

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **JOHN WIEDEMANN**, 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 **INUVIK, NT**.

BETWEEN:

NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Applicant/Landlord

- and -

JOHN WIEDEMANN

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 one thousand two hundred eighty dollars and seventy seven cents (\$1280.77).

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

Hal Logsdon
Rental Officer

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BETWEEN:

NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Applicant/Landlord

-and-

JOHN WIEDEMANN

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: December 10, 2008

Place of the Hearing: Inuvik, NT via teleconference

Appearances at Hearing: Beverly Fahlman, representing the applicant (by phone)
John Wiedemann, respondent

Date of Decision: December 11, 2008

REASONS FOR DECISION

The applicant served a Notice of Early Termination on the respondent for failing to pay rent, seeking vacant possession of the premises on May 16, 2008. The applicant stated that the respondent vacated the premises on that date.

The applicant retained the security deposit (\$1100) and interest (\$83.58) applying it against rent arrears (\$3495) and repair costs (\$117.74). The respondent made a payment of \$200 in October, 2008 bringing the balance owing to \$2229.16. The applicant sought an order requiring the respondent to pay \$2229.16.

The applicant provided an inspection report, statement and an itemised list of repairs in evidence.

The respondent disputed the repair cost charged to repair a closet door track, stating that the track was damaged at the commencement of the tenancy agreement. The inspection report done at the commencement of the tenancy agreement confirms that the door track was damaged. Therefore, the applicants request for relief for the repair of the door track is denied.

The other repair item charged to the respondent was for “minor maintenance repairs”. No further detail was available and the applicant’s representative had no knowledge of what kind of repairs were made. “Minor maintenance” would normally be the responsibility of the landlord, not the tenant. Without further detail indicating that these items were made necessary due to the negligence of the respondent, I must deny the relief sought for these repairs.

The applicant has applied a \$25 late charge on ten occasions. Late rent penalties are permitted pursuant to section 41 of the *Residential Tenancies Act* but a \$25 flat rate is not in conformance to the provisions of the Act. Relief for the penalties applied is therefore denied.

The respondent complied with the applicant's Notice of Early Termination by giving up possession of the premises on May 16, 2008. Therefore the tenancy was terminated on that day and no rent became due after that date. A landlord is not entitled to compensation for lost rent when a tenant complies with a Notice of Early Termination due to rent arrears. Therefore the May, 2008 rent should be prorated to represent 16 days of occupancy. I find that amount to be \$619.35.

I find the respondent in breach of his obligation to pay rent and find the rent arrears due to the applicant to be \$1280.77, calculated as follows:

Rent arrears as at April 30/08	\$2295.00
May rent (16 days)	619.35
Less late rent penalties	(250.00)
Less pmt made in Oct./08	(200.00)
Less security deposit	(1100.00)
Less interest on security deposit	<u>(83.58)</u>
Amount owing applicant	\$1280.77

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$1280.77.

Hal Logsdon
Rental Officer