

IN THE MATTER between **Fort Smith Housing Authority**, Applicant, and
Christopher Vermillion and Amanda Bourke, Respondents;

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, **Adelle Guigon**, Deputy Rental Officer,
regarding a rental premises located within the **town of Fort Smith in the Northwest
Territories**.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

- and -

CHRISTOPHER VERMILLION and AMANDA BOURKE

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents must pay to the applicant rental arrears in the amount of \$7,525.23 (seven thousand five hundred twenty-five dollars twenty-three cents).
2. Pursuant to sections 42(3)(e) and 45(4)(d) of the *Residential Tenancies Act*, the respondents must compensate the applicant for repair of damages and cleaning costs in the amount of \$4,757.64 (four thousand seven hundred fifty-seven dollars sixty-four cents).

DATED at the City of Yellowknife in the Northwest Territories this 27th day of May
2014.

Adelle Guigon
Deputy Rental Officer

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CHRISTOPHER VERMILLION and AMANDA BOURKE

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	May 21, 2014
<u>Place of the Hearing:</u>	Fort Smith, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Kevin Mageean, representing the applicant
<u>Date of Decision:</u>	May 21, 2014

REASONS FOR DECISION

An application to a rental officer made by Fort Smith Housing Authority as the applicant/landlord against Christopher Vermillion and Amanda Bourke as the respondents/tenants was filed by the Rental Office February 13, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit #0071, 86 Field Street, in Fort Smith, Northwest Territories. The applicant served a copy of the filed application package on the respondents by registered mail signed for February 19, 2014.

The applicant alleged the respondents had accumulated rental arrears, caused damages to the rental premises, and left the rental premises in an unclean state. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for May 21, 2014. Mr. Kevin Mageean appeared representing the applicant. Mr. Christopher Vermillion and Ms. Amanda Bourke were served with notices of attendance by registered mail signed for May 8, 2014. Neither Mr. Vermillion nor Ms. Bourke, nor anyone representing them, appeared at the hearing. The hearing proceeded in their absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Mr. Mageean testified that the respondents had been tenants with the applicant in subsidized public housing since March 2, 2009. They accumulated rental arrears throughout their tenancy and entered into several payment plans in an attempt to resolve the arrears, without success. Subsidized public housing requires a tenant to report their household income on a monthly basis in order to calculate their monthly rent subsidy; the respondents failed to do this for the months of July, August, September, and October 2013, and therefore were charged the full economic rent of \$1,625 for each of those months. The remaining months throughout the tenancy were calculated based on the reported household income. The tenants abandoned the rental premises and the applicant regained possession on October 23, 2013. The applicant re-calculated the rent for the month of October to a pro-rated amount and applied the security deposit (including interest) of \$511.77 to the rental arrears; the remaining total rental arrears as of October 23, 2013, were \$7,525.23.

An additional obligation of the tenants as stated in the house rules was to maintain the yard of the property, including mowing the lawn. This obligation was not met throughout the summer of 2013 and, after an unsuccessful request by the applicant to comply with this obligation, the landlord's maintenance crew fulfilled a work order to mow the lawn on August 30, 2013. The respondents failed to pay the requested cost of \$66.50 for the completion of this work. The applicant provided two photographs taken August 19, 2013, supporting their allegation of the condition of the yard.

On April 23, 2013, the respondents signed an agreement to pay rental arrears, acknowledging rental arrears and charges for tenant damages totalling \$3,102.81. The tenant damages charges constitute \$761.81 of this total.

Having deemed the rental premises abandoned on October 23, 2013, the applicant conducted a written check-out inspection, including documenting the abandoned personal property, and then secured the premises. The keys were not returned to the applicant, so on November 13, 2013, the front and back door locks were replaced at a cost of \$48.81 and the premises was secured. On November 18, 2013, the landlord took several photographs of the rental premises to document the unclean condition of the refrigerator and oven, and the abandoned personal property. The refrigerator and oven were in such a condition as to not be reusable. On February 10, 2014, the applicant deemed the abandoned personal property as unsanitary, unsafe, and/or worthless and arranged for the removal of the property and garbage, as well as the unusable refrigerator, to an approved dumping site at a cost of \$488.

On January 28, 2014, the applicant took several more photographs of the rental premises documenting holes in walls throughout the premises, one broken window, four broken/missing screens, three missing curtain rods, one missing light diffuser, two damaged interior doors, three missing window cranks, permanent stickers on the bathroom wall, and the general uncleanliness of the premises. As the repairs and cleaning have yet to be effected, the applicant supplied a conservative estimate of the costs of labour and materials to repair the damages, clean the premises, and replace the refrigerator and oven, totalling \$3,392.52.

The applicant requested an order for the payment of rental arrears and compensation for the cleaning and repairs costs.

Tenancy agreement

The residential tenancy agreement submitted into evidence by the applicant is for a fixed-term tenancy between the parties from April 1, 2012, to June 30, 2013. Mr. Mageean testified that the respondents had been tenants with the applicant since March 2, 2009, and the housing unit check-in report signed by the respondents confirms Mr. Mageean's assertion. Mr. Mageean's testimony and the housing unit check-out report indicate the landlord deemed the respondents had abandoned the rental premises on October 23, 2013. I am satisfied the parties had a valid residential tenancy agreement for the rental premises commencing March 2, 2009, and ending October 23, 2013.

Rental arrears

The lease balance statement is the landlord's accounting of assessed rent and payments made. I am satisfied this document accurately reflects the assessed rent amounts and the payments made as of May 21, 2014.

The applicant has appropriately applied the security deposit plus interest of \$511.77 against the rental arrears owing of \$8,037. I find the respondents have accumulated rental arrears of \$7,525.23.

Abandoned personal property

The photographs submitted into evidence document the substantial amount of abandoned personal property left behind in the rental premises, as well as the condition of that property. The applicant has deemed the property unsanitary, unsafe, and/or worthless, and has disposed of the property in accordance with section 64(2) of the Act. A work order and invoice submitted into evidence support the applicant's claim for compensation for the removal and disposal of the property in the amount of \$488. I am satisfied the costs claimed for this work is reasonable and I find the respondent liable to the applicant for the cost.

Tenant damages and cleaning

The tenant damages charges of \$1,239.34 identified in the lease balance statement prior to April 23, 2013, were acknowledged by the respondents when they signed the agreement to pay on April 23, 2013. The lease balance statement also reflects a restitution payment against those damages

costs in the amount of \$477.53 made on November 30, 2012. The remaining value of the tenant damages charges as of April 23, 2013, is \$761.81. Mr. Mageean confirmed they had work orders supporting the amounts claimed. I am satisfied the respondents' acknowledgement of the charges justifies the applicant's claim for payment of the amount of \$761.81.

The landlord's correspondence to the tenants dated August 13, 2013, refers to the applicant's house rules indicating tenants are responsible for maintaining their lawn and keeping the yard clean. The correspondence indicates an inspection of the yard noted the lawn had not been cut and requested that it be cut by August 19, 2013, after which time it would be cut on the tenants behalf at the tenants' cost. The photographs submitted into evidence were taken August 19, 2013, and clearly indicate the lawn had not been mowed. I am satisfied the respondents failed to comply with their obligation to maintain their yard in accordance with the house rules and find the respondents owe the applicant costs for completing the work in the amount of \$66.50.

The housing unit check-out report includes a note that the respondents failed to return the keys to the rental premises. Additional time was given to return the keys, after which the landlord was forced to replace the locks to the rental premises. The work order submitted into evidence indicates this was done November 13, 2013. I am satisfied the respondents failed to return the keys to the rental premises and the costs associated with replacing the locks are reasonable. I find the respondents owe the applicant costs for replacing the locks in the amount of \$48.81.

The photographic evidence submitted by the applicant supports the testimony of Mr. Mageean as to the condition of the refrigerator and oven, the remaining damages, and the general uncleanliness of the rental premises. The holes in the doors and walls were significant, and the landlord could have justified claiming costs for repainting the rental premises, but have chosen not to. I am satisfied the refrigerator and oven were not recoverable. Mr. Mageean testified that the refrigerator and oven were less than a year old, and the windows were relatively new as they were replaced every time they were broken. The applicant has claimed \$3,392.52 in estimated costs associated with the repairs required to the walls, doors, windows, curtain rods, removal of stickers, replacement of the refrigerator and oven, and cleaning of the rental premises. I find the amount to be reasonable and the respondents are liable to the applicants for this amount.

The costs for disposal, repairs, and cleaning are calculated as follows:

Damages prior to April 1, 2012	\$761.81
Lawn mowing	\$66.50
Locks replacement	\$48.81
Removal and disposal of property	\$488.00
Repairs and cleaning	\$3,392.52
TOTAL	\$4,757.64

An order will issue for the respondents to pay rental arrears in the amount of \$7525.23 and compensation for repairs and cleaning costs in the amount of \$4,757.64.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Lease balance statement for April 1, 2012, to February 10, 2014
- Exhibit 2: Residential tenancy agreement fixed term lease dated April 1, 2012
- Exhibit 3: Applicant's renewal of fixed term lease Unit #0071 - 86 Field Street correspondence to respondent dated June 3, 2013
- Exhibit 4: Agreement to pay rental arrears tenant dated April 23, 2013
- Exhibit 5: Housing unit check out report dated October 23, 2013
- Exhibit 6: Tenant damages repairs and cleaning estimate
- Exhibit 7: Set of two photographs taken November 18, 2013, and 23 photographs dated January 28, 2014
- Exhibit 8: Applicant's invoice #62469 dated February 10, 2014
- Exhibit 9: Applicant's work order #2,009 dated February 10, 2014
- Exhibit 10: Set of nine photographs dated November 18, 2013
- Exhibit 11: Applicant's invoice's #62469 correspondence to respondents dated February 10, 2014
- Exhibit 12: Applicant's invoice #53786 dated November 14, 2013
- Exhibit 13: Applicant's work order #1,515 dated November 13, 2013
- Exhibit 14: Applicant's invoice #53786 correspondence to respondents dated November 14, 2013
- Exhibit 15: Applicant's invoice #47486 dated September 18, 2013
- Exhibit 16: Applicant's work order #1,096 dated August 30, 2013
- Exhibit 17: Applicant's yard and lawn maintenance correspondence to respondents dated August 13, 2013
- Exhibit 18: Set of two photographs dated August 19, 2013
- Exhibit 19: Applicant's invoice #47486 correspondence to respondents dated September 18, 2013
- Exhibit 20: Housing unit check in report dated March 2, 2009