

IN THE MATTER between **SONJA KOENIG**, Applicant, and **NANCY PERREAULT AND ERIC ASCHAUER**, Respondents;

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:

SONJA KOENIG

Applicant/Tenant

- and -

NANCY PERREAULT AND ERIC ASCHAUER

Respondents/Landlords

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 18.1(b) of the *Residential Tenancies Act*, the respondents shall return the remainder of the security deposit and accrued interest in the amount of one thousand and two dollars and eleven cents (\$1002.11) to the applicant.

DATED at the City of Yellowknife, in the Northwest Territories this 3rd day of December, 2014.

Hal Logsdon
Rental Officer

IN THE MATTER between **SONJA KOENIG**, Applicant, and **NANCY PERREAULT AND ERIC ASCHAUER**, 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 **Hal Logsdon**, Rental Officer.

BETWEEN:

SONJA KOENIG

Applicant/Tenant

-and-

NANCY PERREAULT AND ERIC ASCHAUER

Respondents/Landlords

REASONS FOR DECISION

<u>Date of the Hearing:</u>	November 6, 2014
<u>Place of the Hearing:</u>	Yellowknife, NT via teleconference
<u>Appearances at Hearing:</u>	Sonja Koenig, applicant Nancy Perreault, respondent Eric Aschauer, respondent
<u>Date of Decision:</u>	November 6, 2014

REASONS FOR DECISION

The tenancy agreement between the parties was terminated in June, 2014 when the applicant vacated the premises. The respondents had demanded and received deposits of \$2250 and \$1500 which were paid on May 16, 2013. At the end of the tenancy agreement, the respondents returned \$2750 to the applicant, retaining \$1000. The applicant sought an order requiring the respondents to return the remainder of the deposit.

The written tenancy agreement sets out the monthly rent for the premises as \$2250 and requires a security deposit of \$1500. The agreement does not set out any pet deposit. The applicant's cheques, provided in evidence, describe the \$2250 as a "rent deposit" and the \$1500 as a "pet deposit". The respondents described the deposits as "last month rent" and a "security deposit". Notwithstanding the names applied to the deposits by the parties, only a security deposit and/or a pet security deposit are permitted.

14.2. (1) A landlord shall not require or receive from a tenant or prospective tenant any amount as a deposit for damages or for arrears of rent, or any other amount as a condition of entering a tenancy agreement, other than a security deposit and, if applicable, a pet security deposit.

Since there was no pet security deposit required by the tenancy agreement, I must consider the total amount of \$3750 to be a security deposit. This is well in excess of the maximum allowable under section 14 of the *Residential Tenancies Act*.

The applicant testified that she had not been provided with inspection reports outlining the

condition of the premises at the commencement of the tenancy or at the end of the tenancy. The respondents acknowledged that no inspection reports had been done.

The applicant stated that she had not received a statement of the security deposit and deductions until one was emailed to her on October 29, 2014. A copy was also filed with the rental officer. It indicated deductions for 4 days of rent in July (\$300), repair costs (\$472.50), carpet cleaning (\$150) and general cleaning (\$150) totalling \$1072.50. The respondents noted they only charged the applicant \$1000.

Although the tenancy agreement was made for a term ending on July 31, 2014 the parties had mutually agreed to end the tenancy agreement on June 30. The applicant stated that she moved out on June 30 but continued to clean the premises, with the consent of the respondents, until July 4 and returned the keys on July 5.

Although the respondents submitted that the repairs and cleaning were necessary and reasonable, I have not, and need not, consider the merit of their evidence. Section 18(5) prohibits the retention of repair costs where the landlord has failed to conduct the required inspection reports.

- 18.(5) A landlord may not retain any amount of a security deposit or pet security deposit for repairs of damage to the rental premises if the landlord or his or her agent**
- (a) fails to complete an entry inspection report and an exit inspection report; or**
 - (b) fails, without a reasonable excuse accepted by a rental officer, to give a copy of each report to the tenant.**

Although a landlord may deduct arrears of rent from a security deposit when inspection reports are not done, I do not find any rent arrears. The parties mutually agreed to terminate the tenancy agreement on June 30, 2014. Compensation for days of occupation after the termination date is not rent, but compensation for use and occupation after termination.

I find no grounds for the retention of the remaining security deposit. An order shall issue requiring the respondents to return the balance of the retained security deposit plus the accrued interest on the deposit in the amount of \$1002.11. I calculate that amount as follows:

Security deposit	(\$3750.00)
Interest	(2.11)
Amount returned	<u>2750.00</u>
Amount owing applicant	\$1002.11

Hal Logsdon
Rental Officer