

IN THE MATTER between **RICHARD JOHN BILLINGHURST**, Applicant, and
DEBBIE MARACLE AND MITCH MARACLE AND ADAM MARACLE,
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:

RICHARD JOHN BILLINGHURST

Applicant/Landlord

- and -

DEBBIE MARACLE AND MITCH MARACLE AND ADAM MARACLE

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents shall pay the applicant rent arrears in the amount of six thousand six hundred ninety three dollars (\$6693.00).
2. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondents shall comply with their obligation to pay for water costs during the term of the tenancy agreement by remitting full payment to the City of Yellowknife.

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

Hal Logsdon
Rental Officer

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BETWEEN:

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-and-

DEBBIE MARACLE AND MITCH MARACLE AND ADAM MARACLE

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: June 9, 2005

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Penelope Billinghamurst, representing the applicant (by
telephone)
Debbie Maracle, respondent

Date of Decision: June 9, 2005

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent and failing to pay for utilities during the term of the tenancy. The applicant sought an order requiring the respondents to pay the alleged rent arrears and penalty for late rent, comply with their obligation to pay for utilities and pay future rent on time.

The applicant testified that the respondents had failed to pay the rent for January, February, March, April, May and June, 2005 and that the monthly rent was \$1400. The tenancy agreement between the parties requires that the rent be paid monthly in advance. No penalty had been calculated by the applicant.

The applicant provided no evidence of non-payment of utilities but stated that she thought the water bills had not been paid. Prior to the hearing, the Rental Officer contacted the City of Yellowknife who advised that the account balance as at June 9, 2005 was \$1451.17. Other utilities were in the name of the tenant and paid directly to the supplier. The landlord has no liability for other utilities should the tenant default on payment. Water, on the other hand, may be added to the landlord's tax account if unpaid.

The respondent did not dispute the allegations or the findings of the Rental Officer.

A penalty on late rent payment may be charged by a landlord in accordance with section 41 of the

Residential Tenancies Act. In my opinion, however, the penalty is not mandatory and the landlord has an obligation to calculate the penalty and include it in any demand for rent arrears, including an application to a rental officer. As no specific amount has been calculated or included in the application as a penalty, the applicant's request for a penalty on late rent is denied.

A previous order (File #10-8364, filed on April 20, 2005) required the respondent to compensate the applicants in the amount of \$1707 in the form of a rent credit. Taking the rent credit into consideration, I find the rent arrears to be \$6693 calculated as follows:

Rent arrears (Jan-June @\$1400/month)	\$8400
Rent credit as per order	<u>(1707)</u>
Amount owing applicant	\$6693

I find the respondents in breach of their obligation to pay rent and find the rent arrears to be \$6693. I find the respondents in breach of their obligation to pay for water during the term of the agreement. An order shall issue requiring the respondents to pay the applicant rent arrears in the amount of \$6693 and to comply with their obligation to pay for water by remitting the full amount outstanding on their water account to the City of Yellowknife. An order requiring the respondents to pay future rent on time has already issued. It is still in effect.

Hal Logsdon
Rental Officer