

IN THE MATTER between **NM**, Applicant, and **XY**, 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 **Hal Logsdon**, Rental Officer,

BETWEEN:

NM

Applicant/Tenant

-and-

XY

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: March 22, 2018

Place of the Hearing: Yellowknife. NT

Appearances at Hearing: NM, applicant
BL, representing the applicant

Date of Decision: April 16, 2018

REASONS FOR DECISION

The tenancy agreement between the parties was terminated by the tenant's notice on September 30, 2017. The application was filed on December 8, 2017 alleging that the respondent had failed to repair a leak in the roof, allowing water to escape periodically through the ceiling and a light fixture into the apartment. The applicant testified that this happened on several occasions during rain and melt over a period of one year. She testified that during the first incident, the overhead kitchen light fixture was disconnected to avoid an electrical hazard and remained disconnected for the duration of the tenancy agreement.

The applicant stated that during one incident, the landlord's employee inadvertently spilled dirty water on the living room carpet while draining the light fixture. The applicant testified that she was told the carpet would be cleaned at the landlord's expense but the cleaning was not done. She stated that she cleaned it up the best she could and had all of the carpets professionally cleaned at the termination of the tenancy agreement.

The respondent returned the entire security deposit and accrued interest to the applicant at the end of the tenancy agreement.

The applicant sought compensation for loss of the full enjoyment of the premises and costs of the carpet cleaning. She stated that she considered that one month's rent (\$1690) plus her cost to clean the carpets at the end of the tenancy agreement (\$225) was reasonable compensation.

The applicant provided video and still photos of the water leakage which indicated substantial water flowing through the light fixture and parts of the ceiling. Some holes had to be punched in the ceiling to relieve the water and buckets were placed around the apartment to catch the leaks.

The respondent testified that they promptly responded to every call regarding water leakage and did what was possible to prevent damage. The respondent acknowledged that the kitchen light fixture was disconnected and was not reconnected during the tenancy. The respondent noted how difficult it was to trace the source of the leak and that the problem was not continuous.

The respondent stated that in his opinion, a breach of the obligation had to be significant to warrant more than “nominal” compensation. In the opinion of the landlord compensation of \$500 would be reasonable, although there was no indication that any offer of compensation was made to the applicant.

Section 30 of the *Residential Tenancies Act* sets out a landlord’s obligation to maintain and repair the premises.

30. (1) A landlord shall

(a) provide and maintain the rental premises, the residential complex and all services and facilities provided by the landlord, whether or not included in a written tenancy agreement, in a good state of repair and fit for habitation during the tenancy.

Clearly, a leaking roof is a breach of section 30 and in my opinion so is repair or cleaning made necessary solely by the action of the landlord.

Compensation should be sufficient to restore the tenant to a position they would have enjoyed if the breach did not occur.

In my opinion, there are three possible components of compensation to be considered:

- 1) Compensation for loss of enjoyment directly due to the entry of water into the apartment.

There is no doubt that the actual entry of water significantly interfered with the tenant’s enjoyment of the apartment but the duration of the of the problem was short and intermittent. The total amount of time that the ceiling was leaking was only a very small percentage of the term of the tenancy. The applicant’s written outline of events suggests that significant leakage occurred on 7 occasions. The per diem rent for the premises is \$56/day. In my opinion, the days of significant leakage deprived the applicant 20% of the full enjoyment of the apartment on those days. I find reasonable compensation for this component to be \$78.

2) Compensation for loss of enjoyment of the kitchen light for 12 months.

The kitchen light, was clearly not in a good state of repair. It was continuously inoperative for 12 months. The kitchen is perhaps the most important area for good light and the absence of a ceiling light would certainly be an inconvenience and constitute a continuous loss of full enjoyment over 12 months. In my opinion reasonable compensation for the continuous loss of the kitchen light over a year is 3% of the annual rent or \$608.

3) Compensation for cleaning the spillage of the water on the living room carpet by the landlord.

This is damage done by the landlord and in my opinion the cost of cleaning should have been borne by the landlord. Since it was not done by the landlord and the applicant attended to the cleaning herself, it is reasonable, in my opinion, to require the respondent to reimburse this cost. However, the cost borne by the applicant was for all carpets, not just the carpet soiled by the landlord. In my opinion, the proportion of the carpet affected was approximately 25% of the total area and reasonable compensation is 25% of the total cleaning cost or \$56.

I find the respondent in breach of their obligation to maintain the rental premises in a state of reasonable repair and find reasonable compensation for the loss of full enjoyment of the premises to be \$742.

An order shall issue requiring the respondent to pay the applicant compensation in the amount of \$742.

Hal Logsdon
Rental Officer