

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **ANGUS ELIAS**, 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:

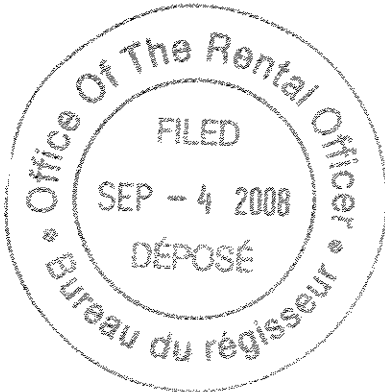
NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Applicant/Landlord

- and -

ANGUS ELIAS

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 two thousand seven hundred forty dollars (\$2740.00).
2. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 5437-52 Street, Yellowknife, NT, shall be terminated on September 22, 2008 and the respondent shall vacate the premises on that date, unless the rent arrears are paid in full.
3. Pursuant to sections 43(3)(a) and 43(3)(b) of the *Residential Tenancies Act*, the

respondent shall comply with his obligation to not disturb other tenants and shall not create any disturbances in the future.

4. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent shall pay future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 4th day of September, 2008.



Hal Logsdon
Rental Officer

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BETWEEN:

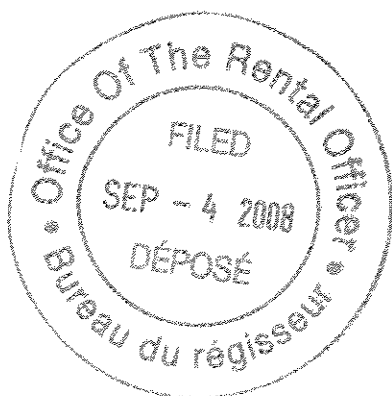
NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Applicant/Landlord

-and-

ANGUS ELIAS

Respondent/Tenant



REASONS FOR DECISION

<u>Date of the Hearing:</u>	September 2, 2008
<u>Place of the Hearing:</u>	Yellowknife, NT
<u>Appearances at Hearing:</u>	Connie Diener, representing the applicant
<u>Date of Decision:</u>	September 4, 2008

REASONS FOR DECISION

The respondent was served with a Notice of Attendance sent by registered mail and confirmed delivered. The respondent failed to appear at the hearing and the hearing was held in his absence.

The application was filed on August 11, 2008 alleging non-payment of rent and seeking an order requiring the respondent to pay the alleged rent arrears and to pay future rent on time.

On August 21, 2008 the applicant served a notice of early termination on the respondent seeking vacant possession of the premises on September 22, 2008 due to repeated disturbance and impairment of the safety of the landlord or other tenants (pursuant to sections 54(1)(a) and 54(1)(f) of the *Residential Tenancies Act*).

On August 22, 2008 the applicant advised the applicant in writing that they intended to amend the August 11th application to include allegations of damage to the premises or residential complex and disturbance and would be seeking termination of the tenancy agreement. There is no indication that any specific evidence regarding the alleged disturbances or damages was provided to the respondent.

The applicant provided a statement which indicated a balance of rent owing in the amount of \$2740. The statement indicates that no rent has been paid for the months of August or September, 2008.

The applicant also provided an e-mail from another tenant in the residential complex which stated that the respondent has held very loud parties with loud music over the past year. The tenant states that the music concern has been addressed and now occurs only occasionally. The tenant also alleges that the respondent damaged a window and door in the residential complex. The tenant acknowledges that he learned of this from other tenants and had no direct knowledge of the incident himself.

Notwithstanding that the applicant's evidence regarding the alleged damages does not appear to have been provided to the respondent, the evidence is hearsay. The complainant writes:

Unfortunately the past 2 weeks we have had a window broken in the main entry. After the first one was broken, the tenants from ** & ** and myself spoke to the same adult that I spoke to who basically said that it wasn't anyone from his unit who did this but he would be calling the police to have them find out who did it. Last week the window was again broken and this time the door hinges were also damaged. I did not hear how or when it happened, but when I asked another tenant, who is on the ground floor beside 37, she advised that it was somebody who lived in 37 and when she asked what he was doing she was told to "shut the f%%% up and go back in her place".

In my opinion, the evidence regarding the alleged damages can not be given any weight and, on the balance of probabilities, I can not conclude that the damages were done by the respondent.

In the matter of the alleged disturbances, it is reasonable, in my opinion to conclude that some disturbance has occurred. However, the complainant acknowledges that they have abated somewhat. The complainant writes:

I have spoken with an adult who lives there about the VERY loud music that occurs and he advised that it would stop. To be fair the music concern has been addressed as it occurs only occasionally.

I find the respondent in breach of his obligation to not disturb other tenants. In my opinion, given the fact that the noise seems to have abated, the most appropriate remedy is an order requiring the respondent to not disturb other tenants and to not create any disturbances in the future.

In the matter of the rent, I find the statement in order and find the respondent in breach of his obligation to pay rent. I find the rent arrears to be \$2740. In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the rent arrears are promptly paid.

An order shall issue requiring the respondent to pay rent arrears in the amount of \$2740 and terminating the tenancy agreement on September 22, 2008 unless the rent arrears are paid in full. The order shall also require the respondent to comply with his obligation to not disturb other tenants and to not create any disturbances in the future. Should the tenancy continue, the respondent is also ordered to pay future rent on time.



Hal Logsdon
Rental Officer