

IN THE MATTER between **WILLIAM HIGDEN AND PAMELA HIGDEN**,
Applicants, and **RUSSEL DOLL**, 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:

WILLIAM HIGDEN AND PAMELA HIGDEN

Applicants/Landlords

- and -

RUSSEL DOLL

Respondent/Tenants

ORDER

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 11th day of
February, 2008.

Hal Logsdon
Rental Officer

IN THE MATTER between **WILLIAM HIGDEN AND PAMELA HIGDEN**,
Applicants, and **RUSSEL DOLL**, 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:

WILLIAM HIGDEN AND PAMELA HIGDEN

Applicants/Landlords

-and-

RUSSEL DOLL

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: February 7, 2008

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: William Higden, applicant
Russel Doll, respondent
Paul Michetti, representing the respondent

Date of Decision: February 7, 2008

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent, by using wood owned by the landlord and by damaging a generator. The applicant sought an order requiring the respondent to pay the alleged rent arrears, compensate him for the wood and the damage to the generator and terminating the tenancy agreement.

The premises consist of a small dwelling on the highway near Yellowknife. The applicant testified that the respondent approached him to rent the premises and he agreed to rent them for \$400/month and to consider reimbursement for any improvements the respondent completed.

There was no written tenancy agreement and the applicant described the verbal agreement as very informal. The applicant was not sure when the agreement commenced. The application to a rental officer suggests the agreement commenced sometime in October, 2007.

The applicant testified that he met the respondent in January, 2008 and verbally demanded that rent be paid. He testified that he had never received any money from the respondent for rent and determined that the respondent owed him four months rent or \$1600.

The respondent characterized the agreement between the parties as one of owner and house-sitter. He testified that the applicant was concerned about the well being of the house because of its location and wanted someone to stay and take care of it. He agreed to do so but denied that any rent was ever discussed or demanded. The respondent stated that he had vacated the house and no

longer lived there.

Section 6 of the *Residential Tenancies Act* sets out the application of the Act and consequently the jurisdiction of a rental officer.

6.(1) Subject to this section, this Act applies only to rental premises and to tenancy agreements, notwithstanding any other Act or any agreement or waiver to the contrary.

"Rental premises", "tenancy agreement", "landlord" and "tenant" are defined as follows:

"rental premises" means a living accommodation or land for a mobile home used or intended for use as rental premises and includes a room in a boarding house or lodging house.

"tenancy agreement" means an agreement between a landlord and a tenant for the right to occupy rental premises, whether written, oral or implied, including renewals of such an agreement.

"landlord" includes the owner, or other person permitting occupancy of rental premises, and his or her heirs, assigns, personal representatives and successors in title and a person, other than a tenant occupying rental premises, who is entitled to possession of a residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent.

"tenant" means a person who pays rent in return for the right to occupy rental premises and his or her heirs, assigns and personal representatives.

Other than the applicant's testimony that the parties agreed on a rent of \$400/month and that he verbally demanded that rent be paid in January, 2008, I find little to support that this arrangement between the parties was a tenancy agreement. The applicant's testimony concerning rent was

denied by the respondent. It is reasonable to expect a landlord to collect the first month's rent prior to permitting a tenant to take possession, or, if not the full month's rent, some portion of it. It is reasonable to expect a landlord to demand some rent from a tenant during the first three months of a tenancy agreement if no rent has been paid whatsoever. There doesn't appear to be any real agreement on the obligations of the parties, only that the respondent could live there and the parties would negotiate any issues that arose.

In my opinion, the relationship between the parties is not a tenancy agreement. The evidence does not support that rent was expected or demanded and no rent was paid. Therefore the respondent does not meet the definition of a tenant and a tenancy agreement must be between a landlord and a tenant.

Accordingly, the application is dismissed. I need not address the issues of the wood or generator as I have no jurisdiction in the matter.

Hal Logsdon
Rental Officer