005.

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Hal Logsdon  
Rental Officer

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-and-

**MERRILL COOPER AND LEONARD HAYNES**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** May 13, 2005 continued on June 14, 2005

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

**Appearances at Hearing:** Leilani de Guzman, representing the applicant (May 13)  
Doreen Benoit, representing the applicant (June 14)

**Date of Decision:** June 23, 2005

**REASONS FOR DECISION**

The respondents were unable to be served with Notices of Attendance by personal service after numerous attempts. Notices of Attendance were sent to the rental premises by registered mail but unclaimed. The applicant testified that Leonard Haynes is still in possession of the premises. Section 71 of the *Residential Tenancies Act* permits service by registered mail to the rental premises and states that a notice served in this fashion is deemed served seven days after mailing. The respondents failed to appear at the hearing and the hearing was held in their absence.

The application was filed on March 23, 2005 although the applicant stated that Merrill Cooper had vacated the premises on February 28, 2005 and they had entered into a new tenancy agreement with Leonard Haynes as sole tenant on March 1, 2005. The landlord, who had collected both a security deposit and a pet deposit (which is prohibited by the Act) returned 50% of the deposits to Ms. Cooper retaining the balance of \$975.

The application alleges that the respondents have breached the tenancy agreement by failing to pay rent, failing to repair damages and disturbing other tenants. As the offending dog apparently vacated the premises with Ms. Cooper, the allegations of disturbances were withdrawn. The application sought no specific remedies for the alleged breaches.

The joint tenancy referred to in the application has been terminated. The hearing was adjourned to permit the landlord to complete a statement of the security deposit, provide details of any

repair costs and/or rent arrears in excess of the deposit and provide a copy to the respondent. The respondents were served with Notices of Attendance for the continuation of the hearing by registered mail sent to the rental premises. The respondents again failed to appear at the hearing at the hearing continued in their absence.

The applicant provided an inspection report outlining the condition of the premises at the commencement of the tenancy, an estimate of repair costs, a security deposit statement and photographs in evidence. The security deposit statement deducted outstanding May rent of \$1450 and repair costs of \$4158.21 from the deposit, resulting in a balance owing to the landlord of \$4622.89. The applicant sought an order requiring the respondents to pay that amount.

The rent that is owing does not relate to this tenancy agreement but to the tenancy agreement between the applicant and Leonard Haynes which followed. The applicant stated that the rent was paid in full to February 28, 2005 when this tenancy agreement was terminated.

The photographs indicate severe damage to the carpet, a hole in the door, and some damage to walls where the dog had apparently scratched. The applicant stated that the carpet was one and a half years old and has discounted the replacement cost to account for depreciation. Depreciation for the door has also been included in the statement. The inspection report indicates the apartment was in good repair at the commencement of the tenancy. The evidence clearly supports that the repairs are necessary due to the negligence of the respondents and, in my opinion, the repair costs are reasonable. I find the respondents in breach of their obligation to repair the tenant

damages and, taking into account the security deposit and accrued interest, find reasonable compensation to be \$3170.11, calculated as follows:

Security deposit	\$975.00
Interest	13.10
Repairs	<u>(4158.21)</u>
Amount owing landlord	\$3170.11

An order shall issue requiring the respondents to pay the applicant costs of repair in the amount of \$3170.11.

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Hal Logsdon  
Rental Officer