

IN THE MATTER between **TARA BOYD AND COLLIN BOYD**, Applicants, and  
**BARNSTONE ENTERPRISES 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:

**TARA BOYD AND COLLIN BOYD**

Applicants/Tenants

- and -

**BARNSTONE ENTERPRISES 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 applicants in the amount of four hundred fifty seven dollars and ninety cents (\$457.90).

DATED at the City of Yellowknife, in the Northwest Territories this 12th day of October,  
2007.

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Hal Logsdon  
Rental Officer



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-and-

**BARNSTONE ENTERPRISES LTD.**

Respondent/Landlord

**REASONS FOR DECISION**

**Date of the Hearing:** October 9, 2007

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

**Appearances at Hearing:** Tara Boyd, applicant  
Collin Boyd, applicant  
Karen Guinan, representing the respondent

**Date of Decision:** October 12, 2007

**REASONS FOR DECISION**

The legal name of the respondent and the name shown on the tenancy agreement is Barnstone Enterprises, Ltd. The style of cause of the order shall be amended to reflect the legal name of the landlord.

The tenancy agreement between the parties was terminated on June 30, 2007. The respondent retained a portion of the security deposit and provided the applicants with an itemised statement of the deposit and deductions. The respondents disputed the deductions and sought an order requiring the respondent to return the retained portion.

The disputed deductions are as follows:

**OUTSTANDING WATER BILL - \$463.82**

The respondent paid the outstanding water bill at the end of the tenancy agreement and later discovered that the City of Yellowknife had also received payment from the applicants. Since the application was filed, the City of Yellowknife has refunded the applicants' payment and the balance on the account is \$0. The tenancy agreement between the parties obligates the tenants to pay for water during the term of the agreement. As the final balance was paid by the respondent on behalf of the applicants, it may be considered rent and deducted from the security deposit.

CARPET CLEANING - \$169.55

The respondent stated that the carpet had numerous stains and provided photographs in evidence. The applicant acknowledged that the carpet was stained but stated that he had shampooed the carpet. The respondent testified that the stains were removed by professional cleaning and provided two photographs in evidence. The applicant stated that the stains were only in two rooms and questioned why the entire carpeted floors had to be steam cleaned. The evidence suggests that the carpets were not in a clean condition at the end of the tenancy agreement. In my opinion, the cleaning of all the carpets and the costs are reasonable.

FUEL - \$50.89

The applicants stated that they filled the fuel tank at the end of the tenancy agreement and provided an invoice for the fuel delivered. The respondent claimed that the fuel tank was not full and also provided an invoice for fuel delivered. The premises include a workshop with a separate fuel tank. The applicants' invoice indicates that only the house tank was filled. The respondent's invoice indicates that both the shop and house were filled. I find the deduction for fuel to be reasonable.

STAIR REPAIRS - \$120

The respondent stated that the bottom baluster on the stairs was broken causing the stairs to become loose. The applicant stated that he believed the baluster was broken during snow removal which was the responsibility of the landlord. There was no evidence to suggest the broken baluster was reported to the landlord. The applicant noted that the screws fastening the balusters

to the stringers were rusty and some had pulled out. He also noted that the balusters were loose on both sides of the stairs. Photographic evidence was submitted by the respondent. The balusters are 2 x 4 lumber and, in my opinion, the damage to one baluster would not cause the entire stair structure to become loose. There is evidence that the screws fastening the structure have failed to some degree through corrosion. I find the applicant responsible to replace the broken baluster but the remainder to be caused by normal wear and tear. The respondent's claim shall be reduced by 50%.

REPAIR TO DOOR WINDOW - \$329

The respondent stated that the damage to the storm door window and screen were not discovered at the check-out inspection done with the applicants. The damage was discovered later. The screen and window appear to have been pushed in, breaking the fastening devices which hold the assembly in the door. Photographic evidence was submitted by the respondent. I can not see how such damage could escape detection at the final inspection. The landlord did not complete the security deposit statement until July 31, 2007. The door could have been damaged by others after the tenancy agreement ended and the applicants gave up possession. In my opinion, there is not sufficient evidence to conclude that the applicants damaged the door and the landlord's claim for repairs shall be denied.

DISHWASHER REPAIRS - \$68.90

The dishwasher did not work at the end of the tenancy agreement. The respondent acknowledged that the repairs were not caused by the tenant's negligence. The repair order indicates a bad

electrical connection. The respondent stated that because applicants did not report the failure of the dishwasher, the respondents had to pay for the repair because the warranty period had expired. The applicant stated that she did not normally use the dishwasher. In my opinion, failure to detect the problem and report it to the landlord is not negligence. A tenant is not required to use every facility in the rental premises. The respondent's claim shall be denied.

The interest calculated on the security deposit is sufficient.

In summary I find that \$822.19 should have been returned to the applicants. Taking into consideration the amount already returned, an order shall issue requiring the respondents to return \$457.90 of the retained security deposit to the applicants. The amount is calculated as follows.

Security deposit	\$1500.00
Interest	66.45
Water bill	(463.82)
Fuel	(50.89)
Carpet Cleaning	(169.55)
Stair repairs	<u>(60.00)</u>
Amount due tenants	\$822.19
Previously refunded	<u>(364.29)</u>
Balance due tenants	\$457.90

The applicants also sought an order requiring the respondent to reimburse them for repairs they made to the dryer during the tenancy agreement. An order should have been sought prior to the

end of the tenancy agreement, authorizing the tenants to undertake the repair and ordering the landlord to reimburse the tenants for costs. In my opinion, it is not reasonable to consider the claim now.

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Hal Logsdon  
Rental Officer