

IN THE MATTER between **S.L.**, Applicant, and **B.W.**, 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:

S.L.

Applicant/Landlord

-and-

B.W.

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: April 19, 2018

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: S.L., applicant
B.W., respondent
S.W., representing the respondent

Date of Decision: May 7, 2018

REASONS FOR DECISION

The parties entered into a tenancy agreement for a 6 month term commencing on June 1, 2017. The premises consisted of a room and private bathroom. A kitchen and laundry area were shared with the landlord. The monthly rent was \$1000 to be paid in advance on the first day of each month. A security deposit of \$1000 and a pet deposit of \$500 were required. Heat and electricity were included in the rent.

Forming a part of the written tenancy agreement was a condition report. The tenancy agreement, including the condition report was dated and signed by the landlord on September 6, 2017 but not signed by the tenant.

The applicant served a notice of early termination pursuant to section 54 of the *Residential Tenancies Act* on December 3, 2017 seeking vacant possession on December 31, 2017. The application was filed on December 15, 2017 seeking payment of rent arrears and eviction. After receiving the notice, the respondent notified the applicant by email on December 10, 2017 stating that she intended to vacate on December 31, 2017. The respondent vacated the premises on or about that day.

There was no inspection report completed at the end of the tenancy. The applicant did not return the security deposit or pet deposit or issue a statement of the deposits.

The applicant alleged that the respondent failed to pay the full amount of the rent, failed to leave the premises clean, failed to repair damages to the carpet and the mattress and failed to give adequate notice to quit. The applicant sought an order requiring the respondent to pay rent arrears (\$1100), penalties for late rent (\$302), cleaning costs (\$450), replacement cost of the carpet (\$650), replacement cost of the mattress (\$700), compensation for the application fee (\$100) and compensation for lost rent in January, 2018 (\$1000).

The applicant did not provide any detailed accounting of the rent but testified that the respondent made only a partial payment of \$900 on November 17 and did not pay the remainder of the November rent until December 13. The applicant testified that, to date, the December rent of \$1000 remained outstanding. She stated that she had calculated penalties for late rent to be \$302.

The applicant provided photographs of the premises allegedly showing the condition of the premises at the end of the tenancy. The photographs show two carpet stains. There were no photographs of the alleged damage to the mattress. The applicant stated that the mattress was used and the relief reflected her original cost. Photographs also showed areas of cat litter on the floor.

The respondent did not dispute the rent arrears or the dates the November rent was paid.

The respondent did not dispute the amounts of the security deposit and pet deposit paid but stated that no inspection had been conducted at the commencement of the tenancy agreement. The respondent stated that the tenancy agreement and attached inspection report were not signed by her and were not provided to her until September, 2017.

The respondent disputed the landlord's allegation that she failed to give proper notice. It was noted that the landlord served a notice of early termination pursuant to section 54 and the tenant complied with that notice by vacating the premises in accordance with the notice. The applicant stated that the notice provided set out if the rent and outstanding deposit was paid, the notice would be void.

I find the applicant in breach of section 18 of the *Residential Tenancies Act* by failing to provide a statement of the security deposit and deductions. It does not appear that the initial inspection report was conducted in accordance with the Act and there was no inspection report done at the conclusion of the tenancy.

I find the respondent in breach of her obligation to pay rent and find the rent arrears to be \$1100, consisting of the December, 2017 rent and \$100 of the November, 2017 rent. The regulations permit the following penalties for late rent;

3. *For the purposes of subsection 41(2) of the Act, a late payment penalty respecting the rent due under a tenancy agreement must not exceed \$5 plus \$1 for each day after the due date that the rent is late, to a maximum of \$65.*

I find allowable penalties for late rent to be \$130.

The applicant testified that she cleaned the premises herself including shampooing the carpet and valued her labour at \$50/hour. The relief sought would therefore represent nine hours of cleaning. These premises consist of a small bedroom and a bathroom. There was no photographic or other evidence to support that level of cleaning. In my opinion, cleaning of the premises would only require two hours of labour at \$35/hour plus an additional \$50 for a rug cleaner and materials. I find reasonable cleaning costs to be \$120.

The applicant provided no photographic evidence of the alleged mattress stains nor did she provide any evidence to support the cost of a replacement. Her written submission noted the original cost as \$600 but she testified that the original cost was \$700. I do not find sufficient evidence to support her claim for relief.

The photographic evidence indicates two light stains on the carpet. In my opinion, the damage does not warrant the replacement of the carpet but does reduce its value. The applicant has not provided any evidence of the replacement value. In my opinion, the loss of value is approximately \$200.

The applicant served a notice of termination pursuant to section 54 and the respondent complied with the notice, notified the landlord and vacated the premises on or about the termination date. The applicant alleges that they were unable to re-rent the premises for a month and seeks compensation for that loss from the tenant. Following the provisions of s.54, the applicant filed an application seeking rent arrears and eviction. The respondent testified that she assumed that the landlord wanted to evict her and complied with the notice voluntarily. In my opinion she acted reasonably and the applicant is not entitled to compensation for lost rent. The relief is denied.

In my opinion, expenses of a landlord such as legal fees, application fees and filing fees are normal costs of doing business and should not be borne by the respondent. The request for compensation related to the application filing fee is denied.

In summary, applying the retained security deposit and interest first to rent arrears and penalties for late rent, I find the respondent liable for cleaning and repair costs in the amount of \$149.67, calculated as follows:

Security deposit	(\$1400.00)
Interest	(0.33)
Rent arrears/penalties	1230.00
Repairs/Cleaning	<u>320.00</u>
Amount due tenant	\$149.67

An order shall issue requiring the respondent to pay the applicant cleaning and repair costs in the amount of \$149.67.

Hal Logsdon
Rental Officer