

IN THE MATTER between **CONSTANTINA TSETSOS AND WAYNE GUY**,  
Applicants, and **SHANE WEST**, 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:

**CONSTANTINA TSETSOS AND WAYNE GUY**

Applicants/Landlords

- and -

**SHANE WEST**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicants rent arrears in the amount of four thousand eight hundred ninety dollars (\$4890.00).
2. Pursuant to section 42(3)(c) of the *Residential Tenancies Act*, the respondent shall pay the applicants costs of repair and cleaning in the amount of two hundred thirty four dollars and thirty three cents (\$234.33).
3. Pursuant to section 25(3)(c) of the *Residential Tenancies Act*, the respondent shall pay the applicants compensation directly related to the alteration of locks and resultant

interference with the applicants' rightful possession at the end of the tenancy agreement in the amount of one thousand fifty one dollars and fifty seven cents (\$1051.57).

DATED at the City of Yellowknife, in the Northwest Territories this 9th day of May, 2005.

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Hal Logsdon  
Rental Officer

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**SHANE WEST**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** May 5, 2005

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

**Appearances at Hearing:** Constantina Tsetsos, applicant

**Date of Decision:** May 9, 2005

**REASONS FOR DECISION**

The respondent was served with a Notice of Attendance by registered mail, confirmed delivered, but failed to appear at the hearing. The hearing was held in his absence.

The applicant testified that the respondent vacated the premises sometime in mid-December, 2004 leaving another person, who was not a tenant named on the tenancy agreement, in possession. The applicant testified that the respondent had not sought permission to sublet the premises or to assign the tenancy agreement. The applicant testified that the respondent stopped payment on post-dated cheques for December, 2004 and January, 2005 provided to the landlord for rent. The applicant testified that they were not able to gain entry to the premises as the locks had been changed. The applicant eventually gained possession of the premises toward the end of January, 2005 after retaining legal counsel and obtaining an order of eviction. The premises were re-rented in February, 2005.

The applicant testified that the premises were left in a very poor state of cleanliness and were severely damaged. The applicant provided photographic evidence of the condition of the premises when the landlord gained possession. The applicants retained the security deposit and accrued interest and sought an order for rent arrears, repair and cleaning costs and legal costs in excess of the retained security deposit and interest.

The applicants provided a statement of the security deposit which indicated a balance owing to

the landlord in the amount of \$6439.50. The applicant stated that one of the deductions, for carpentry work, was an estimate and was estimated too high. She asked that the figure be revised from \$513.60 to \$250. Invoices were included in evidence, documenting repair costs. Taking into account the revision, the amount sought was \$6175.90 itemized as follows:

Security deposit and interest	\$2312.28
Repair and cleaning cost	(2546.61)
Legal fees	(1051.57)
Rent arrears	<u>(4890.00)</u>
Amount sought by landlord	\$6175.90

The photographic evidence supports the applicants' allegations that the premises were unclean and significantly damaged. There was debris left in the apartment and the contents of ashtrays were left on counters and the carpet. The cleaning costs are, in my opinion, both justified and reasonable. None of the damages can reasonably be considered the result of normal wear and tear and there was no evidence to suggest the damages were present at the commencement of the tenancy. The repair costs claimed are, for the most part, documented with invoices and, where estimated, are reasonable.

It is unclear exactly when the respondent abandoned the premises, leaving his friend in possession. Some of the amount claimed may well be compensation for lost rent rather than rent arrears. It is clear, however, that the landlords were unable to re-rent the premises until they were able to evict the respondent's friend in late January. Whether considered rent or compensation for lost rent, in my opinion, the applicants' claim for December and January revenue including returned cheque fees in the amount of \$4890 is reasonable.

Section 25 of the *Residential Tenancies Act* prohibits a landlord or a tenant from changing the locks to rental premises.

- 25. (1) No landlord or tenant shall, during occupancy of the rental premises by the tenant, alter or cause to be altered the locking system on any door giving entry to the rental premises except by mutual consent.**
- (2) A landlord or tenant shall not change the locks on any entrance to the residential complex so as to unreasonably interfere with the other's access to the complex.**
- (3) Where, on the application of a landlord or a tenant, a rental officer determines that an obligation imposed by this section has been breached, the rental officer may make an order**
  - (a) requiring the person who breached the obligation to give access to the rental premises or to the residential complex;**
  - (b) requiring the person who breached the obligation not to breach the obligation again; or**
  - (c) requiring the person who breached the obligation to compensate the party affected for loss suffered as a direct result of the breach.**

When it became evident that the respondent had abandoned the premises, it was not possible for the landlords to take possession because the locks to the premises had been changed. Rather than taking possession of a vacant unit and re-renting it, the landlords were forced to seek an eviction order and incurred legal costs in the process of doing so. In my opinion, these costs were a direct result of the respondent's breach of section 25 and the applicants are entitled to compensation for their legal costs of \$1051.57.

In summary, I find the respondent liable for the payment of rent arrears, repair and cleaning costs and the applicants' legal fees. Taking into account the retained security deposit and accrued interest and applying the deposit first to repair and cleaning costs, I find the amounts owing to the applicants as follows:

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Rent arrears	\$4890.00
Repair & cleaning costs	234.33
Compensation - legal costs	<u>1051.57</u>
TOTAL	\$6175.90

An order shall issue requiring the respondent to pay the applicants these amounts.

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Hal Logsdon  
Rental Officer