

IN THE MATTER between **NIHJAA PROPERTIES LTD.**, Landlord, and **TERRI HANSEN**, 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 **INUVIK, NT.**

BETWEEN:

NIHJAA PROPERTIES LTD.

Landlord

- and -

TERRI HANSEN

Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 66(a) of the *Residential Tenancies Act*, the landlord shall pay compensation to the tenant for the wrongful disposal of the tenant's personal property in the amount of one thousand seventy seven dollars and seventy three cents (\$1077.73).
2. Pursuant to sections 66(a) and 66(b) of the *Residential Tenancies Act*, the landlord shall return the oak table to the tenant without the application of any fees for the removal or storage of the item.

DATED at the City of Yellowknife, in the Northwest Territories this 11th day of May, 2006.

Hal Logsdon
Rental Officer

IN THE MATTER between **NIHJAA PROPERTIES LTD.**, Landlord, and **TERRI HANSEN**, Tenant.

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NIHJAA PROPERTIES LTD.

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REASONS FOR DECISION

Date of the Hearing: March 28, 2006 and April 27, 2006

Place of the Hearing: Inuvik, NT

Appearances at Hearing: Chris Manuel, representing the landlord
Marsha Day, witness for the landlord (April 27)
Terri Hansen, tenant

Date of Decision: May 11, 2006

REASONS FOR DECISION

The landlord filed an application on February 17, 2006 seeking compensation for repair costs in excess of the tenant's security deposit. The matter was set for hearing on March 28, 2006. At the hearing, the tenant alleged that the landlord had seized and possibly disposed of her personal goods which were left in the premises. The landlord's application was heard but the decision reserved to permit the tenant to file an application regarding the alleged wrongful disposal of her possessions. The tenant's application was filed on March 30, 2006 and set for hearing on April 27, 2006. At that hearing the parties agreed that both matters be considered together and contained in a single order. As both applications deal with the same tenancy agreement and rental premises, it seems reasonable to do so.

THE LANDLORD'S APPLICATION

The landlord testified that he attended the rental premises on January 27, 2006 to conduct a final check-out inspection and found the door to the premises damaged and unlocked. He considered the unit had been abandoned, changed the locks to the premises and conducted a final inspection. An inspection report was provided in evidence. The security deposit of \$500 was retained by the landlord. There is no evidence that a statement of the deposit was produced, however, an itemized invoice for repair costs was sent to the tenant and provided in evidence. The amount of the invoice was \$4085 and included the replacement of the carpet (\$850), wall repair and painting of the entire unit (\$1800), general cleaning and carpet cleaning (\$1260), deadbolt repair (\$50), replacement of the entrance door handle (\$75) and lock change to the rear entrance (\$50).

The landlord sought relief in that amount less the retained security deposit.

The landlord testified that he conducted an earlier inspection on January 10, 2006 and discovered the front door damaged and was advised by the tenant that it was the result of a break-in. He stated that the back entrance locks had to be changed as the tenant failed to return the keys.

The tenant disputed the allegations in part stating that the check-in inspection report noted that the carpet needed replacement. She also disputed the cleaning costs stating that the landlord took possession of the premises before she had a chance to finish cleaning. The tenant stated that she had taken possession of another apartment on January 16, 2006 and was gradually moving her possessions to the new premises. She also testified that the deadbolt and entrance door handle, as well as the holes in the entryway, were the result of a break-in which she reported to the landlord.

In my opinion, the landlord had reasonable grounds to consider the premises abandoned.

Although the tenant claims she told the landlord she intended to return and complete the cleaning, she was making little progress and appears to have been living elsewhere. The rent was also in arrears. In my opinion, the cleaning costs are reasonable.

The inspection report signed by both parties at the commencement of the tenancy agreement notes that the carpet in the living room requires replacement. Regardless of what further damage the tenant may have inflicted on the carpet, it appears it was already beyond its useful life. The landlord's request for compensation for carpet replacement is therefore denied.

It does not appear that the damage to the front entry walls or the entry door handle and deadbolt were the result of the tenant's negligence or the negligence of persons permitted on the premises by the tenant. Therefore, the costs of the door hardware and deadbolt are denied. The wall repair costs are reduced by 40% to reflect the repair of items damaged by the break-in. The remainder of the repairs and the lock change are, in my opinion, reasonable.

My review of the tenant rent account reveals that a \$50 penalty for late rent was applied to the tenant's account in September, 2005. Such a penalty is in excess of the rent penalty permitted pursuant to section 41(3) of the *Residential Tenancies Act*. This amount shall be deducted from the compensation due to the landlord.

I find the tenant in breach of her obligation to repair the premises and to leave the premises in a reasonable state of cleanliness. Considering the retained security deposit, I find reasonable compensation to be \$1834.30 calculated as follows:

Security deposit	\$500.00
Interest	5.70
Wall repairs	(1080.00)
Cleaning	(1260.00)
Lock change	(50.00)
Reversal of late penalty	<u>50.00</u>
Amount due landlord	\$1834.30

THE TENANT'S APPLICATION

The tenant alleged that the landlord had wrongfully disposed of her personal goods which were in the premises when the landlord took possession. The tenant provided an itemised list of the

goods allegedly left in the premises and the replacement value of each item. The tenant sought the return of the items or compensation if they had been destroyed. The stated replacement value of the items was \$8312.27. I note however that the itemized list provided by the tenant is incorrectly added and the actual sum is \$7846.36. The tenant provided the approximate age of each item at the hearing.

The landlord's representative called a witness who was contracted to clean the premises after the tenancy agreement had been terminated. She examined the itemized list provided in evidence by the tenant and stated that many of the items were in the apartment when she commenced to clean it. She stated that there were numerous boxes which she did not open and therefore could not determine their contents. She stated that all of the contents of the apartment were taken to the dump with the exception of the oak table which was removed by the landlord. She stated that three truck loads of items from the premises were taken to the dump. The landlord's representative confirmed that the table was in the possession of the landlord. The landlord's witness was questioned concerning the value of the items and indicated that she could not estimate their value but stated that they certainly could not be considered worthless.

Section 64 of the *Residential Tenancies Act* permits a landlord to remove abandoned personal property from rental premises but obligates the landlord to inventory the property and store it in a safe place unless it is worthless or unsafe or unsanitary to store. A landlord is not permitted to dispose of any stored property without the approval of a rental officer. I find the landlord in breach of this obligation and find that the landlord wrongfully disposed of the tenant's property

with the exception of the oak table. Taking into consideration the age of the items, I find the value of the goods to be \$2912.03. The following table indicates how the depreciated values were calculated.

Item	Replacement Cost	Age	Useful life	Depreciated Value
Vacuum Cleaner	\$2566.93	8 yrs	12 yrs	\$855.64
Mens Leather Jacket	\$426.93	6 months	5 yrs	\$384.24
Womens Parka	\$265.36	10 yrs	4 yrs	\$0
Childs Parka	\$120	10 yrs	3 yrs	\$0
Childs Skates	\$120	7 months	10 yrs	\$113.04
Womens Skates	\$40	7 months	10 yrs	\$37.68
3 Mens Jackets	\$300	4 yrs	5 yrs	\$0
Childs snowsuit	\$139.09	7 months	3 yrs	\$112.20
Dishes	\$25	various	25 yrs	\$25
Coffee table	\$400	5 months	15 yrs	\$386.67
Play station	\$250	3 years	5 yrs	\$100
Stroller	\$192.60	1 yr	5 yrs	\$154.08
Xmas decorations	\$200			\$160

Aurora Textbooks	\$1750.45	4 yrs	6 yrs	\$583.48
Columbia Textbooks	\$700	8 yrs	6 yrs	\$0
TOTAL	\$7496.36			\$2912.03

The landlord indicated that the stroller was under the porch of the rental premises. The tenant later reported that while it was under the porch the wheels had been damaged. I have considered the useful life of college textbooks to be 6 years as this is a reasonable period between editions. Obsolete editions of college texts may still have some intrinsic value to the student but their resale value is negligible.

CONCLUSION AND ORDER

Taking into consideration the two applications, I find the net amount owing to the tenant to be \$1077.73 calculated as follows:

Compensation owing to tenant for wrongful disposal of property	\$2912.03
less compensation due to landlord for repair costs	<u>1834.30</u>
Amount due tenant	\$1077.73

An order shall issue requiring the landlord to pay compensation to the tenant in the amount of \$1077.73 and ordering the landlord to return the oak table to the tenant. The landlord shall not levy any charges for the removal and the storage of the table.

Hal Logsdon
Rental Officer