

IN THE MATTER between **ST and RT**, Applicants, and **GC and TC**, 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:

ST and RT

Applicants/Landlords

-and-

GC and TC

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: May 29, 2018

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: ST, applicant

Date of Decision: May 29, 2018

REASONS FOR DECISION

An application to a rental officer made by ST and RT as the applicants/landlords against GC and TC as the respondents/tenants was filed by the Rental Office January 19, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Fort Smith, Northwest Territories. The filed application was served on the respondents by email deemed received February 8, 2018, pursuant to subsection 4(4) of the *Residential Tenancies Regulations* (the Regulations).

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

A hearing was scheduled for May 29, 2018, by three-way teleconference. ST appeared as applicant and on behalf of RT. GC and TC were served notices of the hearing by email deemed received February 8, 2018, pursuant to subsection 4(4) of the Regulations. The respondents did not appear at the hearing, nor did anyone appear on their behalf. The hearing proceeded in the respondent's absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The applicant's representative testified that the parties had entered into an oral tenancy agreement commencing December 1, 2014. The respondents vacated the rental premises, ending the tenancy agreement October 31, 2017. I am satisfied a valid tenancy agreement was in place in accordance with the Act.

Rental arrears

The applicant testified that the rent ledger entered into evidence did not reflect all payments received from the respondents against their rent account. She confirmed that the only rent which has definitely not been paid is for the last month of the tenancy (October 2017). Rent was established at \$1,500 per month. The respondents had paid a security deposit of \$1,500 at the commencement of the tenancy, which the applicants retained at the end of the tenancy.

I find the respondents had accumulated rental arrears in the amount of \$1,500, however, those arrears have been resolved by the retention of the security deposit against them.

Repairs and cleaning

The applicants identified damages to the rental premises at the end of the tenancy against which they are claiming the following costs:

Replacing drapes and repairing curtain rods	\$1,000.00
Patching and painting walls throughout	\$3,000.00
Replacing damaged and unclean oven/stove	\$500.00
Replacing two rubber-backed floor mats	\$100.00
Repairing damaged lawn	\$300.00
Recover monies paid to the tenant to paint the exterior fence and deck	\$350.00
Replace missing deck stair railing	\$200.00
Replace missing light bulbs	\$50.00
Removal and disposal of two tables	\$50.00
Repairing damages to deck, concrete siding, and hardwood floor	\$350.00
Replacement of one interior door handle	\$70.00
Repair of refrigerator water dispenser and scratches on sides	\$50.00
Repair one exterior door	\$250.00
Repair one storm door screen and handle	\$250.00
Replace kitchen counter light fixtures	\$200.00
Repair/replace 11 window screens	\$400.00
Repair damaged kitchen island counter top	\$50.00
Replace hardwood flooring	\$5,953.63
Cleaning throughout	\$250.00
TOTAL	\$13,373.63

Drapes and curtain rods

The applicant identified a total of 23 drapery panels which were missing and one drapery panel which was damaged. Twelve of the drapery panels were missing from the three bedrooms, and those panels were 10 years old when the respondents moved into the rental premises. The damaged drapery panel was in the bathroom, and that panel was one year old when the respondents moved into the rental premises. The remaining 10 drapery panels were missing from the downstairs living room, dining room, kitchen, and stairwell, and those panels were two years old when the respondents moved into the rental premises.

The average useful life of heavy draperies is 10 years. The average useful life of light draperies is five years. The respondents tenancy lasted three years.

Given the bedroom draperies had reached their average useful life by the time the respondents had moved in, the applicants' claim for replacement costs is denied.

The applicants benefited from four years of useful life of the bathroom drapery. The bathroom drapery was of a lighter fabric, which would have an average useful life of 5 years. The base of the drapery had been 'shredded', rendering it damaged and requiring replacement. The applicant testified that she had paid \$80 for that drapery when first purchased. Being satisfied that the respondents are responsible for the damage caused to the drapery, I find the respondents liable to the applicant for 20 percent of the cost of replacing the bathroom drapery, or \$16.

The applicants benefited from five years of useful life of the downstairs draperies. All 10 of the drapery panels were missing entirely from the rental premises. The applicant testified that the average costs for the draperies when she purchased them was \$50 per panel. Being satisfied that the respondents are responsible for the missing draperies, thereby depriving the applicant of the benefit of their remaining five years of useful life, I find the respondents liable to the applicant for 50 percent of the costs of replacing the downstairs draperies, or \$250.

The applicant testified and provided photographic evidence of five damaged curtain rods. The wooden curtain rods were estimated to cost \$80 each to replace. The applicant estimated it took her contractor two hours labour to replace the curtain rods. Being satisfied that the respondents are responsible for the damages to the curtain rods, I find the respondents liable to the applicant for the costs of materials and labour to replace the curtain rods in the amount of \$450.

Monies paid to the tenant

The applicant testified that she had made arrangements to have the fence to the yard and the deck painted when the respondent suggested she pay him to do the painting instead. She agreed and paid him \$350 to paint the fence and the deck. The respondent did not do the work, so the applicant sought the return of the \$350 that she paid him.

The agreement entered into between the applicant and respondent to paint the fence and deck forms a contractual arrangement separate from the tenancy agreement. As it does not form a part of the tenancy agreement, I do not have jurisdiction to consider the request of the applicant for the return of the funds paid for work unperformed.

Hardwood flooring

The applicant testified that the main floor of the rental premises had Birds Eye Maple hardwood flooring, which was a highlighted feature of the home. The applicants had maintained the flooring, and approximately one month before the respondents took occupancy they had the flooring refinished. The refinishing returned the hardwood flooring to a like-new condition, as evidenced by a photograph submitted by the applicant. The applicant provided rubber-bottomed floor mats at the two entry ways as part of the rental premises to preserve the integrity of the newly refinished flooring. At the end of the tenancy (three years later) both floor mats were missing, and the hardwood flooring in the front entry way was excessively worn and damaged.

Birds Eye Maple is a rare form of hardwood. The applicant was unable to secure a qualified local flooring expert to repair the damaged area. To hire an extra-territorial flooring expert would have been far too expensive an undertaking. Instead, the applicant submitted a quote from a local flooring company to replace all 450 square feet of hardwood flooring with a similar engineered hardwood. The entire area would need to be replaced because there were no seams in the flooring to do a partial replacement.

The average useful life of hardwood flooring is 20 years. Given the flooring had been re-finished when the tenancy commenced, I agreed to apply an average useful life to the refinished hardwood flooring of 10 years. After the hearing I did some on-line research and learned that 10 years is a fair estimation of the average useful life of refinished hardwood flooring.

The damaged area of the flooring constituted approximately 25 percent of the total area. I determined that the respondent is liable to the applicant for the full cost of 25 percent of the total area. Because the entire 450 square feet of flooring required replacement as a result of the damages to 25 percent of it, the landlord only benefited from 30 percent of the average useful life of the remaining 75 percent of the flooring. As such, I determined that the respondent is liable to the applicant for 70 percent of the full cost of replacing 75 percent of the flooring. The cost for replacing 25 percent of the flooring amounts to \$1,488.41; 70 percent of the cost for replacing 75 percent of the flooring amounts to \$3,125.65. I find the respondent liable to the applicant for the costs of replacing the flooring in the total amount of \$4,614.06.

I am satisfied that the respondent is responsible for all the remaining damages claimed in the above table, and that the associated costs for repairs and cleaning claimed are reasonable. I find the respondent liable to the applicant for costs of repairs and cleaning in the total amount of \$11,400.06, calculated as follows:

Replacing drapes and repairing curtain rods	\$716.00
Patching and painting walls throughout	\$3,000.00
Replacing damaged and unclean oven/stove	\$500.00
Replacing two rubber-backed floor mats	\$100.00
Repairing damaged lawn	\$300.00
Replace missing deck stair railing	\$200.00
Replace missing light bulbs	\$50.00
Removal and disposal of two tables	\$50.00
Repairing damages to deck, concrete siding, and hardwood floor	\$350.00
Replacement of one interior door handle	\$70.00
Repair of refrigerator water dispenser and scratches on sides	\$50.00
Repair one exterior door	\$250.00
Repair one storm door screen and handle	\$250.00
Replace kitchen counter light fixtures	\$200.00
Repair/replace 11 window screens	\$400.00
Repair damaged kitchen island counter top	\$50.00
Replace hardwood flooring	\$4,614.06
Cleaning throughout	\$250.00
TOTAL	<u>\$11,400.06</u>

Order

An order will issue requiring the respondents to pay costs of repairs and cleaning in the amount of \$11,400.06.

Adelle Guigon
Rental Officer