

IN THE MATTER between **Alberto Mendoza and Susan Mendoza**, Applicants, and **NPR Limited Partnership**, 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, **Adelle Guigon**, Deputy Rental Officer, regarding a rental premises within **the city of Yellowknife in the Northwest Territories**.

BETWEEN:

ALBERTO MENDOZA and SUSAN MENDOZA

Applicants/Tenants

- and -

NPR LIMITED PARTNERSHIP

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 30(4)(d) of the *Residential Tenancies Act*, the respondent must compensate the applicants for loss suffered in the amount of \$143.01 (one hundred forty-three dollars one cent).

DATED at the City of Yellowknife in the Northwest Territories this 25th day of July 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Alberto Mendoza and Susan Mendoza**, Applicants, and **NPR Limited Partnership**, 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 **Adelle Guigon**, Deputy Rental Officer.

BETWEEN:

ALBERTO MENDOZA and SUSAN MENDOZA

Applicants/Tenants

-and-

NPR LIMITED PARTNERSHIP

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: July 16, 2014

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: Alberto Mendoza, applicant
Susan Mendoza, applicant
Aya Burshan, representing the applicant
Scott Lefrancois, representing the applicant

Date of Decision: July 16, 2014

REASONS FOR DECISION

An application to a rental officer made by Alberto Mendoza and Susan Mendoza as the applicants/tenants against NPR Limited Partnership as the respondent/landlord was filed by the Rental Office June 26, 2014. The application was made regarding a residential tenancy agreement for the rental premises known as #108, 490 Range Lake Road, in Yellowknife, Northwest Territories. The applicants personally served a copy of the filed application on the respondent June 26, 2014.

The applicants alleged the respondent had failed to repair damages caused by flooding. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for July 16, 2014. Mr. Alberto Mendoza and Ms. Susan Mendoza appeared as applicants. Ms. Aya Burshan and Mr. Scott Lefrancois appeared representing the respondent.

The applicants testified that late in the evening on June 22, 2014, the water valve in the washroom of their rental premises broke and water began flooding into the apartment. The applicants attempted to temporarily block the break while calling the landlord's emergency services line. A maintenance officer arrived, took a look at the damage – which had begun flooding again – and determined he needed assistance to resolve the problem; he called in a second maintenance officer. The flooding continued while the officers conducted repairs, soaking through into the living room and bedrooms. While the officers completed repairs and initiated actions to dry out the apartment the applicants were unable to reside in the rental premises; they stayed in the neighbouring apartment with Ms. Mendoza's brother for three nights until the carpets were dried out. The carpets and underlay were not properly re-laid, secured (re-stretched) and steam cleaned until July 14, 2014. The applicants were not notified of the reasons for the delay in re-laying the carpets and underlay, and expressed discontent with the failure of the respondent to keep them informed.

The respondent acknowledged the broken water valve and subsequent damages to the rental premises as the landlord's responsibility to repair. Mr. Lefrancois, being one of the maintenance officers who attended the emergency call out, testified that the call-centre that received the emergency call mis-stated the severity of the damage by identifying it to him as a 'leak' rather than a 'flood'. Regardless, Mr. Lefrancois was on another emergency call when he received the applicant's call-out and still appeared at the applicant's rental premises within 20 minutes. He observed the severity of the damage and called for assistance. The two officers were unable to quickly locate the building's master shut-off valve, and by the time they did the amount of water that had flooded the applicants' apartment was extensive. They repaired the damaged water valve in the apartment and vacuumed what they could of the water from the carpets that night. The next day – June 23, 2014 – the maintenance officers contacted Carl's Carpet Cleaning to obtain four dryers and a de-humidifier, and to request the attendance of their installer once the carpets were dry to re-stretch (re-install) the carpets. They returned to the rental premises, pulled up the carpets and underlay, vacuumed more water, and installed the dryers and de-humidifier to dry out the carpets and flooring. Mr. Lefrancois confirmed that the equipment used was left on continuously for three days, that they would have been very loud, and that placement of them required the carpets to largely be lying over top of the equipment. Access and use of the rental premises would have been compromised and inconvenient during this time period. On June 26, 2014, the equipment was returned to Carl's Carpet Cleaning, the carpets were roughly laid flat (not secured or re-stretched) without underlay.

When following up with Carl's Carpet Cleaning July 14, 2014, on an expected date they could attend the rental premises to complete re-installation of the underlay and re-stretching of the carpet, the company representative was apologetic and explained that they had been unexpectedly short-staffed, but that they could attend that day to do the work promised. The laying of new underlay and re-stretching (re-installing) of the carpet was completed by July 15, 2014. The respondent acknowledged and was apologetic for the lack of communication with the applicants on the delay in completing the required work.

Section 30(1)(a) of the *Residential Tenancies Act* (the Act) specifies the landlord's obligation to maintain the rental premises in a good state of repair and fit for habitation during the tenancy. The parties agree that the water valve is the landlord's responsibility to maintain and I find the respondent breached their obligation in this regard.

Section 30(5) of the Act requires a tenant to give reasonable notice to the landlord of any substantial breach of the obligation imposed by section 30(1)(a) of the Act. The applicants notified the respondent immediately upon becoming aware that the water valve had broken; I am satisfied the applicants complied with their obligation under section 30(5) of the Act.

Section 30(6) of the Act requires a landlord to remedy any breach referred to in section 30(5) within 10 days. The respondent, in fact, fixed the broken water valve within a few hours of being notified of the break. They also began repairing the consequential damages to the carpets within 12 hours of being notified of the break. The respondent returned the rental premises to a habitable state within three days. I am satisfied the respondent complied with the requirements of section 30(6) of the Act. However, the three days it took to dry out the carpets resulted in a loss to the applicants of the use of their rental premises. I find it reasonable to grant the applicants compensation for the loss of their rental premises for a three-day period in the amount of \$143.01, which is a prorated amount based on the monthly rent.

It is unfortunate that the final installation of the underlay and carpet was not completed for nearly three weeks after the incident causing the water damage, however, the respondent has offered a reasonable explanation of why this occurred and their efforts to effect the final repairs. The delay in the carpet installation did not affect the applicants' ability to reside in the rental premises. The lack of customer service the applicants' received with respect to the delays is aggravating, however, the Act does not mandate dealing with a business's customer service attitude.

An order will issue requiring the respondent to compensate the applicants for losses suffered in the amount of \$143.01.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Respondent's log

Exhibit 2: Greg Simms' written statement dated June 23, 2014

Exhibit 3: E-mail from Paul McGrath of Fitzgerald Carpeting to Jenna Conrad dated July 14, 2014

Exhibit 4: Carl's Carpet Cleaning Ltd. invoice number 13085 dated June 26, 2014

Exhibit 5: Respondent's technician notes dated June 24, 2014

Exhibit 6: Respondent's call centre log dated June 23, 2014, 5:25 a.m.

Exhibit 7: Respondent's call centre log dated June 23, 2014, 1:34 a.m.

Exhibit 8: Set of 68 photographs