

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,  
and **FABIAN FRANKI**, 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:

**YELLOWKNIFE HOUSING AUTHORITY**

Applicant/Landlord

- and -

**FABIAN FRANKI**

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 thirty seven dollars and ninety cents (\$37.90).
2. Pursuant to section 42(3)(a) of the *Residential Tenancies Act*, the respondent shall comply with her obligation to repair tenant damages to the premises.

DATED at the City of Yellowknife, in the Northwest Territories this 21st day of  
September, 2006.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,  
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R-5 (the "Act");

AND IN THE MATTER of a Hearing before **Hal Logsdon**, Rental Officer.

BETWEEN:

**YELLOWKNIFE HOUSING AUTHORITY**

Applicant/Landlord

-and-

**FABIAN FRANKI**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** September 20, 2006

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

**Appearances at Hearing:** Julie Forget, representing the applicant  
Fabian Franki, respondent  
Kerry King, representing the applicant

**Date of Decision:** September 20, 2006

**REASONS FOR DECISION**

The applicant discovered damages to the rental premises which they considered to be due to the tenant's willful or negligent conduct. An inspection was conducted by the applicant and an itemized estimate of repair costs completed on June 26, 2006. The total estimated repair costs in the amount of \$2789.49 were added to the respondent's account. The applicant sought an order requiring the respondent to pay the estimated repair costs and rent arrears and terminating the tenancy agreement.

A statement including the rent and repair costs was provided in evidence which indicated a balance owing in the amount of \$2827.39.

The respondent did not dispute that some damage had been done to the premises. She stated that her ex-partner and her children had caused some damage to the premises. She stated that she had wanted to make her own arrangements to repair the damages but the landlord refused to permit her to undertake any repairs. The applicant acknowledged that they had not permitted the respondent to undertake the repairs. The respondent testified that of all the necessary repairs noted on the itemized list, only the smoke detector replacement had been completed.

The applicant acknowledged that the itemized list of costs was only an estimate and stated that the landlord would not seek additional compensation if the actual repair costs were more than the estimate and would refund any overpayment if the actual repair costs were less than the estimate.

Section 42 of the *Residential Tenancies Act* obligates a tenant to repair 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.**
- (3) Where, on the application of a landlord, a rental officer determines that a tenant has breached the obligation imposed by this section, the rental officer may make an order**
  - (a) requiring the tenant to comply with the tenant's obligation;**
  - (b) prohibiting the tenant from doing any further damage;**
  - (c) requiring the tenant to compensate the landlord for loss suffered as a direct result of the breach;**
  - (d) authorizing any repair or other action that is to be taken by the landlord to remedy the effects of the tenant's breach;**
  - (e) requiring the tenant to pay any reasonable expenses directly associated with the repair or action; or**
  - (f) terminating the tenancy on the date specified in the order and ordering the tenant to vacate the rental premises on that date.**

In my opinion, a landlord can not prevent a tenant from undertaking repairs of damage to the premises. The *Act* obligates the tenant to do so. Sections 42(1)(d) and 42(1)(e) provide an avenue for a landlord to seek compensation where a tenant fails to meet that obligation. In my opinion the respondent should be permitted to arrange for the repairs as she sees fit, including having the landlord do the work on her behalf, provided the repairs are done in a reasonable period of time and in accordance with applicable codes, workmanship standards and licensing requirements.

I find the respondent in breach of her obligation to repair damages to the premises. An order shall issue requiring the respondent to comply with her obligation to repair damages to the rental premises. The applicant may make a future application pursuant to section 42, if the repairs are

not completed in a timely or satisfactory manner.

Applying all payments first to rent, I find rent arrears of \$37.90 calculated as follows:

Amount owing as per statement	\$2827.39
less repair estimate	<u>(2789.49)</u>
Rent arrears	\$37.90

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$37.90.

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Hal Logsdon  
Rental Officer