

IN THE MATTER between **Rebecca Aylward**, Applicant, and **Dustin Froehlich**,  
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 town of Hay River in the Northwest Territories.**

BETWEEN:

**REBECCA AYLWARD**

Applicant/Landlord

- and -

**DUSTIN FROEHLICH**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 62(2) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears and compensation for lost future rent in the total amount of \$3,248.76 (three thousand two hundred forty-eight dollars seventy-six cents).
2. Pursuant to sections 42(3)(e) and 45(4)(d) of the *Residential Tenancies Act*, the respondent must compensate the applicant for cleaning and repairs costs for the rental premises known as 4 Fir Crescent in Hay River, Northwest Territories, in the amount of \$1,001.62 (one thousand one dollars sixty-two cents).

DATED at the City of Yellowknife in the Northwest Territories this 9th day of January  
2015.

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Adelle Guigon  
Deputy Rental Officer

IN THE MATTER between **Rebecca Aylward**, Applicant, and **Dustin Froehlich**,  
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AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter  
R-5 (the "Act");

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BETWEEN:

**REBECCA AYLWARD**

Applicant/Landlord

-and-

**DUSTIN FROEHLICH**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** December 16, 2014

**Place of the Hearing:** Yellowknife, Northwest Territories, by teleconference

**Appearances at Hearing:** Rebecca Aylward, applicant  
Dustin Froehlich, respondent

**Date of Decision:** December 16, 2014

### **REASONS FOR DECISION**

An application to a rental officer made by Rebecca Aylward as the applicant/landlord against Dustin Froehlich as the respondent/tenant was filed by the Rental Office September 8, 2014. The application was made regarding a residential tenancy agreement for the rental premises known as 4 Fir Crescent in Hay River, Northwest Territories. The applicant served a copy of the filed application on the respondent by registered mail signed for October 28, 2014.

The applicant alleged the respondent had accumulated rental arrears, caused damages to the rental premises, and left the rental premises in an unclean condition. An order was sought for payment of rental arrears and compensation for cleaning and repairs costs. Evidence submitted is listed in Appendix A attached to this order.

A hearing was originally scheduled for November 20, 2014, in Hay River, Northwest Territories. On November 19, 2014, Mr. Dustin Froehlich, the respondent, contacted the rental officer to request a postponement of the hearing. Mr. Froehlich had only just returned from a work site rotation and received the notification of the hearing that day. Ms. Rebecca Aylward, the applicant, did not oppose the request and as such a postponement was granted. The hearing was rescheduled to December 16, 2014, by teleconference. Ms. Aylward and Mr. Froehlich both appeared at hearing.

Ms. Aylward testified that Mr. Froehlich had been a tenant occupying the rental premises known as 4 Fir Crescent in Hay River, Northwest Territories, since February 1, 2012. The rent was agreed to be \$1,100 per month, to be paid in \$550 installments on the 6<sup>th</sup> and 21<sup>st</sup> of each month, plus utilities. A security deposit of \$800 was received. An entry inspection report was completed on December 28, 2012, with both parties present.

On April 1, 2014, Ms. Aylward gave Mr. Froehlich notice to end the tenancy agreement on July 31, 2014. Mr. Froehlich indicated to her no problem with leaving for July 31<sup>st</sup>. No written notices were exchanged. Mr. Froehlich remained resident in the premises and obtained a house sitter for a period during which he was away. In June Mr. Froehlich removed his possessions from the premises, did only some partial interior cleaning, and moved out; no notice of any kind was given to Ms. Aylward. Ms. Aylward learned of Mr. Froehlich's departure in July when she received

notification from Northland Utilities (the local electricity provider) that Mr. Froehlich had closed his electricity account at the premises. Ms. Aylward attended at that point and confirmed that it appeared Mr. Froehlich had abandoned the rental premises. Photographs were taken of both the interior and exterior, and an exit inspection was completed August 1, 2014, in Mr. Froehlich's absence.

The exit inspection documented a broken door knob on the back door, T-moulding and thresholds missing and/or broken throughout, broken kitchen cabinets and drawers, a broken oven door, a strip of paint torn from a window frame, a missing toilet paper roller, missing window coverings, and general uncleanness throughout. The photographs attested to the damages identified, as well as documenting the condition of the yard as being unkept. The photographs substantiate Ms. Aylward's testimony that the lawn had not been mowed, the weeds had not been pulled, and the bushes had not been trimmed as agreed was the tenant's responsibility in the tenancy agreement. Costs claimed by Ms. Aylward for the cleaning and repairs required after Mr. Froehlich left are as follows:

Replacement of back door knob	\$35.49
Repair of kitchen cupboards and drawers	\$15.49
Replacement and repair of T-moulding and thresholds	\$125.65
Replacement of toilet paper holder	\$24.99
Replacement of window coverings	\$200.00
Replacement of stove	\$200.00
Lawn care	\$200.00
General cleaning	\$200.00
Total cleaning and repairs	<u>\$1,001.62</u>

Ms. Aylward further testified that Mr. Froehlich had failed to comply with his obligation to pay rent as required. The last payment she received from Mr. Froehlich was by electronic funds transfer (EFT) on April 7, 2014, in the amount of \$1,000.00. Throughout the tenancy the payments made for rent were inconsistent with the pattern agreed to in the tenancy agreement and

of amounts insufficient to cover the agreed upon rent each month. Ms. Aylward claimed rent up to and including July 2014 and provided bank statements supporting the amount of rental arrears claimed at \$3,500. She also claimed the cost of refilling the fuel tank, which was also agreed in the tenancy agreement that the tenant would leave full upon vacating the rental premises. Ms. Aylward provided a photograph of the fuel gauge showing it was one-quarter full and an invoice from Bluewave Energy dated August 22, 2014, in the amount of \$889.71. She retained the \$800 security deposit against the rental arrears.

Mr. Froehlich confirmed the oven door and stove top were damaged when his mother tried to clean it; when she removed them to get inside they refused to reconnect to the body of the stove. Mr. Froehlich questioned his responsibility for the lawn care arguing he was no longer resident when the majority of the growth would have occurred. He also questioned why he should be responsible for the rent for July when he vacated the rental premises in June in response to their agreement to end the tenancy. He confirmed he did not actually tell Ms. Aylward when he left the premises. Mr. Froehlich made no comments or disputes regarding the other claims.

#### *Tenancy agreement*

The written tenancy agreement entered into evidence by the applicant establishes a residential tenancy agreement between the parties for the rental premises at 4 Fir Crescent in Hay River, Northwest Territories. It began February 1, 2012, on a month-to-month basis. There was no dispute between the parties to the validity of the tenancy agreement. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

#### *Abandonment*

Section 1(3) of the Act speaks to the conditions which must be met to determine whether or not a tenant has abandoned a rental premises. The applicant in this case had reasonable grounds to believe the respondent had left the rental premises when she received notification from Northland Utilities in July that the respondent had closed his electricity account. The applicant attended the premises and confirmed that it did not appear that the respondent was ordinarily living there. She also testified that she did not receive any communication from the respondent indicating whether

or not he intended to resume living there, let alone that he had left. The applicant provided further evidence that the respondent had not paid rent sufficient to meet his obligations. I am satisfied the applicant deemed the respondent had abandoned the rental premises and reclaimed possession in July in accordance with the Act.

*Rental arrears and security deposit*

Section 62 of the Act states a tenant who abandons a rental premises remains liable for the rent payable under the tenancy agreement. The parties confirmed at hearing that they had agreed to end the tenancy on July 31, 2014. The respondent testified that he had vacated the rental premises on June 20, 2014. He confirmed that he did not notify the applicant that he had left; no notice to vacate early was given. The applicant testified she did not become aware that the respondent had vacated the rental premises until the end of July 2014. I am satisfied the respondent is liable for the rent up to and including the month of July 2014.

Section 4 of the tenancy agreement specifies the monthly rent as \$1,100. The bank statement submitted into evidence by the applicant reflects all payments received electronically by her from the respondent. I am satisfied the bank statement accurately reflects the payments received from Mr. Froehlich since he took occupancy of the rental premises. A review of the payments received, less \$800 for the security deposit, and a calculation of the outstanding rent made by me after the hearing revealed a mis-calculation on the applicant's part in favour of the respondent. As such, the amount of outstanding monthly rent identified at hearing of \$3,500 is incorrect. I find the respondent has accumulated rental arrears of \$3,160.

The Act defines rent as including costs for services and facilities, and services and facilities is defined as including utilities and related services. Section 7 of the tenancy agreement specifically identifies the tenant's responsibility to fill the fuel tank at the end of the tenancy. The photograph of the fuel gauge clearly shows the fuel tank at one-quarter full. The Bluewave Energy invoice clearly shows the fuel tank required filling to the value of \$889.71. I find the respondent liable for the cost to refill the fuel tank in the amount of \$889.71.

The Act and the *Residential Tenancies Regulations* (the Regulations) speak to the calculation of interest on security deposits. The applicant received the security deposit of \$800 on February 5, 2012. The respondent vacated the rental premises on June 20, 2014. The interest accumulated in accordance with the Act and Regulations is \$0.95. Section 18(4) of the Act permits a landlord to retain the security deposit against rental arrears. The applicant's retention of the total security deposit of \$800.95 against the total rental arrears is in compliance with the Act. I find the respondent has accumulated rental arrears in the total amount of \$3,248.76.

*Cleaning and repairs*

The entry and exit inspection reports entered into evidence establish the condition of the interior of the rental premises at the beginning and end of the tenancy. The photographs entered into evidence substantiate the damages and uncleanliness claimed, and reflect the condition of the exterior yard at the end of the tenancy. Section 5 of the tenancy agreement specifies the tenant's obligation to care for the lawn; section 8 of the tenancy agreement and sections 42 and 45 of the Act specify the tenant's obligations to repair damages to and maintain the ordinary cleanliness of the rental premises.

The applicant submitted a receipt for a used replacement stove in the amount of \$200. Receipts were also provided from Linda Atwell and Louis Tambour for repairs, lawn care, and cleaning in the amount of \$576.63. The applicant replaced the toilet paper holder herself and claimed \$24.99 for materials and labour. The applicant stated she did not have a receipt for the replacement window coverings. The original window coverings were bamboo roll-up blinds which are no longer available; as such she replaced them with simple grommet drapes and conservatively estimates they cost her approximately \$200. The respondent did not dispute the value of the replacement window coverings. I find the amounts claimed to effect cleaning and repairs as detailed are reasonable, and the respondent is liable to the applicant in the amount of \$1001.62.

An order will issue requiring Mr. Dustin Froehlich to pay rental arrears in the amount of \$3,248.76 and to compensate the applicant for cleaning and repair costs in the amount of \$1,001.62.

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Adelle Guigon  
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Tenancy agreement signed January 28, 2012
- Exhibit 2: Entry and Exit inspection report
- Exhibit 3: Statement of account
- Exhibit 4: Security deposit statement
- Exhibit 5: Revised security deposit statement dated August 22, 2014
- Exhibit 6: Bluewave Energy invoice dated August 22, 2014
- Exhibit 7: Receipt for purchase of stove dated August 20, 2014
- Exhibit 8: Linda Atwell and Louis Tambour invoice for repairs, lawn care, and cleaning
- Exhibit 9: Home Hardware receipt dated August 19, 2014
- Exhibit 10: Home Hardware receipt
- Exhibit 11: Wesclean Northern Sales receipt dated August 19, 2014
- Exhibit 12: Set of 13 photographs
- Exhibit 13: Rental arrears correction
- Exhibit 14: Applicant's bank statement