

IN THE MATTER between **ALLYSON STROEDER AND KEVIN STROEDER**,
Landlords, and **JANE GROENEWEGEN**, Tenant;

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:

ALLYSON STROEDER AND KEVIN STROEDER

Landlords

- and -

JANE GROENEWEGEN

Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 62(2) of the *Residential Tenancies Act*, the tenant shall pay the landlords compensation for lost rent in the amount of five hundred twenty two dollars and four cents (\$522.04).

DATED at the City of Yellowknife, in the Northwest Territories this 8th day of
September, 2006.

Hal Logsdon
Rental Officer

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ALLYSON STROEDER AND KEVIN STROEDER

Landlords

-and-

JANE GROENEWEGEN

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REASONS FOR DECISION

Date of the Hearing: August 31, 2006

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Allyson Stroeder, Landlord
Kevin Stroeder, Landlord
Jane Groenewegen, Tenant (by telephone)

Date of Decision: August 31, 2006

REASONS FOR DECISION

The landlords' filed an application on June 30, 2006 seeking compensation for lost rent. The tenant filed an application on July 25, 2006 seeking the return of a portion of the retained security deposit. As both applications refer to the same rental premises and tenancy agreement, with the consent of the parties, both matters were heard at a common hearing.

The tenancy agreement was made for a two year term commencing on July 15, 2005. The tenant began corresponding with the landlords by e-mail in May, 2006 inquiring about terminating the tenancy agreement. The landlords were willing to discuss early termination and numerous e-mails were sent by both parties discussing possible dates. The tenant vacated the premises on June 30, 2006. The landlords had made arrangements to re-rent the premises on July 10, 2006 on their understanding that the tenancy would terminate on July 9, 2006 and the tenant would vacate on that date. The landlords sought compensation for 9 days lost rent. The rent for the premises was \$3000/month.

A term tenancy agreement may only be terminated by the tenant's notice at the end of the term, or by mutual agreement of landlord and tenant, or by order of the rental officer. The provisions for termination by mutual agreement are contained in section 50 of the *Residential Tenancies Act*.

- 50. A landlord and tenant may agree in writing after a tenancy agreement has been made to terminate the tenancy on a specified date and the tenancy is terminated on the date specified.**

The e-mail correspondence between the parties refers to a number of potential dates but the only correspondence that, in my opinion, constitutes a mutual agreement to terminate the tenancy agreement on a specified date is found in the following e-mail exchange:

Hi Jane,

Unfortunately since I did not hear from you, I told the new tenant that you were looking at the 7th. The new people want the place on the 10th so that they have some time to move things over.

So. . the latest you could have the place is until the 9th with us doing the final inspection that night. Please let me know asap so we can adjust our plans.

Thanks

Allyson

The tenant responded:

That will be good Allyson. We'll go for the 9th. With the final inspection that evening. We will get you prorated rent for those extra days.

Thanks,

Jane

While there may have been other oral communication between the parties, it would not constitute a mutual agreement to terminate as such an agreement must be reduced to writing.

In my opinion, the landlords took reasonable steps to mitigate the loss and should be compensated for the loss of 9 days rent which I find to be \$870.97.

The landlords retained \$598.09 of the \$3000 security deposit, returning the balance to the tenant.

The tenant disputes a deduction for the repair of a garden door in the amount of \$348.93. The landlords alleged that a grill, which is internal to the sealed pane, was broken. The pane must be

replaced. The tenant was not certain if it was broken at the commencement of the tenancy but denied that it was broken through any negligence on her part. There was no inspection report done at the commencement of the tenancy. Section 15 of the *Residential Tenancies Act* requires an inspection report if a security deposit is required by a landlord.

- 15.(1) At the commencement of the tenancy and when a security deposit is requested, a landlord and tenant shall sign a document that sets out the condition and contents of the rental premises.**
- (2) A landlord shall ensure that a signed copy of the document referred to in subsection (1) is delivered to the tenant on receipt of all or a portion of the security deposit, as the case may be.**

Section 42 of the *Act* obligates a tenant to repair any damages to the premises.

- 42.(1) A tenant shall repair damage to the rental premises and the residential complex caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant.**
- (2) Ordinary wear and tear of rental premises does not constitute damage to the premises.**

In my opinion, the evidence does not establish that this alleged damage occurred during the term of the tenancy agreement nor does it establish that whatever action caused the grill to break was negligent or wilful. The deduction of \$348.93 shall be returned to the tenant.

After deducting the amount of the security deposit due to the tenant, there remains \$522.04 owing to the landlords, calculated as follows:

Due to landlords	\$870.97
less amount due to tenant	<u>348.93</u>
Net amount due landlords	\$522.04

An order shall issue requiring the tenant to pay the landlords compensation for lost rent in the

amount of \$522.04.

Hal Logsdon
Rental Officer\