

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **MICHAEL ROGERS**, 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:

NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Applicant/Landlord

- and -

MICHAEL ROGERS

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of seven hundred ninety seven dollars and ninety nine cents (\$797.99).
2. Pursuant to section 62(2) of the *Residential Tenancies Act*, the respondent shall pay compensation to the applicant for lost rent in the amount of one thousand two hundred dollars (\$1200.00).

DATED at the City of Yellowknife, in the Northwest Territories this 3rd day of August, 2005.

Hal Logsdon
Rental Officer

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **MICHAEL ROGERS**, 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.

BETWEEN:

NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Applicant/Landlord

-and-

MICHAEL ROGERS

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: August 2, 2005

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Krista Cooper, representing the applicant
Michael Rogers, respondent

Date of Decision: August 3, 2005

REASONS FOR DECISION

The tenancy agreement between the parties was made for a term of one year, commencing on October 1, 2004. The tenancy agreement was terminated on or about November 30, 2004 when the respondent vacated the premises.

The applicant alleged that the respondent had failed to pay the full amount of rent to November 30, 2004 and had failed to give any notice. The applicant sought an order for rent arrears in the amount of \$797.99 and compensation for lost rent for the month of December, 2004 in the amount of \$1200.

A security deposit statement, entered in evidence, indicated that the security deposit and accrued interest was retained by the landlord and applied against the November, 2004 rent, leaving a balance owing of \$797.99. The addition of the lost rent for December, 2004 brings the balance owing to \$1997.99.

The applicant testified that after the respondent vacated the premises, they were made available for showing to all prospective tenants who wanted an apartment of that size. The applicant testified that the premises were not re-rented until February 1, 2005.

The respondent alleged that the landlord had failed to maintain the premises in good condition. He stated that the electrical receptacles for the parking stalls were inoperative and that the

premises frequently lacked adequate or any hot water. The respondent stated that he had contacted the landlord's agent about these matters and was told that he should withhold rent until they were repaired. The respondent stated that he had verbally told the landlord he was vacating the premises several days before he moved out.

The applicant acknowledged that there had been problems with the plugs and the hot water and provided copies of notices to tenants indicating that they were working on the problems. The notices asked tenants to contact the landlord if they experienced problems with hot water so that they could isolate the problem. The applicant stated that the respondent did not notify the landlord until November 8, 2004 that he was having problems with the hot water. The applicant also provided three work orders indicating that some work requested by the respondent had been completed.

Section 30 of the *Residential Tenancies Act* outlines the landlord's obligation to repair and sets out remedies available to tenants, on the application to a rental officer. Withholding of rent is not a remedy nor is repudiation of the tenancy agreement. Had the respondent made an application to a rental officer, a number of remedies could have been considered, including compensation and termination of the tenancy agreement. Without an application and more than eight months after the termination of the agreement, I can not consider remedy for the problems related to the hot water or the vehicle plugs.

I find the respondent in breach of his obligation to pay rent and find the rent arrears to be

\$797.99. I find that the respondent abandoned the premises and caused the landlord loss. In my opinion, the applicant took reasonable measures to mitigate that loss and the claim of one month's rent of \$1200 is reasonable. An order shall issue requiring the respondent to pay the applicant rent arrears and compensation for lost rent in the total amount of \$1997.99.

Hal Logsdon
Rental Officer