

IN THE MATTER between **RANGER APARTMENTS**, Landlord, and **KAYLA BECK**, Tenant;

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

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer, regarding the rental premises at **HAY RIVER, NT**.

BETWEEN:

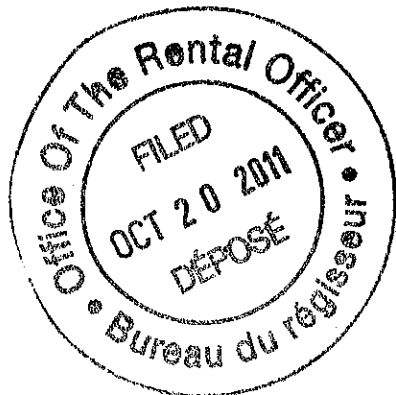
RANGER APARTMENTS

Landlord

- and -

KAYLA BECK

Tenant

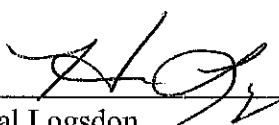


ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the tenant shall pay the landlord rent arrears in the amount of four hundred thirty five dollars and fifty three cents (\$435.53).

DATED at the City of Yellowknife, in the Northwest Territories this 20th day of October, 2011.



Hal Logsdon
Rental Officer

IN THE MATTER between **RANGER APARTMENTS**, Landlord, and **KAYLA BECK**, Tenant.

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:

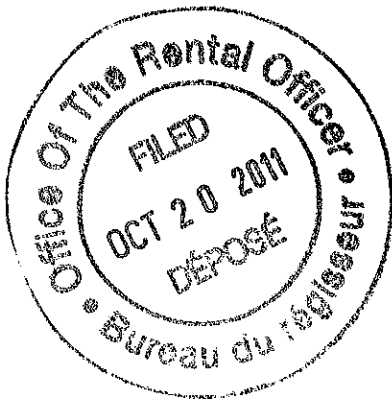
RANGER APARTMENTS

Landlord

-and-

KAYLA BECK

Tenant



REASONS FOR DECISION

Date of the Hearing: September 16, 2011

Place of the Hearing: Hay River, NT

Appearances at Hearing: Bernard Langille, representing the landlord
Heather Jones Hubert, representing the tenant

Date of Decision: October 19, 2011

REASONS FOR DECISION

The landlord's application was filed on July 6, 2011 and the tenant's application was filed on August 15, 2011. As both applications deal with the same rental premises and the same tenancy agreement, both matters were heard at a common hearing.

This tenancy agreement was terminated when the tenant moved out of the premises. The date is in dispute. The landlord claims that the key was returned to him on September 6, 2011 along with a notice confirming that the tenant had vacated the premises. The notice was provided by the landlord in evidence. The tenant's representative stated that the tenant attempted to return the key earlier but could not contact the landlord. The landlord retained the security deposit of \$550 but did not issue a statement of the deposit and deductions in accordance with section 18 of the *Residential Tenancies Act*.

The landlord alleged that the tenant did not pay the full amount of the rent or remove unwanted items from the apartment. The landlord sought an order requiring the tenant to pay the alleged rent arrears and removal costs. The landlord provided a ledger in evidence which indicated a balance of rent owing of \$1841 and removal costs of \$250.

The tenant's representative disputed the rent arrears stating that the landlord had charged full rent for September, 2011 when the tenant was not in possession for the entire month. The tenant's representative also disputed the removal costs, stating that since the residential complex was

scheduled to be demolished, the possessions left on the premises could have been included with the debris to be hauled away.

The tenant alleged that the landlord had failed to maintain the premises and sought compensation for loss of full enjoyment of the premises. Photographs of the premises were provided in evidence. The tenant's representative stated that the premises were very cold in the winter and, as a result, the tenant was forced to use heaters to keep warm. The tenant sought compensation for the additional electrical costs required to supply extra heat in the winter. The tenant's representative also stated that control knobs on the stove and oven were missing, requiring the use of pliers to operate the appliance. The photographs of the premises indicate a number of missing floor tiles, a rotting subfloor and black mould. There was no inspection report done at the commencement of the tenancy agreement. The tenant's representative stated that the landlord had been notified of these problems but had made no repairs during the tenancy. The landlord stated that he tried to make the repairs but had difficulty gaining access to the premises.

The landlord's application sought the termination of the tenancy agreement for non-payment of rent (section 41), disturbance (section 43) and because the building was to be demolished (section 59). When an application is made pursuant to section 59, the tenant is permitted to give just five days notice to terminate the tenancy agreement and pay rent only to the day of termination.

Where a tenant receives a copy of an application under subsection (1), the tenant may, at any time before the date specified for termination in the application, terminate the tenancy by

- (a) giving the landlord not less than five days notice of termination specifying an earlier date of termination of the tenancy; and
- (b) paying to the landlord on the date the tenant gives notice of termination under paragraph (a) the proportionate amount of rent due up to the date the earlier termination is specified to be effective.

The tenant did not give written notice but did return the keys on September 6, 2011 thereby terminating the tenancy agreement on that date. The tenant is liable for lost rent but only subject to the landlord's efforts to mitigate loss. There was no evidence to suggest that the landlord has made any effort to re-rent the premises which is understandable since it appears that he plans to demolish the building. I find rent owing only until September 6, 2011. The landlord's request for relief to September 30, 2011 is denied. I find rent arrears of \$1291 calculated as follows:

Arrears to August 31/11	\$1291
September 1-6	<u>110</u>
Total	\$1401

In my opinion the charges for the removal of goods left on the premises is reasonable. The items were left with instructions to dispose of them. Notwithstanding that the landlord will have to haul away debris from the demolition, the tenant's belongings are in addition to that material and will result in additional cost to the landlord.

Applying the retained security deposit first to the removal costs, I find rent arrears owing to the landlord of \$1095.63 calculated as follows:

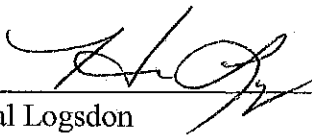
Security deposit	\$550.00
Interest	5.47
Less disposal costs	(250.00)
Less rent arrears	<u>(1401.00)</u>
Amount owing landlord	\$1095.53

In my opinion there is not sufficient evidence to conclude that the premises were not adequately heated during the winter or to quantify the cost of electricity that was required to operate the tenant's electric heaters. There is certainly adequate photographic evidence that the premises were not provided in a good state of repair or maintained. The extremely poor condition of the floor and subfloor as well as the condition of the stove and oven convince me that the landlord has breached his obligation to repair and that the tenant has been denied the full enjoyment of the premises during the term of the tenancy as a result. In my opinion reasonable compensation is 5% of the monthly rent or \$27.50 for each month during the term. The total amount is \$660.

Applying the compensation to the rent arrears, I find a balance owing to the landlord of \$435.53 calculated as follows:

Rent arrears owing landlord	\$1095.53
Compensation owing tenant	(660.00)
Total owing landlord	\$435.53

An order shall issue requiring the tenant to pay the landlord rent arrears of \$435.53.



Hal Logsdon
Rental Officer