

IN THE MATTER between **TERRY ASLING AND SARAH GARGAN**, Applicants,
and **GENE HACHEY**, Respondent;

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:

TERRY ASLING AND SARAH GARGAN

Applicant/Tenants

- and -

GENE HACHEY

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 18.1(b) of the *Residential Tenancies Act*, the respondent shall return the retained security deposit and accrued interest to the applicant, Terry Asling in the amount of nine hundred twenty dollars and thirteen cents (\$920.13).

DATED at the City of Yellowknife, in the Northwest Territories this 30th day of
November, 2011.

Hal Logsdon
Rental Officer

IN THE MATTER between **TERRY ASLING AND SARAH GARGAN**, Applicants,
and **GENE HACHEY**, 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:

TERRY ASLING AND SARAH GARGAN

Applicants/Tenants

-and-

GENE HACHEY

Respondent/Landlord

REASONS FOR DECISION

<u>Date of the Hearing:</u>	November 29, 2011
<u>Place of the Hearing:</u>	Yellowknife, NT via teleconference
<u>Appearances at Hearing:</u>	Terry Asling, applicant Sarah Gargan, applicant Gene Hachey, respondent
<u>Date of Decision:</u>	November 30, 2011

REASONS FOR DECISION

The tenancy agreement between the parties was terminated on June 30, 2011. The applicants stated that their security deposit of \$1300 had been retained by the respondent but no statement of the deposit had been issued. The applicant sought an order requiring the respondent to return the security deposit and accrued interest.

The respondent acknowledged that no statement of the security deposit had been issued but stated that he did not have an address for the applicants. The respondent stated that he had discussed the retention of the security deposit with the applicants and had advised them that repairs and cleaning costs would exceed the deposit and accrued interest. The respondent disputed the amount of the security deposit provided, stating that he had received only \$750.

The applicant provided receipts for rent and security deposit payments which indicated security deposit payments totalling \$900.

The tenancy agreement between the parties, provided in evidence by the applicants, indicates that Terry Asling was the sole tenant. Ms Gargan is not named on the tenancy agreement. The tenancy agreement sets out a required security deposit of \$1400.

Section 18 of the *Residential Tenancies Act* requires a landlord who intends to withhold a security deposit to issue a written notice and itemized statement.

- 18.(7) A landlord who intends to withhold all or a portion of a security deposit, a pet security deposit or both shall, within 10 days after the day a tenant vacates or abandons the rental premises,**
- (a) give written notice to the tenant of that intention; and**
 - (b) subject to subsection (9), return the balance of the deposit or deposits to the tenant.**
- (8) A notice must include**
- (a) an itemized statement of account for the deposit or deposits;**
 - (b) a final itemized statement of account for any arrears of rent that the landlord is claiming; and**
 - (c) subject to subsection (9), a final itemized statement of account for any repairs that the landlord is claiming.**

A landlord who fails to provide the required notice is not entitled to retain the security deposit. It is not sufficient to verbally inform the tenant that the repairs and/or rent arrears will exceed the amount of the deposit. A written itemized statement is required. If the tenant fails to leave a forwarding address, the landlord should nevertheless prepare the statement and mail it to the last known address. I find the respondent in breach of section 18.

Although the applicants claim to have paid \$1300, the respondent claims only \$750 was paid. The evidence supports neither figure. The receipts provided indicate that \$900 was paid. Given the payment dates on the receipts, I find accrued interest of \$20.13.

An order shall issue requiring the respondent to return the security deposit and accrued interest of \$920.13 to Mr. Asling. Ms Gargan has no claim to the deposit as she is not a party to the tenancy agreement.

Hal Logsdon
Rental Officer