File #10-13974

IN THE MATTER between **NPR LIMITED PARTNERSHIP**, Applicant, and **CRYSTAL HOBSON**, 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 **YELLOWKNIFE, NT.**

BETWEEN:

NPR LIMITED PARTNERSHIP

Applicant/Landlord

- and -

CRYSTAL HOBSON

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 one hundred thirty four dollars and fifty six cents ($1134.56) on or before June 6, 2014.
2. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondent shall pay the applicant repair costs in the amount of nine hundred ninety four dollars ($994.00).
3. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent shall pay future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 20th day of May, 2014.

Hal Logsdon
Rental Officer

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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:

NPR LIMITED PARTNERSHIP

Applicant/Landlord

-and-

CRYSTAL HOBSON

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing:	**April 2, 2014**
Place of the Hearing:	**Yellowknife, NT**
Appearances at Hearing:	**Marie Laberge, representing the applicant** **Crystal Hobson, respondent** **Wade Sutherland, witness for the respondent**
Date of Decision:	**May 20, 2014**

REASONS FOR DECISION

The respondent entered into a tenancy agreement for apartment 102 in Polaris Apartments in June 2009. Extensive mould growth developed in the apartment and the respondent was moved into apartment 301 in the Matonabee North Apartments on January 15, 2014. The parties entered into a new tenancy agreement for the Matonabee premises.

On January 28, 2014 the applicant conducted a move-out inspection. Although the respondent was invited to participate in the inspection she declined due to other commitments. The applicant noted damages requiring repair on the inspection report. As at January 16, 2014 there was a balance of rent owing as shown on the Polaris ledger of $341.50.

The applicant held a security deposit of $1175 plus an unaccounted amount of interest, but did not deduct anything from the deposit or create a itemized statement of the repairs. Instead, the rent arrears and repair costs totalling $2179.50 were debited and the security deposit principal credited to the Matonabee apartment account. The accrued interest on the security deposit has not been accounted for on the tenant ledger.

The Matonabee ledger, provided in evidence, indicates a balance owing as at April 1, 2014 of $3674.50. This is composed of the following elements:

Polaris rent arrears	$341.50
Polaris repairs	1838.00
Matonabee rent arrears	1495.00

The applicant sought an order requiring the respondent to pay the alleged rent arrears and repair costs and terminating the tenancy agreement and evicting the respondent.

The respondent did not dispute the rent arrears but did not agree with some of the repair costs and has refused to pay them. I note that the applicant's rather unconventional practice of transferring the security deposit from one tenancy to another limits the tenant's options if they disagree with the repair costs or rent arrears that are transferred. Pursuant to section 18(1) of the *Residential Tenancies Act* a tenant may dispute deductions from a security deposit but there is no remedy for a tenant to dispute a charge for repairs they do not agree with except to refuse to pay it and force the landlord to file an application to collect the amount. If they pay the charges, there is no provision in the Act to recoup them if they are found to be unreasonable.

RENT ARREARS

The respondent stated that an environmental health officer had inspected the apartment and recommended that the tenant be provided other accommodation as soon as possible. The applicant acknowledged that they wanted the Polaris apartment vacant right away in order to undertake the repairs and re- rent the premises. The respondent was charged for the full month's rent for the Polaris apartment in January, 2014 with no rebate and a prorated rent of $734.84 for the period January 15-31 for the Matonabee apartment. Therefore the respondent was charged rent for both apartments for the last two weeks in January.

In my opinion, charging rent for both apartments given the circumstances is

unreasonable. The Polaris apartment clearly required remediation and the landlord was fully aware of it's condition. Both the landlord and the environmental health officer wanted the Polaris apartment vacated quickly and the tenant complied. While it is true that the respondent had possession of the Matonabee apartment for 17 days in January, and the landlord is entitled to charge rent for those days, in my opinion the Polaris apartment should have been considered uninhabitable. In calculating the rent arrears owing, I shall consider loss of full enjoyment of the Polaris apartment for those 17 days which I calculate as $701.94

Therefore I find rent arrears of $1134.56 calculated as follows:

Rent arrears - Polaris	$341.50
Rent arrears - Matonabee	1495.00
Loss of full enjoyment - Polaris	(701.94)
Total rent arrears (Matonabee)	$1134.56

CLEANING

The respondent disputed the cleaning charges, stating that the applicant told her to clean the appliances and not to bother with other areas as the apartment was going to be renovated due to the mould. The respondent stated that the appliances were cleaned to best of her ability. Photographs, provided in evidence by the applicant indicate that the stove was not clean and that there is some debris in the sinks and on counters. In my opinion, the evidence does not support eight hours of cleaning. I consider $100 to be reasonable compensation.

MISSING HANDLE ON STOVE

The respondent disputed the $30 charge for replacing a missing handle on the refrigerator. That is the landlord's notation on the statement. However, the check-out inspection report notes a missing handle on the stove and the photographs confirm that. The check-in report indicates that the stove was in good condition at the commencement of the tenancy. In my opinion, $30 is a reasonable charge.

BATHROOM DOOR

The respondent claimed that the damages to the bathroom door were normal wear and tear and that the door was falling apart. Review of the inspection reports indicates that the door was in good condition at the commencement of the tenancy and that it had a hole in it at the and of the tenancy. A hole in the door is not considered normal wear and tear. I find the repair costs of $80 to be reasonable.

HOLES IN WALLS

The respondent did not dispute the cost to repair holes in the walls. I find the repair costs of $350 to be reasonable.

CARPET

The check-in inspection indicates that the carpet was in good condition at the commencement of the tenancy agreement and had numerous burn marks at the end of the tenancy. The photographs indicate numerous burn marks. It appears that the landlord

intended to replace the carpeted flooring and has charged the respondent only with removal costs of $110. Although the carpet was clearly damaged by the tenant, the replacement was intended to be part of the planned renovation. In my opinion, the removal of the carpet is not related to the damage and the costs should not be charged to the tenant. The relief is therefore denied.

CLOSET DOOR - STORAGE ROOM

The check-in inspection report does not include any observations concerning the storage room. The check-out inspection report notes a hole in the storage room door. Since there is no observation on the check-in report, I can not determine the condition of the storage room door at the commencement of the tenancy. The requested relief of $80 is denied.

REPLACE FLOORING

The linoleum flooring was in good condition art the commencement of the tenancy agreement as shown on the check-in report. The check-out report and photographs indicate holes and burn marks. There was no evidence to indicate the age of the flooring. I shall assume that the applicant has enjoyed half of the useful life of the linoleum and depreciate the cost claimed by 50%. In my opinion a depreciated replacement cost of $434 is reasonable.

I find the respondent in breach of her obligation to pay rent and find rent arrears for the current tenancy agreement for Matonabee to be $1134.56. I find no rent arrears for the Polaris apartment.

I also find reasonable repair costs for the Polaris apartment to be $994 calculated as follows:

Cleaning	$100.00
Stove handle	30.00
Bathroom door	80.00
Repair walls	350.00
Replace flooring	434.00
Total	$994.00

The repair costs due from a former tenancy are not grounds for termination of a current tenancy. The request for termination is denied. An order shall issue requiring the respondent to pay the applicant rent arrears of $1134.56 on or before June 6, 2014 and to pay future rent on time. The applicant shall also be ordered to pay repair costs of $994 related to the Polaris apartment.

Hal Logsdon
Rental Officer