

IN THE MATTER between **C.D.**, Applicant, and **L.G.**, 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:

**C.D.**

Applicant/Tenant

-and-

**L.G.**

Respondent/Landlord

**REASONS FOR DECISION**

**Date of the Hearing:** August 22, 2018

**Place of the Hearing:** Yellowknife, NT

**Appearances at Hearing:** C.D., applicant  
Z.T., representing the respondent  
C.T., representing the respondent

**Date of Decision:** August 22, 2018

### **REASONS FOR DECISION**

The tenancy agreement between the parties was made for a term to end on May 31, 2018. Although the tenancy agreement implies that the applicant rented the entire dwelling, in fact, the applicant rented only one room of four and shared bathroom and kitchen facilities with the three other tenants. The tenancy agreement required a security deposit of \$650, half of which was paid on December 9, 2017 and the balance paid on January 1, 2018.

The applicant testified that another tenant assaulted him and ransacked his room in January 2018. The applicant stated that he felt unsafe in the house thereafter but the landlord refused to take any action to evict the other tenant. The applicant vacated the premises on February 28, 2018. He stated that he gave the landlord 15 days notice of his intention to leave. There was no evidence of any written notice provided at the hearing.

The respondent retained the security deposit and accrued interest, deducting rent for March, 2018 and an "administration for replacement" charge equal to the interest on the deposit. The respondent stated that when he did not receive the March rent he discovered the room vacant on March 2, 2018.

I am inclined to believe that the landlord was fully aware of the tenant's intention to vacate the premises on February 28 and that the applicant vacated the room on that day. The landlord promptly checked the room and found it vacant on the day after the rent was due leading me to believe they suspected the tenant would have abandoned the premises. Both parties acknowledged discussions about early termination and the applicant's fear of the tenant who allegedly assaulted him.

Section 18(4) sets out retention of security deposits by a landlord.

*18.(4) A landlord may, in accordance with this section, retain all or a part of a security deposit, a pet security deposit or both for arrears of rent owing from a tenant to the landlord in respect of the rental premises, and for repairs of damage to the premises caused by the tenant or a person permitted on the premises by the tenant. (My emphasis)*

This tenancy agreement was terminated by reason of abandonment on the day the applicant left the premises. There were no arrears of rent on that day. Section 62(1) sets out the consequences of abandonment.

62.(1) *Where a tenant abandons a rental premises, the tenancy agreement is terminated on the date the rental premises were abandoned but the tenant remains liable, subject to section 5, to compensate the landlord for loss of future rent that would have been payable under the tenancy agreement.*

As outlined in *Greenway Reality Ltd v. N.C. Roy* [1998] N.W.T.R. 309, CV 07484:

*Nowhere in the Act is the landlord authorized to retain a security deposit as compensation for loss of future rents. That is an economic loss claim. A security deposit may be retained for arrears of rent but that is not the same as future rent. The term arrears of rent, as used in the Act, clearly means rent that was due at a fixed time and that time has now lapsed without payment being made. It is rent behind, not in the future.*

As there were no arrears of rent or repairs of damages, the respondent was obligated to return the security deposit and accrued interest. I find the interest to be \$0.06. An order shall issue requiring the respondent to return the security deposit and accrued interest to the applicant in the amount of \$650.06.

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Hal Logsdon  
Rental Officer