

IN THE MATTER between **JOHN GOYMAN**, Applicant, and **POLAR PAINTING 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:

JOHN GOYMAN

Applicant/Tenant

- and -

POLAR PAINTING LTD.

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 18(5) of the *Residential Tenancies Act*, the respondent shall return a portion of the retained security deposit to the applicant in the amount of twenty six dollars and eighty two cents (\$26.82).

DATED at the City of Yellowknife, in the Northwest Territories this 19th day of October, 2006.

Hal Logsdon
Rental Officer

IN THE MATTER between **JOHN GOYMAN**, Applicant, and **POLAR PAINTING 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:

JOHN GOYMAN

Applicant/Tenant

-and-

POLAR PAINTING LTD.

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: October 12, 2006

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: John Goyman, applicant (by telephone)
Karen McLeod, representing the respondent

Date of Decision: October 19, 2006

REASONS FOR DECISION

The respondent's legal name, as indicated on the tenancy agreement is Polar Painting Ltd.. The style of cause of this order has been amended to reflect that name.

The tenancy agreement between the parties was terminated by mutual agreement on July 31, 2006. The respondent retained the security deposit. A statement of the security deposit was not issued until September 11, 2006. The applicant disputed all of the deductions noted on the statement except the material costs to repair a screen door. The applicant sought the return of the remainder of the security deposit.

The respondent testified that the carpet was badly damaged by dog urine requiring the replacement of the carpet and underlay and the cleaning and painting of the sub-floor. Photographs were provided in evidence which indicated stains on the underside of the carpet. The respondent testified that the smell of dog urine was evident throughout the house. The applicant disputed the existence of any odour. The applicant testified that the carpet was professionally cleaned and provided a copy of the receipt for the cleaning cost. The applicant stated that three dogs were kept in the premises.

The applicant accepted the damage to the screen door but disputed the labour costs to repair the door.

The applicant testified that the windows were cleaned inside and outside and provided an unsigned memo from a neighbour stating that she was with Ms.Edwards-Goyman when the outside of the windows were being cleaned. The respondent testified that the windows were dirty and provided photographic evidence indicating that the outside of the windows were very dusty.

I find the replacement of the carpet reasonable as the evidence suggests that it was damaged by the applicant's dogs. The photographic evidence confirms the areas of urine stains. Despite professional cleaning, this odour is difficult to remove. The respondent has calculated the cost based on a useful life of 25 years for the underlay and 18 years for the carpet. I am advised by the supplier of the carpet that the replacement carpet is a good quality economy carpet with a manufacturers warranty of ten years. A carpet's useful life varies with the quality of the product. In my opinion, the useful life of this grade of carpet is closer to the average of 12 years. As this carpet was installed in August, 1997 the remaining useful life was 3 years. Therefore 25% of the replacement costs are reasonable to assign to the tenant. The useful life of the underlay should be the same, not greater. Therefore, in my opinion, the depreciated cost of the carpet replacement should be \$1428.22, calculated as follows:

Sub-floor preparation at full cost	\$539.75
Underlay @ 25% of replacement cost	148.75
Carpet @ 25% of replacement cost	658.88
GST	<u>80.84</u>
Total carpet cost	\$1428.22

I find no evidence to suggest that the labour costs to repair the screen door are unreasonable.

The testimony of the applicant and the unsigned memo from his neighbour concerning the cleanliness of the windows does not agree with the testimony of the respondent and the photographic evidence. On the balance of evidence I find the applicant failed to leave the windows in a reasonably clean condition and find the costs to clean them reasonable.

Section 18(2) sets out what may be deducted from a security deposit at the end of a tenancy agreement.

18.(2) A landlord may, in accordance with this section, retain all or part of the security deposit for repairs of damage caused by a tenant to the rental premises and for any arrears of the rent.

There is no indication that the deduction of \$114.96 from the security deposit is a repair of damages. On the contrary, it is a maintenance cost. Although a tenancy agreement may, in some cases, obligate a tenant to assume such costs, the Act does not permit them to be deducted from a security deposit.

In summary, I find that the respondent was entitled to deduct only \$1578.72 from the security deposit and accrued interest. An order shall issue requiring the respondent to return to the applicant a portion of the retained security deposit in the amount of \$26.82, calculated as follows:

Security deposit	\$1400.00
Interest on deposit	205.54
Carpet replacement	(1428.22)
Screen door repair	(63.00)
Window cleaning	<u>(87.50)</u>
Amount due applicant	\$26.82

Hal Logsdon
Rental Officer