

IN THE MATTER between **TP**, Applicant, and **TCU**, 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**, Rental Officer,

BETWEEN:

**TP**

Applicant/Landlord

-and-

**TCU**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>October 26, 2016</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>TP, applicant RH, representative for the respondent</b>
<b><u>Date of Decision:</u></b>	<b>December 19, 2016</b>

**REASONS FOR DECISION**

An application to a rental officer made by TP as the applicant/landlord against RH as the respondent/tenant was filed by the Rental Office June 1, 2016. The application was made regarding a residential tenancy agreement for a rental premises located in Inuvik, Northwest Territories. The applicant personally served a copy of the filed application on the respondent June 8, 2016.

The applicant alleged the respondent had accumulated rental arrears, had caused damages to the rental premises, had failed to pay for heating fuel, and had failed to clean the rental premises upon vacating. An order was sought for payment of the rental arrears, payment of costs for repairs and cleaning, and payment of costs for refilling the heating fuel tank.

A hearing was scheduled for October 26, 2016, by three-way teleconference. Mr. TP appeared as applicant. Mr. RH appeared as respondent.

*Preliminary matter*

The application to a rental officer identified the tenant as RH. The written tenancy agreements identify the tenant as TCU and appears to be signed by RH. RH confirmed at hearing that he is the owner of TCU and rented the rental premises for staff housing purposes. The parties agreed the application should be amended to identify the respondent/tenant as TCU. The style of cause going forward will be TP v. TCU.

*Tenancy agreement*

The parties agreed a residential tenancy agreement was in place between them commencing March 26, 2014. The parties agreed that the respondent had given written notice to vacate the rental premises January 31, 2016. Although the respondent's occupants had vacated by that date, some personal items were left behind and the premises had not been cleaned. The landlord did not regain possession of the premises until February 9, 2016. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

*Repairs and cleaning*

The applicant claimed costs associated with damages to drywall, replacement of the bathroom door, replacing toilet innards, replacing a light diffuser, and cleaning the rental premises. The respondent did not dispute either the costs claimed for repairing and repainting the damages drywall areas, replacement of the bathroom door, or cleaning the rental premises. The respondent did question the costs claimed for the toilet innards and the light diffuser. The applicant could not substantiate how the toilet innards were damaged by anything beyond normal wear and tear, and the applicant had no information to substantiate the claim for the light diffuser. I am not satisfied the respondent is responsible for replacing the toilet innards or the light diffuser. I am satisfied the respondent is responsible for the damaged drywall and the missing bathroom door. I find the respondent liable to the applicant for the costs of repairs and cleaning in the amount of \$497.42, which represents costs of materials and labour as evidenced by receipts and invoices.

*Rental arrears and utilities*

The parties agreed and evidence was presented establishing that the respondent was responsible for the heating fuel to the rental premises, including refilling the fuel tank at the end of the tenancy. The parties agreed that throughout the month of January the fuel tank required repeated replenishment due to the irresponsible actions of one of the respondent's occupants. The respondent acknowledged that he did not ensure the fuel tank was filled, either during the month of January or at the end of the tenancy. The applicant provided receipts proving that he had paid for several small deliveries of fuel to the rental premises, as well as two large deliveries, between January 4<sup>th</sup> and February 11<sup>th</sup> to ensure the premises did not freeze up. I am satisfied the respondent failed to comply with his obligation to pay for heating fuel. I find the respondent liable to the applicant for the costs of heating fuel in the amount of \$1,216.25.

The parties agreed that the monthly rent of \$1,650 had not been paid for December 2015 and January 2016. The applicant further claimed rent for February 1<sup>st</sup> to 8<sup>th</sup>, which the respondent disputed. The respondent argued that although some property had been left behind and the rental premises had not been cleaned, the premises was unoccupied as of January 31<sup>st</sup> and therefore available to rent. The applicant argued that he was not made aware that the respondent had vacated by January 31<sup>st</sup>, arrangements were not made to conduct an exit inspection of the rental premises for that date, and the respondent was given until February 8<sup>th</sup> to remove the remaining items and clean the rental premises. When the work was not completed by February 8<sup>th</sup>, the applicant conducted an exit inspection and reclaimed possession of the premises. The applicant was unable to re-rent the premises in the condition it was in. Under the circumstances, I am satisfied the applicant's claim for rent for February 1<sup>st</sup> to 8<sup>th</sup> is reasonable. I find the respondent liable to the applicant for rental arrears from December 1, 2015, to February 8, 2016, in the amount of \$3,734.

The applicant appropriately withheld a security deposit, including interest, in the amount of \$1,500.79 against the accumulated rental arrears and that will be accounted for in an order for the respondent to pay rental arrears and utilities.

#### *Additional issue*

The respondent took the opportunity to raise additional issues with the condition of the rental premises, but did not make any particular claims in this regard. One item in particular was discussed which bears mentioning as there was discussion around this item. That being the replacement of the washing machine.

At some point in the winter of 2014 the washing machine which was provided with the rental premises ceased working properly. The applicant arranged for a replacement washing machine, which was delivered damaged and so it was returned. Both parties acknowledged the necessity of having a functional washing machine, and the applicant did replace it with a new one. The

parties agreed that at the time the respondent agreed to pay the difference in cost between an average washing machine and an upgraded version. They agreed that in light of the respondent's intended use of the rental premises as a staff house it may be prudent to have the upgraded washing machine; had the respondent disagreed with paying the difference, the applicant still would have provided a washing machine but it likely would have been the average machine rather than the upgraded one. The respondent argued that it was unusual at any rate for a tenant to pay any cost towards replacement of the washing machine when there was no evidence of tenant damage. He acknowledged that he would not have made an issue of this had the applicant not asked for the February 1<sup>st</sup> to 8<sup>th</sup> rent. The applicant argued that the respondent didn't have to pay any costs he didn't agree to and that he would have received a new washing machine regardless.

I am of the opinion that the parties made an agreement regarding the additional cost for an upgraded washing machine. The applicant's obligation is ensure the washing machine provided with the rental premises is in a good state of repair, and in this case when the machine in question failed he took actions to replace it. There was no apparent subterfuge in that regard. I am not satisfied that the respondent is entitled to the return of monies he agreed to pay for the upgraded washing machine.

### *Orders*

An order will issue: requiring the respondent to pay rental arrears and utilities, less the security deposit, in the total amount of \$3,449.46; and requiring the respondent to pay the costs of repairs and cleaning in the total amount of \$497.42.

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Adelle Guigon  
Rental Officer