

IN THE MATTER between **AG**, Applicant, and **NR**, 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 **Janice Laycock**, Deputy Rental Officer,

BETWEEN:

AG

Applicant/Tenant

-and-

NR

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: June 12, 2019

Place of the Hearing: Inuvik, NT

Appearances at Hearing: AG as the Applicant
IA and NA as representatives for the Respondent

Date of Decision: June 17, 2019

REASONS FOR DECISION

An application to a rental officer made by AG as the Applicant/Tenant against NA as the representative for NR as the Respondent/Landlord was filed by the Rental Office on April 30, 2019. The application was made regarding a residential tenancy agreement for a rental premises located in Inuvik, Northwest Territories. The filed application was served by registered mail on the Respondent signed for on May 31, 2019.

The Applicant claimed that the Respondent had failed to return all of their security deposit and had failed to return half of their rent for the month of February despite agreeing to do so. An order was sought for the return of the remainder of the security deposit and payment of one half of a month's rent.

Tenancy Agreement - Return of Rent

The Applicant testified and evidence was provided by the Respondent, to a tenancy agreement between the parties for rental premises starting on February 01, 2019 and ending on January 31, 2020.

The Applicant testified that this tenancy was terminated at the request of the Respondent on February 14, 2019. According to the Applicant, the Respondent's representative, NA, approached him and offered him return of his security deposit and half of February's rent if he could move out by February 15, 2019. She had another tenant that was interested in the apartment. As the unit was cold and he wanted to save money, the Applicant testified that he was in agreement with this offer and moved out on the evening of February 14, 2019.

The Respondent testified that they were aware that the unit was cold and had offered the Applicant a heater and gave him the option to move to another unit. The Respondent testified and the Applicant agreed that he had refused this offer because he could not wait for a new unit and wanted to save money. The Respondent testified that it was the Applicant who wanted to terminate the tenancy, that she had agreed to return the security deposit but had made no promise about reimbursing the Applicant for one half of a month's rent. According to the Respondent the rental premises were rented to a new tenant on March 1, 2019.

Under section 50 of the *Residential Tenancies Act* "A landlord and tenant may agree in writing after a tenancy agreement has been made to terminate the tenancy on a specified date and the tenancy is terminated on the date specified." In this situation, the agreement was verbal and not in writing, and there is clearly a difference between the parties on the terms of that agreement.

Despite the lack of a written agreement, I find the Applicant's version of the verbal agreement believable. However, the *Residential Tenancies Act* (the Act) does not provide me with authority to order the return of rent to the Applicant. Various sections of the Act (56(4), 58(3), 59(3)) provide for the return of rent to the tenant when there is an overpayment and section 47 (3.1) provides for the return of a rent increase, but there is no provision in the Act that allows a Rental Officer to make an order for the return of rent in this situation. For this reason I can not order the return of rent to the Applicant.

Security Deposit

According to the Applicant, the Respondent had agreed to return all of his security deposit of \$1,485.00 at the termination of the tenancy. The Respondent testified that the Applicant had paid \$1,443.00 (not \$1,485.00) as a security deposit held on account from a previous tenancy and that \$1,343 was returned to the Applicant. The Applicant did not refute the Respondent's accounting.

According to the tenancy agreement provided as evidence by the Respondent, the rent for the rental premises was \$1,010.00. The Respondent testified that the rent also included a \$100 fee for furniture rental and because this fee was not paid in February, it was deducted from the security deposit. At the hearing I pointed out that the obligation to pay for furniture rental is not part of the tenancy agreement and can not be considered as rental arrears. For this reason the remainder of the security deposit can not be retained against the furniture rental fee and must be returned to the Applicant.

Order

An order will be issued:

- requiring the Respondent to return to the Applicant \$100 representing the reminder of the security deposit.

Janice Laycock
Deputy Rental Officer