

IN THE MATTER between **NORTHERN PROPERTY LIMITED PARTNERSHIP**,
Applicant, and **EVE DESSUREAULT**, 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:

NORTHERN PROPERTY LIMITED PARTNERSHIP

Applicant/Landlord

- and -

EVE DESSUREAULT

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of fifty dollars (\$50.00).
2. Pursuant to section 14(6)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant the remaining balance of the required security deposit in the amount of two hundred seventy five dollars (\$275.00).

DATED at the City of Yellowknife, in the Northwest Territories this 22nd day of August,
2008.

Hal Logsdon
Rental Officer

IN THE MATTER between **NORTHERN PROPERTY LIMITED PARTNERSHIP**,
Applicant, and **EVE DESSUREAULT**, 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.

BETWEEN:

NORTHERN PROPERTY LIMITED PARTNERSHIP

Applicant/Landlord

-and-

EVE DESSUREAULT

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: August 20, 2008

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Rosetta Morales, representing the applicant
Connie Diener, representing the applicant
Eve Dessureault, respondent

Date of Decision: August 22, 2008

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and by failing to provide the full amount of the required security deposit. The applicant sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement.

The applicant provided a statement which indicated a balance of \$1075 of which \$275 was a balance of unpaid security deposit.

This tenancy agreement commenced on March 1, 2007. A security deposit from a previous tenancy agreement between the parties was applied to this tenancy leaving a balance owing of \$275. The respondent did not dispute that the balance of the security deposit was owing.

The applicant stated that the rent for the premises was increased from \$1450 to \$1525 on November 1, 2007 and provided a copy of the notice of rent increase dated July 23, 2007 addressed to the respondent. The notice sets out several different rates for various terms and requests that the tenant indicate which term is preferred and return the signed notice to the landlord. The notice states that if the notice is not returned on or before October 31, 2007, the landlord will apply the month-to-month rate of \$1525. The applicant stated that the notice was served by sliding it under the door of the respondent's apartment.

The respondent has continued to pay a monthly rent of \$1450 which, according to the statement provided in evidence by the applicant, is paid by electronic funds transfer on the first day of each month. The monthly shortfall of \$75 has resulted in rent arrears of \$750. The remaining \$50 of rent arrears alleged by the applicant is a NSF charge.

The respondent disputed the \$750 of rent arrears stating that she did not become aware of the rent increase or the arrears until she received a notice from the applicant claiming that she owed \$1000. The respondent testified that she had not seen the notice of rent increase until the applicant presented it in evidence at the hearing. The respondent also denied having received a notice demanding rent arrears of \$625 dated February 28, 2007 which the applicant provided in evidence. The applicant stated that both notices demanding rent were also delivered by sliding them under the respondent's apartment door.

Section 71 of the *Residential Tenancies Act* sets out provisions for service of notices.

- 71. (1) Subject to subsection (3), any notice, process or document to be served by or on a landlord, a tenant or the rental officer may be served by personal delivery or by registered mail to the landlord at the address given in the tenancy agreement or mailed to the tenant at the address of the rental premises and to the rental officer at the address of the office of the rental officer.**

- (2) A notice, process or document sent by registered mail shall be deemed to have been served on the 7th day after the date of mailing.**

- (3) Where a notice cannot be served personally on a tenant or a landlord who is absent or evading service, the notice may be served on the tenant or the landlord by serving it on any adult who apparently resides with the tenant or landlord.

A landlord can not rely on sliding notices under apartment doors to be good service. The applicant questioned how the respondent could fail to see a notice delivered in this manner and noted that it was a common and accepted method of delivering notices. That may be but there is no direct evidence that the document actually was slid under the door or that the respondent saw it and that must be weighed against the sworn testimony of the respondent that she did not receive it.

I have no reason to question the respondent's testimony. She has consistently paid her rent on time and when the previous joint tenant vacated, she adjusted her electronic funds transfer in order to pay the entire rent rather than 50%. I see no inclination to avoid paying the rent on the part of the respondent. I am surprised that the applicant failed to contact the respondent at some point after the rent was increased to inquire why her electronic funds transfer had not been adjusted to meet the new rent amount. On the balance of probabilities, I can not conclude that the respondent received the notice of rent increase, making it ineffective. The request for relief shall be reduced by \$750, leaving only \$50 in rent arrears, which represents an NSF charge and a \$250 balance of security deposit owing. I calculate these amounts as follows:

Balance as per statement	\$1075
Less security deposit owing	(275)
Less rent increase (10 months X \$75)	<u>(750)</u>
Rent arrears	\$50

The amounts are too small to justify a termination order and I see no requirement to issue an order

to pay future rent on time. The only occasions where the rent was late was due to an NSF transfer which was initiated by the now absent joint tenant. An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$50 and to pay the applicant the remainder of the required security deposit in the amount of \$275.

Hal Logsdon
Rental Officer
