

IN THE MATTER between **LB**, Applicant, and **MP and AG**, 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 **Adelle Guigon**, Rental Officer,

BETWEEN:

LB

Applicant/Landlord

-and-

MP and AG

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 12, 2017
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	PS, representing the applicant AG, respondent MP, respondent
<u>Date of Decision:</u>	November 16, 2017

REASONS FOR DECISION

An application to a rental officer made by TPM on behalf of LB as the applicant/landlord against MP and AG as the respondents/tenants was filed by the Rental Office July 17, 2017. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served on the respondents by email deemed received September 15, 2017.

The applicant alleged the respondents had failed to pay utilities, had caused damages to the rental premises, and had left the rental premises in an unclean condition. An order was sought for payment of utilities and payment of costs of repairs and cleaning.

A hearing was scheduled for October 12, 2017, in Yellowknife. PS appeared representing the applicant. MP and AG appeared as respondents.

Preliminary matters

The application to a rental officer identified the landlord as LB. The written tenancy agreement identified the landlord as LB. The spelling of the landlord's name on the application was acknowledged as in error, and that the spelling as represented on the tenancy agreement as correct. The application was amended, and the style of cause going forward will identify the landlord as LB.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them commencing November 1, 2016. The respondents vacated the rental premises, ending the tenancy effective June 30, 2017. I am satisfied a valid tenancy agreement was in place in accordance with the *Residential Tenancies Act* (the Act).

Termination date of the tenancy

The respondents requested a return of pro-rated rent for the period of June 23rd to 30th claiming that they had vacated the rental premises earlier than agreed at the request of the applicant's representative.

An agreement in writing signed by both parties to end the tenancy June 30, 2017, was entered into evidence. On May 15th, the applicant's representative notified the respondents that she had prospective tenants who were interested in taking occupancy as early as June 15th and asked if the respondents might be willing to move out by then instead of June 30th. The respondents responded that they were unable to move by the requested date of June 15th. On June 15th, the respondents text messaged the applicant's representative that they would be vacating the premises on June 23rd. Attempts by the applicant's representative to communicate with the respondents regarding the text-messaged move-out date and to set up a move-out inspection were unsuccessful. No agreement in writing between the parties was entered into to end the tenancy earlier than June 30th. Despite being unable to confirm a scheduled move-out inspection, the applicant's representative's staff attended the rental premises the afternoon of June 23rd and noted that there remained some items in the yard and the premises had not yet been cleaned. The applicant's representative attended the premises on June 24th and found that it still had not yet been cleaned. On June 28th, the applicant's representative entered the premises and conducted the exit inspection in the respondents' absence.

Given that there was no agreement in writing between the parties to terminate the tenancy earlier than June 30th, I am satisfied that the respondents remained liable for the rent for the full month of June. The respondent's request for the return of a pro-rated portion of the rent is denied.

Utilities

The applicant originally applied for payment of outstanding water bills. The respondents provided evidence at hearing that they had in fact paid the water bill in full on August 11, 2017. The applicant's representative withdrew their claim for outstanding utilities.

Damages

The applicant claimed costs for repairing two carpet transition strips, repairing the back entrance linoleum, and painting three patched walls. The respondents acknowledged and accepted responsibility for all except painting of one patched wall.

The one patched wall in dispute is located in the stairwell. There was no dispute that the patch to the wall was pre-existing the respondents' tenancy. I am satisfied the respondents are not liable for costs associated with painting the stairwell wall.

The extent and type of patching on the remaining two walls was not clearly understood by me at hearing as photographs of the claimed damages were not available at that time. Questions were asked at hearing about when the walls were last painted with the intent of considering whether or not any depreciation needed to be accounted for. Upon received photographs from both parties after the hearing, I realized the patched areas were quite localized and would only have required a section of wall to be painted. Consideration of depreciation is unnecessary.

To clarify, the two patched areas were repaired by the respondent MP during the tenancy, and there was no dispute by the applicant's representative as to the quality of the repair. The only work that remained to be done was painting the patched areas. One area was next to a wall vent; the other area was behind the front door.

The applicant submitted an invoice for 4 hours of work including but not limited to painting the patched areas. The invoice did not identify separate charges or hours for each activity completed. As such, I will make an educated estimate of the time required to paint the two patched areas at 1 hour. The invoiced hourly rate is \$65 plus GST. I find the respondents liable to the applicant for costs to paint the two patched walls in the amount of \$68.25.

With respect to repairing the carpet and lino, the parties agreed to give the respondents an opportunity to effect the necessary repairs themselves. It was agreed to give them until November 30th to effect those repairs, after which if any of the repairs were not completed the landlord would be authorized to effect the repairs and the respondents would be required to pay reasonable expenses associated with the repairs. An order will issue reflecting this agreement.

Cleaning

The applicant claimed costs for steam cleaning the carpet, cleaning the interior of the rental premises, and cleaning garbage and debris from the yard and under the deck.

The respondents did not dispute the steam cleaning costs, given they did keep a pet. I find the respondents liable to the applicant for steam cleaning costs in the amount of \$236.25 including GST.

The respondents disputed that cleaning of the interior of the rental premises was necessary, claiming they had adequately cleaned before vacating. The exit inspection report and photographs contradict this claim, although only in relatively minor ways. The respondents did do the majority of the cleaning. What they didn't do was: move the appliances to clean underneath and behind them; clean the baseboards and some corners of dirt and dust; fully wipe out the fridge crisper; fully wipe down the oven door; clean debris from the washer door seal; and some (not all) of the drawers had crumbs.

An invoice for "move out cleaning" services was submitted by the applicant claiming costs of \$315. No indication was referenced of how much time was spent doing the cleaning, or of what exactly was cleaned. In my experience, the average hourly rate for house cleaners in the Northwest Territories is \$25. Using that figure, the submitted cleaning invoice suggests it took two house cleaners approximately six hours to clean the rental premises. While I am satisfied the respondents' are liable for cleaning the above specified items, I am not satisfied that it would have taken two house cleaners six hours to that specific cleaning. By my educated estimation, I expect it would have taken two house cleaners no more than three hours to do the cleaning that the respondents are responsible for.

Being satisfied that the respondents are responsible for cleaning under and behind the appliances, cleaning the baseboards and corners, wiping out the fridge and oven door, cleaning the washer door seal, and wiping out the drawers, I find the respondents liable to the applicant for cleaning costs in the amount of \$157.50 including GST.

The exit inspection report and photographs support the applicant's claim for removal of a small amount of garbage and some debris from around and within the shed in the back yard. The respondent's did not dispute this part of the yard cleaning claim. The respondents did dispute their responsibility for the items that were found under the deck, in particular the trampoline. The applicant's representative claimed that the trampoline was left at the commencement of the tenancy for the respondents to use and then was found at the end of the tenancy folded up under the deck and damaged. The respondents disputed the applicant's representative's claim, stating that the items were already under the deck when they moved in, and they did not access those items under the deck throughout the tenancy.

Both the applicant's representative and the respondents submitted photographs of the premises taken at the beginning of the tenancy and at the end of the tenancy. The applicant's representative's move-in photographs did not include any photographs of the back yard; their move-out photographs included some photos of the yard around the shed, but none of the deck. The respondent's move-in photographs did include photographs of the back yard, including two photographs of the deck in which can be seen a large roll of blue material and a badminton racket under the deck; there is no visible evidence in the respondent's move-in photographs of the trampoline. The respondents' move-out photographs include photos of the deck in which can be seen the large roll of blue material and the badminton racket in the same place they were at the beginning of the tenancy, and a metal pole and material which appears to be for the trampoline neatly folded and stored under the deck against the house. No evidence was provided to substantiate the applicant's representative's claim that the trampoline was damaged, nor did the applicant make any specific claim for costs to repair or replace the trampoline.

Based on the evidence presented, I am satisfied there was some debris left in and around the shed for which the respondent is responsible. I am not satisfied the respondent is responsible for any of the items left under the deck.

The costs claimed by the applicant to clean the back yard were included in the previously referenced invoice to paint the patched walls. It is unclear what proportion of that invoice is specific to cleaning the back yard. An educated estimate of time required to clean the minor amount of debris in and around the shed is no more than 0.5 hours. The applicant's representative's hourly rate is \$65. I find the respondents liable to the applicant for costs to clean in and around the shed in the amount of \$34.13 including GST.

The costs allowed the applicant for cleaning inside and outside the rental premises total \$427.88.

Orders

An order will issue:

- requiring the respondents to effect repairs to two carpet transition sections and the back entrance linoleum. If those repairs are not completed by November 30, 2017, the landlord is authorized to effect the described repairs and the respondents must pay to the applicant any reasonable expenses directly associated with those repairs;
- requiring the respondents to pay costs of painting in the amount of \$68.25;
- requiring the respondents to pay to the applicant costs of cleaning in the amount of \$427.88.

Adelle Guigon
Rental Officer