

IN THE MATTER between **JOSEPH LAFFERTY-GARGAN**, Applicant, and **LORNE NAPIER AND LAURIE NAPIER**, 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:

JOSEPH LAFFERTY-GARGAN

Applicant/Tenant

- and -

LORNE NAPIER AND LAURIE NAPIER

Respondents/Landlords

ORDER

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 27th day of March, 2008.

Hal Logsdon
Rental Officer

IN THE MATTER between **JOSEPH LAFFERTY-GARGAN**, Applicant, and **LORNE NAPIER AND LAURIE NAPIER**, Respondents.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act");

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BETWEEN:

JOSEPH LAFFERTY-GARGAN

Applicant/Tenant

-and-

LORNE NAPIER AND LAURIE NAPIER

Respondents/Landlords

REASONS FOR DECISION

Date of the Hearing: March 18, 2008

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Jean Lafferty-Gargan, representing the applicant (by telephone)
Lorne Napier, respondent

Date of Decision: March 27, 2008

REASONS FOR DECISION

The tenancy agreement between the parties commenced sometime in October, 2006 and lasted only several weeks when the applicant vacated the premises. The applicant's representative alleged that the respondents failed to return his personal possessions which were left in the premises and sought an order requiring the respondents to return the possessions or compensate him for their value. The application was filed on October 24, 2007.

The matter was set for hearing on December 18, 2007 but was postponed because the address of the respondents, which was also the address of the rental premises, was found to be incorrect and service was not effective.

The applicant's representative provided the respondents' correct address in late February, 2008 and the matter was set for hearing on March 18, 2008. A copy of the application was provided to the respondents by the rental officer on March 6, 2008 along with the Notice of Attendance.

Section 68 of the *Residential Tenancies Act* sets out time limitations for making an application and serving it on the respondent.

- 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.**

Neither of the time limitations pursuant to section 68 have been met by the applicant.

There is no provision in the Act for a rental officer to extend the limitation contained in 68(2) although given the geography and mail service in the NWT, some leniency is often exercised.

Although a rental officer may extend the time limitation contained in 68(3), it has not been the practice of this tribunal to do so unless there was some situation preventing the making of an application or there was a reasonable expectation by the applicant that the matter would be resolved without making an application. Neither of these two conditions existed. As early as December 6, 2006 the applicant knew that the respondents intended on holding his possessions until the keys were returned and rent arrears were paid. The respondents did not reply to letters or return calls. Surely the applicant must have realized within the six months, that the landlord did not intend to return the possessions without payment of the alleged outstanding rent. I see no reason why the applicant would not have filed within the time limitation and I shall not extend the time limitation imposed by section 68(3).

The application is therefore dismissed.

Hal Logsdon
Rental Officer