

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **DAVID RUFUS**, 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 -

DAVID RUFUS

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 five hundred dollars and sixteen cents (\$1500.16).
2. Pursuant to section 62(2) of the *Residential Tenancies Act*, the respondent shall pay the applicant compensation for lost rent in the amount of four hundred ninety one dollars and thirty eight cents (\$491.38).

DATED at the City of Yellowknife, in the Northwest Territories this 18th day of April, 2008.

Hal Logsdon
Rental Officer

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **DAVID RUFUS**, 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 REAL ESTATE INVESTMENT TRUST

Applicant/Landlord

-and-

DAVID RUFUS

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: April 1, 2008

Place of the Hearing: Inuvik, NT

Appearances at Hearing: Darrin Holmes, representing the applicant

Date of Decision: April 18, 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 tenancy agreement between the parties was terminated on January 31, 2008 when the respondent vacated the premises after being served with a notice of early termination requesting vacant possession on February 4, 2008 due to disturbance. The applicant retained the security deposit (\$460) and accrued interest (\$4.91) applying it against rent arrears (\$2455.07), general cleaning (\$150), administration (\$22.50) and GST (\$10.35) resulting in a balance owing to the applicant in the amount of \$2173.01.

The applicant testified that the respondent vacated the premises on January 31, 2008 but despite his best efforts to re-rent the premises, he was unable to do so until February 16, 2008. The applicant sought compensation for the loss of 15 days rent.

The condition report completed by the applicant at the end of the tenancy agreement indicated that the premises were clean. The applicant stated that the “cleaning” charges were for packing up the personal belongings of the respondent that were left in the rental premises. Sections 64(6) and 65(2) of the *Residential Tenancies Act* provide the means for a landlord to recoup expenses involved to remove and store personal property left in the premises.

- 64.(6) Where the tenant or owner of an item of personal property stored by the landlord pays the landlord the cost of removing and storing the item, the landlord shall give the item to the tenant or owner and notify the rental officer.**
- 65.(1) Where no person has taken possession of an item of personal property stored under subsection 64(5) during the 60 days referred to in that subsection, the rental officer may permit the landlord to sell or dispose of the item in the manner and subject to the terms and conditions set by the rental officer.**
- (2) Where a landlord sells an item of personal property under subsection (1) or 64(4), the landlord may, subject to the terms and conditions set by the rental officer under those subsections,**
- (a) retain that part of the proceeds of the sale necessary to reimburse the landlord for the reasonable costs of removing, storing and selling the property; and**
 - (b) retain that part of the proceeds of the sale necessary to satisfy any order for compensation made in favour of the landlord by the rental officer or a judge of the Supreme Court or territorial judge, where the order was made under this Act.**

In my opinion, the removal and storage costs associated with abandoned personal property are not costs which can be deducted from a security deposit. The applicant's request for compensation is denied.

The statement provided in evidence indicates rent arrears in the amount of \$2455.07 but also contains two debits for the remainder of the required security deposit totalling \$490. Therefore the rent arrears are overstated by that amount. After applying the retained security deposit and interest to the adjusted rent arrears I find rent due to the applicant in the amount of \$1500.16 calculated as follows:

Rent arrears as per ledger	\$2455.07
Less security deposit debits applied to rent	(490.00)
Less security deposit	(460.00)
Less interest	<u>(4.91)</u>
Rent due to applicant	\$1500.16

I also find that the applicant took reasonable measures to mitigate the loss of rent after the abandonment of the premises by the applicant. I find reasonable compensation to be 15 days of rent which I calculate to be \$491.38.

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$1500.16 and compensation for lost rent in the amount of \$491.38.

Hal Logsdon
Rental Officer