

IN THE MATTER between **TUNG TRAM**, Applicant, and **FRANK LANDRY AND MARJORIE SIBBALD**, Respondents;

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:

TUNG TRAM

Applicant/Landlord

- and -

FRANK LANDRY AND MARJORIE SIBBALD

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. The application is dismissed.

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

Hal Logsdon
Rental Officer

IN THE MATTER between **TUNG TRAM**, Applicant, and **FRANK LANDRY AND MARJORIE SIBBALD**, Respondents.

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:

TUNG TRAM

Applicant/Landlord

-and-

FRANK LANDRY AND MARJORIE SIBBALD

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: January 18, 2007

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Tung Tram, applicant
Frank Landry, respondent
Marjorie Sibbald, respondent

Date of Decision: January 18, 2007

REASONS FOR DECISION

The tenancy agreement between the parties was terminated on July 31, 2005. The application was not filed until December 18, 2006, over 16 months later. The applicant sought compensation for charges for water which were paid by him on behalf of the respondents in the amount of \$155.25.

Section 68 of the *Residential Tenancies Act* imposes a time limit for the filing of an application but permits a rental officer to extend the time if it is not unfair to do so.

- 68.(1) An application by a landlord or a tenant to a rental officer must be made within six months after the breach of an obligation under this Act or the tenancy agreement or the situation referred to in the application arose.**

- (2) A landlord or a tenant making an application to a rental officer for an order or a decision under this Act must file the application with the rental officer and serve a copy of the application on the other party within at least 14 days after the filing of the application.**

- (3) A rental officer may extend the time for the making of an application to the rental officer, whether or not the time for making the application to a rental officer has expired, where the rental officer is of the opinion that it would not be unfair to do so.**

The applicant became aware of the arrears on the respondents' water account on November 27, 2005 when the City of Yellowknife sent him a notice stating that the arrears would be transferred to his property taxes on December 31, 2005 if unpaid. The applicant stated that he decided not to file an application to a rental officer at that time because he had already retained the security deposit and didn't want to go through the trouble of filing for such a small amount.

After the six month period had expired, the applicant discovered that the respondents had been granted an order requiring him to return a portion of the retained security deposit. He was unaware of the judgement until the respondents filed the order in the Court. He stated that he did not know about the hearing because he had supplied the wrong address to the tenants who, in turn, supplied the incorrect address to the rental office.

It has been the practice of rental officers to only extend the limitation on filing if there is a good reason why the applicant could not file or where the applicant had a reasonable expectation that the matter would be resolved without recourse to legal action. In this case the applicant could have filed within the prescribed time period and simply chose not to do so. There was no evidence that the respondents acknowledged their liability or agreed to pay the amounts alleged owing.

For these reasons the request to extend the time period for filing an application was denied and the application dismissed.

Hal Logsdon
Rental Officer