

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **GILBERT GORDON AND ADA CARPENTER**, 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 **INUVIK, NT**.

BETWEEN:

**NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**

Applicant/Landlord

- and -

**GILBERT GORDON AND ADA CARPENTER**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents shall pay the applicant rent arrears in the amount of one thousand fifty dollars and ninety one cents (\$1050.91).

DATED at the City of Yellowknife, in the Northwest Territories this 14th day of June, 2007.

---

Hal Logsdon  
Rental Officer

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **GILBERT GORDON AND ADA CARPENTER**, 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:

**NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**

Applicant/Landlord

-and-

**GILBERT GORDON AND ADA CARPENTER**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** June 5, 2007

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

**Appearances at Hearing:** Darrin Holmes, representing the applicant  
Paula Rawlings, witness for the applicant  
Gilbert Gordon, respondent  
Ada Carpenter, respondent

**Date of Decision:** June 14, 2007

**REASONS FOR DECISION**

The tenancy agreement between the parties was terminated on March 16, 2007 when the respondents vacated the rental premises. The applicant retained the security deposit and accrued interest. There is no evidence that the applicant issued a statement of the security deposit in accordance with section 18 of the *Residential Tenancies Act*. The applicant now seeks an order requiring the respondents to pay rent arrears and repair and cleaning costs in excess of the retained security deposit as well as compensation for lost rent.

The applicant provided a statement which indicated a balance of rent owing as at March 31, 2007 in the amount of \$2244.98. The applicant also provided an itemised list of repair costs which indicated repair costs in the amount of \$2042.66. A check-in inspection report and a check-out report were also provided in evidence. The applicant requested compensation in the amount of \$960, representing lost rent in April, 2007.

The respondents did not dispute the allegations pertaining to rent but disputed many of the repair costs and the claim for compensation for lost rent. Details of the evidence and my findings are outlined in the following areas.

**SECURITY DEPOSIT**

The applicant testified that two payments of security deposit were made by the respondents. The first, in the amount of \$480, was paid on December 1, 2004 and the second, in the amount of

\$250 was paid on February 15, 2005. The written tenancy agreement requires a security deposit of \$960 and acknowledges an initial payment of \$480. Neither of the payments referred to by the applicant appear on the statement provided in evidence although the statement contains two different entries noted as a security deposit. The first is a debit of \$970 (which is in excess of the amount noted on the tenancy agreement and is also in excess of the monthly rent of \$960) and the second a credit for \$460.

By the applicants's testimony, the payments of \$480 and \$250 were received by the landlord as payment of the security deposit. I can not simply dismiss the additional payment of \$460 shown on the landlord's statement. Since the sum of these three payments exceeds the maximum security deposit permitted, I am assuming that the required security deposit of \$960 was paid in full and the excess of \$230 applied to rent. The applicant has neglected to calculate interest on the deposit which I find to be \$57.21.

## RENT

The applicant's statement contains two entries which the applicant described as penalties for late rent. The penalty for late rent is set out in section 41 of the *Residential Tenancies Act* and the penalties applied by the applicant are not consistent with those provisions. The applicant's request for these penalties is therefore denied. Adjusting the balance to remove the penalties and security deposit entries and applying the excess security deposit to rent, I find rent arrears of \$1404.98 calculated as follows:

March 31/07 balance as per statement	\$2244.98
Less penalty applied on 3/8/07	(25.00)
Less penalty applied on 6/10/05	(75.00)
Less security deposit entries	(510.00)
Less excess security deposit	<u>(230.00)</u>
Rent arrears	\$1404.98

#### COMPENSATION FOR LOST RENT

The respondents testified that they gave written notice to terminate the tenancy agreement. The applicant provided a copy of that notice with their application but claimed that the respondents rescinded the notice. The applicant called a witness, Paula Rawlings who testified that the respondents changed their minds several times about terminating after they gave the notice, finally vacating the premises. The respondents denied rescinding the notice. There is no written evidence that the parties agreed to nullify the respondents' notice to terminate which was sufficient to terminate the tenancy agreement on March 31, 2007. In my opinion, the evidence indicates that the tenancy agreement was terminated in accordance with the Act. Therefore there can be no compensation for lost rent. The applicant's request for relief is denied.

#### REPAIR COSTS

The applicant provided an inspection report outlining the condition of the premises at the commencement of the tenancy agreement. The inspection report was signed by the landlord's agent and Ms. Carpenter. An inspection report completed by the landlord at the end of the tenancy agreement and an itemised list of cleaning and repair costs was also submitted in evidence by the applicant.

#### Cleaning

The final inspection report does not note any areas as dirty except

one right window frame. Such a small amount of cleaning does not justify the cost of five hours of cleaning claimed. The relief for cleaning is denied.

Minor Maintenance The applicant seeks relief for unspecified minor maintenance. There is no indication what this is for or if it was the result of tenant negligence. Normal maintenance is the responsibility of the landlord. The request for relief is denied.

Cigarette Burns The final inspection indicated 8 cigarette burns on the carpet. The check-in inspection indicates that the carpet was in good condition with no burns noted. I find compensation of \$200 to be reasonable.

Carpet Cleaning There is no indication on the final inspection report that the carpet was dirty. The request for relief is denied.

Painting The check-in inspection report indicates that the premises required painting in November, 2004. The respondent testified that the premises were not painted during the tenancy. In my opinion, the premises were due to be repainted and regardless of the condition of the paint, it is the landlords responsibility to repaint. The request for relief is denied.

Patching of Holes The inspection report indicates holes behind the sink and stove and by the thermostat. There are no holes noted on the check-in inspection. The respondents stated that the holes behind the sink were the result of repairs to the drain done by the landlord and denied that there were any other holes in the premises. There is no other evidence such as photographs to support the allegation. The holes behind the sink are not the responsibility of the tenants and I do not find sufficient evidence of any other holes. The request for relief is denied. The small chips on several wall corners are considered normal wear and tear.

Door Replacement The final inspection indicates a damaged door in the bathroom which was not damaged at the commencement of the tenancy agreement. I find the replacement cost of \$170 to be reasonable.

Towel Rack The final inspection indicates a broken towel rack which was not noted on the check-in report. The respondent stated that it was improperly attached to the wall. In my opinion, the evidence supports the landlord's claim and I find the replacement cost of \$39 to be reasonable.

Table Refinishing The respondent disputed the allegations claiming that the

apartment was unfurnished and that the table was given to him by the landlord as it was surplus to their needs. The applicant stated that it was not the policy of the landlord to give away furniture. The applicant also stated that the refinishing applied to two tables, one that was built-in and supplied with all bachelor apartments and one that was free-standing.

The tenancy agreement does not include any mention of furniture nor does the check-in inspection make any notation regarding a table or other furniture. The landlord's representative had no direct knowledge of how or when the free-standing table came to be in the respondent's apartment. If there were burns on the built-in table at the commencement of the tenancy agreement, I would expect to see a notation on the check-in inspection. The same can not be said for the free standing table as it was likely provided after the commencement of the tenancy and would not appear on the inspection report. It may have had burns or it may have been given to the tenants. In my opinion, only the refinishing of the built-in table is the responsibility of the respondents and I find the cost of \$135 to be reasonable.

Recalculating the administrative charge and GST applied to the repair costs, I find reasonable



costs to be \$663.14, calculated as follows:

Burns in carpet	\$200.00
Door replacement	170.00
Towel rack	39.00
Table refinish	135.00
Admin. @15%	81.60
GST	<u>37.54</u>
Total	\$663.14

Applying the security deposit and accrued interest first to repair costs, I find rent arrears in the amount of \$1050.91 calculated as follows:

Security deposit	\$960.00
Interest	57.21
Repair costs	(663.14)
Rent arrears	<u>(1404.98)</u>
Amount due applicant	\$1050.91

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$1050.91.

---

Hal Logsdon  
Rental Officer