

IN THE MATTER between **NPR Limited Partnership**, Applicant, and **Justin Taggart**,
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,
regarding a rental premises located within the **city of Yellowknife in the Northwest
Territories.**

BETWEEN:

NPR LIMITED PARTNERSHIP

Applicant/Landlord

- and -

JUSTIN TAGGART

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 65 of the *Residential Tenancies Act*, the applicant may dispose of the respondent's abandoned personal property which has been stored in accordance with section 64 of the *Residential Tenancies Act* as they see fit. If the applicant sells the abandoned personal property, a written report of the sale must be made to the rental officer, and the applicant may retain up to \$150.00 (one hundred and fifty dollars) of the proceeds against the costs associated with moving the property. Any remaining proceeds of sale must be either returned to the respondent or paid to the Rental Office to be held in trust for the respondent.

DATED at the City of Yellowknife in the Northwest Territories this 7th day of October
2015.

Adelle Guigon
Deputy Rental Officer

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AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
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BETWEEN:

NPR LIMITED PARTNERSHIP

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-and-

JUSTIN TAGGART

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	September 9, 2015
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	Aya Burshan, representing the applicant
<u>Date of Decision:</u>	October 5, 2015

REASONS FOR DECISION

An application to a rental officer made by NPR Limited Partnership as the applicant/landlord against Justin Taggart as the respondent/tenant was filed by the Rental Office January 28, 2015. The application was made regarding a residential tenancy agreement for the rental premises known as #205, 97 Niven Drive, in Yellowknife, Northwest Territories. The applicant served a copy of the filed application on the respondent by email deemed received January 31, 2015, pursuant to section 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The applicant alleged the respondent had accumulated rental arrears, caused damages by fire to the rental premises, and failed to retrieve abandoned personal property. An order was sought for the payment of rental arrears, compensation for the cost of repairs and cleaning, and compensation for the cost of removing personal property from the rental premises. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for September 9, 2015, in Yellowknife, Northwest Territories. Ms. Aya Burshan appeared representing the applicant. Mr. Justin Taggart was served notice of the hearing by email sent August 20, 2015, which was deemed received August 23, 2015, pursuant to section 4(4) of the Regulations. Mr. Taggart did not appear at hearing, nor did anyone appear on his behalf. The hearing proceeded in Mr. Taggart's absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The written tenancy agreement entered into evidence establishes a tenancy between the parties for the rental premises known as #205, 97 Niven Drive, in Yellowknife, Northwest Territories. The tenancy commenced September 1, 2014, and the monthly rent was set at \$1,940. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the Act.

Damages and cleaning

On December 12, 2014, a fire occurred at the residential complex which rendered the rental premises uninhabitable. The landlord's application sought compensation for repairs and cleaning related to the fire. Since filing of the application, the RCMP have been able to confirm that the fire was incendiary in nature, leading them to enter into an arson investigation. However, they have not been able to determine who was responsible for the fire and as of August 2, 2015, the RCMP case file has been closed as unsolved. This being the case, the landlord is unable to prove the tenant's liability for the fire and consequential damages and withdrew their application for repairs of damages and cleaning.

Rental arrears

The resident ledger entered into evidence represents the landlord's accounting of monthly rents, payments made, and charges applied against the tenant's rent account. I am satisfied the resident ledger accurately represents the tenant's rent account.

There are charges in the resident ledger for cleaning and repairs to the rental premises related to the fire damage. These charges will not be considered at this time.

The landlord charged rent for the month of January 2015, as well as associated late payment penalties calculated in accordance with the Act and Regulations. The landlord submitted that the tenant was liable for the rent to the end of January as that is when he gave written notice to relinquish possession for. The rental arrears claimed by the landlord as of January 31, 2015, amount to \$1,064.67.

However, the landlord admitted that the rental premises was not in fact habitable after the fire. The rental premises for which the parties made an agreement to rent was no longer available for the tenant to make use of in any reasonable fashion or form. As such, the frustration of the tenancy agreement effectively ended the tenancy on December 12, 2014 – the day the fire made the rental premises uninhabitable.

As a consequence of the tenancy ending on December 12, 2014, the tenant is not liable for rent past that date. According to the resident ledger, as of December 12, 2014, the tenant carried a credit on his account in the amount of \$898.33. This credit exists after paying the full rent for December. There being no rental arrears for this tenant, the landlord's application for payment of rental arrears is denied.

Abandoned personal property

Included in the landlord's evidence was an inventory of personal property recovered from the rental premises and stored by the landlord. Emails between the landlord and tenant acknowledged the stored property. As of the hearing date, the property had not been reported as retrieved by the tenant. The landlord claimed costs in the amount of \$150 to move the property to storage. I am satisfied the landlord has substantially complied with the requirements of section 64 of the Act with respect to their dealing with the abandoned personal property and will grant the landlord permission to dispose of the property as they see fit. Should they choose to sell the property, they must report the sale to the rental officer and may apply up to \$150 of the proceeds towards the cost of moving the property. Any remaining balance of proceeds must be either returned to the tenant or submitted to the rental office to hold in trust for the tenant in accordance with the Act.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Resident ledger dated January 27, 2015
- Exhibit 2: Move out statement dated January 27, 2015
- Exhibit 3: Tenancy agreement signed September 1, 2014
- Exhibit 4: Email between Justin Taggart and Colleen Wellborn dated January 15, 2015
- Exhibit 5: Move out inspection and acceptance report (undated and unsigned)
- Exhibit 6: Northern Security Services invoice number 1012 dated January 2, 2015
- Exhibit 7: Email from Tracy Heslep dated January 22, 2015, containing a breakdown of material and labour costs
- Exhibit 8: City of Yellowknife invoice number 119616 dated January 20, 2015
- Exhibit 9: Fitzgerald Carpeting invoice number 9565 dated December 12, 2014
- Exhibit 10: Fitzgerald Carpeting invoice number 9570 dated December 27, 2014
- Exhibit 11: Fitzgerald Carpeting invoice number 9605 dated December 29, 2014
- Exhibit 12: Property inventory
- Exhibit 13: Set of 18 photographs
- Exhibit 14: Email from Darcey Harms to Colleen Wellborn dated August 2, 2015
- Exhibit 15: Email from Aya Burshan dated October 5, 2015
- Exhibit 16: Resident ledger dated October 5, 2015