

IN THE MATTER between **POLAR PAINTING LTD.**, Applicant, and **DARREN RAYMOND**, 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:

POLAR PAINTING LTD.

Applicant/Landlord

- and -

DARREN RAYMOND

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 62(2) of the *Residential Tenancies Act*, the respondent shall pay the applicant compensation for lost rent in the amount of one thousand four hundred fifty dollars (\$1450.00).

DATED at the City of Yellowknife, in the Northwest Territories this 26th day of January, 2007.

Hal Logsdon
Rental Officer

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AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act");

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BETWEEN:

POLAR PAINTING LTD.

Applicant/Landlord

-and-

DARREN RAYMOND

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 18, 2007

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Karen McLeod, representing the applicant
Darren Raymond, respondent

Date of Decision: January 26, 2007

REASONS FOR DECISION

The tenancy agreement between the parties was made for a one-year term commencing on August 1, 2006. On August 28, 2006 the respondent served a notice on the applicant informing them of his requirement to terminate the tenancy agreement on October 1, 2006. There is no evidence that the applicant agreed to the termination. The respondent vacated the premises on September 30, 2006 and the applicant returned the security deposit and interest without deduction to the respondent. The applicant testified that despite their efforts to re-rent the premises, they were unable to do so until November 15, 2006. The applicant sought an order requiring the respondent to compensate the landlord for lost rent in the amount of \$2126.62 representing one month and fourteen days of rent.

The applicant also testified that the respondent had stopped payment on a cheque for the October, 2006 rent and part of the security deposit. The applicant sought an order for \$18 representing the bank fee and administration costs.

The respondent stated that the applicant had not taken reasonable steps to mitigate the loss of rent. The respondent testified that the applicant had not advertised the premises for rent until October, 2006 and provided a classified ad in evidence showing the premises for rent, dated October 16, 2006. The respondent also testified that no sign had been placed on the premises

indicating that the house was for rent until later in October, 2006 and that only one prospective tenant had been shown the house while he was still in possession.

The respondent stated that he could not afford the premises and that he had some issues with maintenance.

The applicant testified that the landlord had a regular ad in the newspaper for their properties and had also placed an ad specifically for these premises in the newspaper in October. The applicant stated that the order was placed with the newspaper on October 6, 2006. She also stated that Polar Developments was listed in the Yellow Pages of the telephone book under "Real Estate Management". The applicant stated that she often referred potential apartment tenants with dogs to their vacant house properties as they did not allow dogs in the apartments. The applicant stated that she had received numerous telephone calls about the property.

A landlord is entitled to compensation for lost rent when a tenant abandons rental premises prior to the end of the term. Compensation is limited to actual loss and is subject to the landlord's reasonable efforts to re-rent the premises.

Polar Painting and Polar Developments are managed by the same property manager. The regular ad noted by the applicant advertises apartments in the two towers owned by Polar Developments. It does not mention any premises for rent except apartments in these towers and anyone reading the ad who was looking for a detached house would reasonably conclude that Polar

Developments does not rent houses. In my opinion, a reasonable effort to re-rent these premises would include specific advertising of the premises. In my opinion a listing in the telephone book and referrals of apartment seeking dog owners are not sufficient. The applicant did not present any evidence as to when she received the numerous inquiries about the premises. I suspect most were after the insertion of the classified ad as only one resulted in a showing prior to the ad appearing.

I have no evidence that the ad appeared earlier than October 16, 2006. The premises were re-rented a month afterward. The issues the respondent may have had regarding the premises are not relevant as remedies were available to him through an application to a rental officer. The respondent's financial position is also irrelevant as there is no provision for early termination due to financial reasons in the Act except on the death of a spouse or because of a deterioration of the tenant's health. In my opinion, the landlord was unable to rent the premises for a month after reasonable mitigation efforts commenced and is therefore entitled to one month's compensation or \$1450.

In the matter of the stop payment fee on the cheque for the October rent and the remainder of the security deposit, I note that more than 50% of the required security deposit had already been paid and three months had not yet elapsed from the commencement date. Section 14 of the *Residential Tenancies Act* requires only 50% of the required security deposit be paid in advance and the remainder within three months of the commencement of the tenancy agreement. The rent

for October, 2006 was not due as the respondent had vacated. In my opinion, the applicant had no right to the October rent or the balance of the security deposit as neither were due. The request for relief in the amount of \$18 is denied.

An order shall issue requiring the respondent to pay the applicant compensation for lost rent in the amount of \$1450.

Hal Logsdon
Rental Officer