

IN THE MATTER between **EG and LG**, Applicants, and **JS and DS**, 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:

EG and LG

Applicants/Landlords

-and-

JS and DS

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: January 9, 2019

Place of the Hearing: Yellowknife, Northwest Territories

Appearances at Hearing: EG, Applicant

Date of Decision: March 24, 2019

REASONS FOR DECISION

An application to a rental officer made by EG and LG as the Applicants/Landlords against JS and DS as the Respondents/Tenants was filed by the Rental Office November 5, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Hay River, Northwest Territories. The filed application was personally served on the Respondents November 28, 2018.

The Applicants alleged the Respondents had abandoned the rental premises, had failed to pay rent for October 2018, 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 January 9, 2019, by three-way teleconference. EG appeared as Applicant and on behalf of LG. JS and DS were personally served notices of the hearing November 28, 2018. The Respondents did not appear at the hearing, nor did anyone appear on the Respondents' behalf. The hearing proceeded in the Respondents' absence pursuant to subsection 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The Applicant testified and evidence was presented establishing a residential tenancy agreement between the parties commencing July 1, 2012. The Respondents vacated the rental premises, ending the tenancy effective October 2, 2018. I am satisfied a valid tenancy agreement was in place in accordance with the Act.

Rental arrears

The Applicant testified that the Respondents did not give any notice of their intention to vacate the rental premises. The Applicant discovered the Respondents had abandoned the rental premises on October 2, 2018. The rent of \$1,500 had not been paid for October. The Applicant retained the security deposit of \$1,303.83 against the rental arrears, leaving a balance owing of \$196.17.

I am satisfied that the Respondent's failed to give notice of their intention to vacate the rental premises, and that they effectively abandoned the rental premises. I am satisfied that the Applicant is entitled to the rent for October in the amount of \$1,500. I am satisfied that the security deposit of \$1,303.83 was appropriately retained by the Applicant against the rental arrears. I find the Respondents have accumulated a remaining balance of rental arrears in the amount of \$196.17.

Damages and cleaning

In their application, the Applicants claimed costs for the following:

- cleaning throughout
- replacement of the refrigerator
- replacement of the stove
- replacement of the washing machine
- repair/replacement of one exterior door and two interior doors
- repair/replacement of six closet doors
- repair/replacement of six basement wall panels
- replacement of the bathroom toilet
- replacement of all the lower kitchen cabinets, the counter top, and the upper cabinet doors
- replacement of the basement sink faucet
- replacement of two smoke detectors
- replacement of the carpets and linoleum flooring throughout
- replacement of exterior door locks
- repair/replacement of four basement windows
- repair/replacement of all window screens
- cleaning, patching, and painting of all interior walls

The Applicant testified and entered into evidence the entry inspection report and photographs taken at the end of the tenancy supporting his claim that the rental premises had not been cleaned prior to the Respondents vacating. Additionally, despite the non-smoking status of the rental premises it became immediately apparent to the Applicant that the Respondents had been smoking indoors for a lengthy period of time, if not since the tenancy started. The Applicant testified that in addition to the general uncleanliness the walls and windows were smoke stained.

It was also discovered that the uncleanness was substantially more than general. Further investigation found that the Respondents' uncleanness had resulted in maggots infesting the stove and within the lower kitchen cabinets.

The Applicant claimed general cleaning costs in the amount of \$500, duct cleaning costs in the amount of \$385.90, and \$15 in costs to dispose of garbage and debris that had been left behind. I am satisfied that these costs are reasonable given the condition of the premises. I find the Respondents liable to the Applicant for the costs of cleaning in the amount of \$900.90.

The Applicant originally claimed full costs for replacing all the lower kitchen cabinets, the counter top, and the upper cabinet doors, however, he conceded at hearing that the upper cabinet doors were only being replaced so that they matched the new lower cabinet doors. The Respondents are only responsible for damages caused by their own wilful or negligent conduct, and as such in this case they are not responsible for the upper kitchen cabinet doors. The invoices that were provided were for the full costs of all three sections. I am satisfied that the Respondents are responsible for the costs to replace the lower kitchen cabinets and the counter top due to damages related to the uncleanness and the presence of the maggots, as well as to water damages the Applicant testified was caused by the Respondents failing to report a slow water leak under the sink. I find the Respondents liable to the Applicants for 75 percent of the costs of replacing the kitchen cabinets and counter top in the amount of \$4,307.48.

The costs claimed at hearing of \$1,885.65 for cleaning, patching, and painting the walls as a result of the smoke damages appears reasonable, and under the circumstances I am prepared to allow that claim.

The stove was irredeemable due both to the presence of maggots and the abhorrent uncleanness of the appliance. I am satisfied that it required replacement due to the Respondents' negligence. The Applicant had claimed the full replacement cost of \$700 for the stove. The Applicant testified that the stove was new when the tenancy commenced in 2012, making it six years old. The average useful life of stoves is 15 years. Having benefited from six of those years, the Applicant is entitled to compensation for the nine years of useful life that he did not benefit from, which amounts to \$470. I find the Respondents liable to the Applicant for the depreciated replacement value of the stove in the amount of \$470.

The Applicant had claimed the replacement cost of the refrigerator, however, he conceded that the fridge was at least 10-12 years old. The Applicant agreed to compensation for the removal and disposal of the refrigerator only in the amount of \$50, which I find reasonable.

The washing machine was provided as part of the rental premises and had been replaced in June 2017 at a cost of \$620. For some reason, the Respondents took the washing machine with them when they vacated the rental premises. Given that the washing machine was roughly one year old, I find the Applicant entitled to compensation for 93 percent of the useful life of the washing machine in the amount of \$576.60.

The Applicant testified that he was made aware over the summer that the exterior door had been kicked in and severely damaged. The Respondents had attempted to repair the door, but did a poor job of it. The Applicant is claiming costs to replace the exterior door and repair the jamb and trim. The Applicant also testified that two interior doors had been damaged and required replacement. Both of these claims were supported in the provided photographs and with invoices and proof of payments for labour. I am satisfied the Respondents are responsible for the damages caused to the exterior door and the two interior doors. I find the Respondents liable to the Applicant for costs of repairing and replacing the doors, and the associated jambs and trims, in the total amount of \$2,033.05.

The Applicant testified and the photographs supported that six closet doors throughout the rental premises had been damaged or were missing entirely. Two of the doors were sliding glass mirror doors, two were bifold doors, and two were panel doors. Invoices and receipts were provided supporting the claimed costs of \$1,038.68. I am satisfied the Respondents are responsible for the damages caused to the closet doors. I find the Respondents liable to the Applicants for the costs of repairing/replacing the closet doors in the amount of \$1,038.68.

The Applicant testified and some photographs supported that four basement windows had been broken and/or seriously smoke stained. Invoices and receipts were provided supporting the claimed costs to repair/replace the windows of \$378.96. I am satisfied the Respondents are responsible for the damaged basement windows, and I find them liable to the Applicant for costs to repair/replace those windows in the amount of \$378.96.

The Applicant testified and photographs supported that basement wall panels had been damaged. The Applicant estimated at hearing the costs for the repair/replacement of the damaged wall panels at \$300 including labour, which I am satisfied is reasonable. I am satisfied the Respondents are responsible for the damaged wall panels and I find them liable to the Applicant for the costs of repairs/replacement in the amount of \$300.

The Applicant testified and provided photographic evidence that the faucet to the basement laundry sink was missing. I am satisfied the Respondents are responsible for this damage. The Applicant provided a receipt for the replacement cost of the faucet in the amount of \$24.56, which I find the Respondents liable for.

The Applicant testified that two smoke detectors were missing from the rental premises and provided receipts for the costs of replacing them in the amount of \$75.58. I find the Respondents liable to the Applicant for the costs of replacing the smoke detectors in the amount of \$75.58.

The Applicant testified and photographs support that window screens were damaged or missing, and claimed costs to repair or replace them in the estimated amount of \$420. At hearing that amount seemed reasonable, however, the Applicant subsequently provided the invoice from the company that actually repaired/replaced the window screens which amounted to \$273.58. I am satisfied the Respondents are responsible for the damaged/missing window screens and I find them liable for the costs of repair/replacement in the amount of \$273.58.

The Applicant testified that when the Respondents vacated the rental premises they did not return the keys. A claim was made for \$117.15 to replace the exterior door locks. I find the Respondents liable to the Applicant for the costs to replace the exterior door locks in the amount of \$117.15.

At hearing, the Applicant withdrew their request for replacement of one toilet.

In the application, the Applicants had claimed full costs for removal, disposal, and replacement of all the linoleum flooring and carpeting in the rental premises. While the photographs support that the carpets had not been vacuumed or steam cleaned, and that the carpets had numerous stains and marks which according to the entry inspection report were not present at move in, the entry inspection report also acknowledges that the carpets were worn at move in. The Applicant conceded at hearing that the carpets were at least 15 years old, and agreed that full replacement costs for the carpets would be unreasonable. However, the Respondents failure to clean the carpets and the pervasive smoke odour the Applicant testified came from the carpets do create damages which triggered their replacement, which the Applicant had not intended to do just yet. I am satisfied the Respondents did cause damages to the carpets justifying their replacement, however, given the age of the carpets I am only holding the Respondents liable for the costs of removal and disposal of the carpets. The Applicant testified that they did that work themselves, and estimated the value of the work at \$720, which I find reasonable.

The linoleum flooring, on the other hand, based on the evidence and testimony provided, is at least as old as the carpets and there are no damages observable in the photographs which cannot be explained by ordinary wear and tear. The Applicant agreed at hearing that it would not be reasonable to hold the Respondents liable for any costs associated with replacing the linoleum. The Applicants' claim for costs to replace the linoleum are denied.

In summary, the costs for repairs and cleaning that I am allowing are as follows:

Cleaning throughout	\$900.90
Removal and disposal of refrigerator	\$50.00
Replacement of stove	\$420.00
Replacement of washing machine	\$576.60
Repair/replace one exterior door and two interior doors	\$2,033.05
Repair/replace six closet doors	\$1,038.68
Repair/replace basement wall panels	\$300.00
Replacement of lower kitchen cabinets and counter top	\$4,307.48
Replace basement sink faucet	\$24.56
Replace two smoke detectors	\$75.58
Removal and disposal of carpets	\$720.00
Replace exterior door locks	\$117.15
Repair/replace basement windows	\$378.96
Repair/replace window screens	\$273.58
Cleaning, patching, and painting of interior walls	\$1,885.65
Total	<u>\$13,102.19</u>

Orders

An order will issue requiring the Respondents to pay rental arrears in the amount of \$196.17 and requiring the Respondents to pay costs of repairs and cleaning in the amount of \$13,102.19.

Adelle Guigon
Rental Officer