

IN THE MATTER between **LIETTE CERE**, Applicant, and **NIHJAA PROPERTIES LTD.**, 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:

**LIETTE CERE**

Applicant/Tenant

- and -

**NIHJAA PROPERTIES LTD.**

Respondent/Landlord

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 30(4)(d) of the *Residential Tenancies Act*, the respondent shall pay compensation to the applicant for loss directly related to their failure to maintain the rental premises in a good state of repair in the amount of four hundred fifty dollars (\$450.00).

2. Pursuant to section 30(4)(e) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 51B Bonnetplume Road, Inuvik, NT, shall be terminated on August 31, 2005.

DATED at the City of Yellowknife, in the Northwest Territories this 6th day of October, 2005.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **LIETTE CERE**, Applicant, and **NIHJAA PROPERTIES LTD.**, 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:

**LIETTE CERE**

Applicant/Tenant

-and-

**NIHJAA PROPERTIES LTD.**

Respondent/Landlord

**REASONS FOR DECISION**

**Date of the Hearing:** September 27, 2005

**Place of the Hearing:** Inuvik, NT via teleconference

**Appearances at Hearing:** Liette Cere, applicant  
John Venasse, witness for the applicant  
Chris Manuel, representing the respondent

**Date of Decision:** October 4, 2005

**REASONS FOR DECISION**

The applicant alleged that the respondent had failed to maintain the rental premises in a good state of repair and sought an order requiring the respondent to pay the applicant compensation directly related to the alleged breach.

The parties entered into a tenancy agreement on June 1, 2005 to commence on July 1, 2005 and run for a term of six months. The applicant took possession of the premises on July 9, 2005 and the parties completed an inspection report on July 10, 2005.

The applicant testified that prior to arriving in Inuvik, the respondent had assured her that all repairs to the rental premises would be completed. The applicant testified that upon taking possession, she noted a number of areas requiring repair and made her concerns known to the landlord. A written notice, outlining the areas of concern was served on the landlord on July 24, 2005. That notice also suggested that the applicant's verbal request for repairs had been ignored and stated that if the repairs were not completed by August 31, 2005 she intended to vacate the premises. It also suggested that if the rent was reduced to \$1000.00 a month from \$1500.00 a month, she would honour the tenancy agreement and her husband would complete temporary repairs.

The respondent replied to the applicant's notice on July 28, 2005 stating that some of the noted repairs would be done on July 30, 2005 and the remainder could not be completed at that time. No date for the remainder of the repairs was stated. The respondent also offered to reduce the rent by

\$100/month if the applicant's husband completed the repairs and noted that they could also offer other accommodation on a one year tenancy agreement for \$1800.00 a month.

The applicant testified that of the repairs requested only two were completed by the landlord. She stated that the refrigerator was replaced and two electrical plug covers were supplied. The applicant expressed particular concern about the lack of screens, which permitted blackflies and mosquitoes to continuously enter the apartment, and missing or broken window hardware which prevented the windows from closing properly. She also stated that there was considerable leakage from the ceiling in the closet which soaked her clothing and the carpet and caused the ceiling to deteriorate. Photographs were presented in evidence.

On August 3, 2005 the applicant sent a notice to the respondent complaining about maggots appearing in the bathroom and more leakage in the closet area. The applicant testified that when she reported it to the landlord, she was given some tape to place around the bathtub. She stated that she sprayed the area with insecticide. The applicant stated that when the landlord's representative came to the apartment later, he suggested that the wall be removed and she suggested he wait until they vacated at the end of August. The applicants vacated the premises on August 31, 2005.

The respondent testified that they had not observed any maggots in the bathroom. He did not dispute that the ceiling leaked or that some windows did not shut properly or have screens. The respondent stated that the refrigerator was replaced and plug covers supplied. He didn't appear to think the remaining problems were significant.

The Environmental Health Officer inspected the premises on August 9, 2005 and observed that the bathtub surround was not adequately sealed, window screens and hand cranks were missing, the screen door was in disrepair and water had damaged the wall and carpet in the bedroom. He noted that the tenants were moving on August 31, 2005 and ordered that repairs be made before the next tenants took possession.

Section 30 of the *Residential Tenancies Act* obligates a landlord to maintain the premises in a good state of repair.

**30. (1) A landlord shall**

- (a) provide and maintain the rental premises, the residential complex and all services and facilities provided by the landlord, whether or not included in a written tenancy agreement, in a good state of repair and fit for habitation during the tenancy; and**
- (b) ensure that the rental premises, the residential complex and all services and facilities provided by the landlord comply with all health, safety and maintenance and occupancy standards required by law.**

In my opinion, the failure of the landlord to provide properly operating windows and window and door screens is a substantial breach of section 30. So too, is the failure to maintain the premises in such a way as to prevent water infiltration. Although the respondent denies seeing any maggots, the photographs show some sort of larvae in the bathtub. I suspect these originated in the wall cavity by the tub as the tub surround was obviously allowing moisture to enter the wall. Any number of flying insects were free to enter the apartment due to the lack of screens. The Environmental Health Officer's report and order to repair indicates that the bath surround leakage, lack of window screens and closures, damaged screen door and roof leakage are contraventions of the Public Health regulations.

The applicant has or will suffer financial loss due to the water infiltration. The applicant sought \$250.00 for cleaning of her clothing which was affected by the leakage. The applicant explained that this amount was for cleaning costs. The evidence does not indicate any damage to clothing that would require repair or replacement and in my opinion, even considering the cost of dry cleaning, the amount claimed is somewhat excessive. In my opinion, compensation in the amount of \$150.00 is reasonable.

The applicant has also suffered from the full enjoyment of the premises due to the failure of the respondent to maintain the premises. The applicant sought the return of rent for July and August in the amount of \$700.00 a month or \$1400.00 in total. This represents a 47% reduction in the monthly rent and in my opinion is not reasonable given the loss of enjoyment. In my opinion, reasonable compensation is 10% of the rent paid for July and August or \$150.00 a month or \$300.00 in total.

The applicant sought the termination of the tenancy agreement rather than an order requiring the landlord to undertake the necessary repairs to the premises. The installation of utilities and telephone are costs which the applicant elected to bear when she sought termination. Termination was not the only remedy available. In my opinion, the applicant should bear the installation costs and her request for compensation of \$140.00 is denied.

In my opinion the remedy of termination is reasonable. Although the tenant had already vacated the premises when this matter was heard, the application was filed on August 17, 2005 while the applicant was still in possession. In my opinion, it is not unreasonable to consider a termination date

of August 31, 2005.

An order shall issue requiring the respondent to pay the applicant compensation for loss related to the respondent's failure to maintain the premises in a good state of repair in the amount of \$450.00 and terminating the tenancy agreement between the parties on August 31, 2005.

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Hal Logsdon  
Rental Officer