

IN THE MATTER between **NTHC**, Applicant, and **RY**, 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 **Adelle Guigon**, Rental Officer;

BETWEEN:

**NTHC**

Applicant/Landlord

-and-

**RY**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>October 13, 2021</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>PS, representing the Applicant RY, Respondent BH, Salvation Army Case Worker</b>
<b><u>Date of Decision:</u></b>	<b>November 5, 2021</b>

### **REASONS FOR DECISION**

An application to a rental officer made by YHA on behalf of the NTHC as the Applicant/Landlord against RY as the Respondent/Tenant was filed by the Rental Office September 10, 2021. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was personally served on the Respondent September 22, 2021.

The Applicant alleged the Respondent had caused damage to the rental premises, had left the rental premises in an unclean condition, and had caused disturbances. An order was sought for payment of costs for repairs and cleaning, and for compliance with the obligation not to cause disturbances.

A hearing was held October 13, 2021, by three-way teleconference. PS appeared representing the Applicant. RY appeared as Respondent with BH appearing as the Respondent's Salvation Army Case Worker. The decision was reserved pending submission of supplementary information from the Applicant and written replies to those submissions by the Respondent. The Respondent did not provide any written replies to the supplementary submissions.

#### *Tenancy agreement*

Evidence was presented establishing a residential tenancy agreement between the parties for subsidized public housing commencing February 7, 2018. The initial rental premises assigned to the Respondent will be referenced as DA305. The Respondent was transferred from DA305 to another rental premises that will be referred to as DA201 on March 26, 2021. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

#### *Disturbances*

Evidence was presented establishing that there had been complaints received in June 2018 and May 2021 of disturbances from the Respondent's rental premises consisting of loud music, shouting, yelling, and fighting occurring during all hours of the 24-hour day. The Respondent did not dispute that there had been incidents occurring at the initial rental premises and he has made repeated efforts to resolve the source of those disturbances while accepting responsibility for the behaviours. The Applicant's representative confirmed that there have been no reported disturbances since the Respondent was transferred to the current rental premises.

I am satisfied that disturbances have occurred which originated from the Respondent's rental premises for which the Respondent is responsible. I am also satisfied that the Respondent has made reasonable successful efforts to resolve the source of those disturbances. I find the Respondent has failed to comply with his obligation not to disturb the Landlord's or other tenants' possession or enjoyment of the rental premises or residential complex.

#### *Repairs and cleaning*

##### Door lock

In December 2020 the Respondent requested that the locks to his premises be changed as there were too many people who now had copies of his keys. The building owner, Northview Canadian HY Properties, changed the locks and invoiced the Landlord \$115.50. The Landlord in turn charged the Respondent on December 23, 2020. One payment of \$41.75 was received against this charge on September 3, 2021, reducing the balance owing to \$73.75. The Respondent did not dispute the charge, accepting responsibility for it and committing to pay the debt.

I am satisfied the security of the rental premises was compromised by the Respondent's improper distribution of the keys, warranting the replacement of the lock. I find the Respondent liable to the Applicant for the outstanding balance of the costs to replace the lock in the amount of \$73.75.

##### Repairs and cleaning - DA305

Before going into the details of the claims for repairs and cleaning to rental premises DA305 I would like to remind the parties of their obligations under subsection 5(1) of the Act, which states:

*Where the landlord or tenant is liable to the other for damages as a result of a breach of a tenancy agreement or this Act, the landlord or tenant entitled to claim damages shall mitigate his or her damages.*

This means that the claimant must exercise the least costly method of repair to remedy the damages, or otherwise make their claim proportional to the loss of value created by the damages for which the other party is responsible.

The entry and exit inspections report dated February 7, 2018, and March 25, 2021, were entered as exhibits, as were photographs taken of the rental premises during the exit inspection on March 25, 2021. A damages statement prepared July 27, 2021, was also entered into evidence. No supporting invoices or work orders were provided in the application package. A revised damages statement was prepared October 18, 2021, based on the supplementary submissions provided after the hearing, as was the invoice for removal and disposal of garbage and debris.

The initial claim for damages were for the following:

1.	Cleaning throughout	\$425.00
2.	Removal of garbage and debris	\$319.49
3.	Replacement of exterior unit door and frame	\$1,500.00
4.	Replacement of exterior patio door	\$1,200.00
5.	Patching and painting walls throughout	\$3,500.00
6.	Replacement of one closet shelf	\$60.00
7.	Repairing of vinyl flooring in hallway and bathroom	\$100.00
8.	Replacement of four window screens	\$200.00
9.	Replacement of five electrical covers	\$50.00
10.	Repairing of radiator covers	\$60.00
11.	Replacement of one kitchen drawer front	\$120.00
12.	Replacement of one kitchen drawer	\$120.00
13.	Replacement of three fridge bars	\$300.00
14.	Replacement of two sink stopper	\$20.00
15.	Repairing scratched kitchen cabinets	\$300.00
16.	Replacement of two interior door	\$900.00
17.	Replacement of two light covers	\$180.00
18.	Repair of Bathroom counter and sink	\$300.00
	Sub-total	\$9,654.49
	10% Admin	\$965.45
	5% GST	\$531.00
	<b>Total</b>	<b>\$11,150.94</b>

The Respondent did not dispute the claims for items numbered 1, 2, 5, 6, 9, 10, 12, 14, 16, 17, and 18, all of which were supported in the entry and exit inspection reports and photographs, and for which I find the costs claimed to be reasonable.

The items under dispute are as follows:

### **#3. Replacement of exterior unit door and frame**

The entry inspection report documented the unit door as being in good condition. The exit inspection report documented the unit door as having damage to the outside of the frame and door. The photographs show part of the door frame in the common hallway had been damaged and patched, and shows the bottom quarter of the door and frame inside the unit significantly scratched and scraped. The damages statements described the front entrance door and frame as damaged.

When asked for clarification of why they were claiming \$1,500 to replace the door and frame when it appeared in the photographs that the door was not damaged to such a degree as to render it non-functional, the Applicant explained that it was the building owner who was claiming those costs. In subsequent email communications between the Applicant and the building owner, the building owner claimed the unit “door has been kicked in and frame damaged, doors cost roughly 1000.00, frame is another 200.00 and installation isn’t free”. Reference was also made to the installation of a door saver to repair the area around the door handle and deadbolt as a result of the damage caused by the door being kicked in. The building owner did not provide any work orders or invoices to support their claims. The Applicant’s Maintenance Manager confirmed that in August or September 2020 the door had been kicked in and the building owner had installed the door saver as a temporary fix, after which the Maintenance Manager recalls having to adjust the door frame so that the door would latch correctly. The photographs of the door do show the referenced door saver.

The Respondent also confirmed that the door had been kicked in, but denied that he caused that damage. The Respondent testified that he was not aware of the damage to the common hallway side of the frame. The Respondent acknowledged the scratches and scrapes to the bottom of the door and frame on the inside, suggesting they had been caused when he had to move furniture around when a significant water leaked occurred from the living room ceiling.

Subsection 42(1) of the Act holds the Tenant responsible for damages caused by the wilful or negligent conduct of the Tenant or persons permitted on the premises by the Tenant. The damage to the door which occurred in August or September 2020 was caused by someone kicking in the door. The Respondent denied that he kicked the door in. There is no evidence to suggest who did kick the door in. It is unlikely that the Respondent would have or would have needed to kick his own door in to gain entry. I am not satisfied the Respondent or persons permitted on the premises by the Respondent kicked the door in and, therefore, I am not satisfied the Respondent is responsible for the damages caused when the door was kicked in. The Applicant’s \$1,500 claim for costs to replace the door and frame is denied.

However, I am satisfied the Respondent is responsible for the scratches and scrapes to the bottom of the door and frame inside the premises, and that there should be costs associated with repairing that damage. The scratches and scrapes did not render the door inoperable, but they do constitute damages for which the Respondent is responsible for. The question at this point is whether the costs of repairing the damages exceeds the costs of replacing the door and frame. Given that there was no evidence provided from which to estimate the value of repairing the door and frame, I will consider estimated costs as follows:

1 hour to remove and reinstall the door and frame

0.5 hours to transport the door and frame to the workshop

1 hour to power sand the scratches and scrapes out of the inside of the door and frame

0.5 hours to prime the one side of the door and frame

1 hour to paint the one side of the door and frame

= 4.0 hours for labour x \$50 per hour = \$200 for labour

\$235 for primer + \$54 for paint = \$289 for materials

The total estimated costs to repair the dents and scratches in the patio door comes out to \$489, which is roughly a third of the costs claimed to replace the door and, therefore, is the more reasonable claim to make against the Respondent.

I find the Respondent liable to the Applicant for costs of repairing the exterior unit door and frame in the total amount of \$489.

#### **#4. Replacement of exterior patio door**

The entry inspection report documented the patio door as being in good condition. The exit inspection report documented the patio door as being dented and scratched. The photographs of the patio door show that the dents and scratches referenced in the exit inspection report, as well as the uncleanness of the patio door. The damages statements described the patio door as dented and scratched.

When asked for clarification of why they were claiming \$1,200 to replace the patio door when it appeared in the photographs that the door was not damaged to such a degree as to render it non-functional, the Applicant explained that it was the building owner who was claiming those costs. In the subsequent email communications between the Applicant and the building owner, the building

owner claimed the patio “door has been punched/dented and same thing as above, it will have to be replaced in order for someone to rent the unit”. The “same thing as above” is a reference to the costs listed for replacing the front unit door. The building owner did not provide any work orders, invoices, or supplementary photographs to support their claims.

The Respondent acknowledged the dents and scrapes to the patio door, accepting responsibility for that damage, but denied that the patio door had either been kicked in or wasn’t working properly.

I am not satisfied the patio door was either kicked in or damaged to such an extent that it could not be repaired. The question at this point, again, is whether the costs of repairing the dents and scrapes exceed the cost of replacing the door, but no evidence was provided to compare those costs. A straightforward search of the Internet for how to repair dented steel doors found relatively easy step-by-step instructions<sup>1</sup> to remove the paint from the dented area, fill the dent with auto body filler, sand the filled area smooth, and then prime and paint the door. From that I estimated the following costs to repair the dents and scratches in the patio door:

- 1 hour to remove and reinstall the patio door
- 0.5 hours to transport the patio door to the workshop
- 2 hours to sand and fill the dents and scratches on both sides of the patio door
- 1 hour to prime both sides of the patio door
- 2 hours to paint both sides of the patio door
- = 6.50 hours for labour x \$50 per hour = \$325 for labour
- \$235 for primer + \$54 for paint + \$20 auto body filler = \$309 for materials

The total estimated costs to repair the dents and scratches in the patio door comes out to \$634, which is roughly half the costs claimed to replace the door and, therefore, is the more reasonable claim to make against the Respondent.

I find the Respondent liable to the Applicant for costs of repairing the exterior patio door in the total amount of \$634.

#### **#7. Repairing of vinyl flooring in hallway and bathroom**

The entry inspection report documented the flooring throughout as damaged with scratches, nicks, and stains. The exit inspection report documented the hallway flooring as ripped and the bathroom flooring as ripped and scratched. No photographs were provided adequately depicting the

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<sup>1</sup> <https://www.familyhandyman.com/project/steel-door-repair-repair-a-dented-steel-door/>

condition of the bathroom flooring. The photographs of the hallway flooring show what appears to be a cut in the vinyl flooring and show a damaged transition strip. The damages statements describe the hallway flooring as ripped and simply refer to the bathroom as “repair flooring”.

The Respondent expressed concern that the claims for the flooring were related to damages caused by the water leak from the living room ceiling. The Applicant and the building owner both confirmed that no claims were being made for damages attributable to the water leak.

The age of the vinyl flooring was requested but not provided by the building owner. Based on its appearance and its condition at the beginning of the tenancy, it seems more likely than not that its age exceeds the 10-year average useful life for vinyl or linoleum flooring. The cut in the flooring that is evident in the photographs does not appear to be a tear but rather more like a lifting of a seam, which would constitute normal wear and tear and could also reasonably have been aggravated by the water leak. The transition strip, however, was clearly damaged as it appears to have been torn away.

While I cannot be satisfied that the Respondent is responsible for the damage to the hallway flooring, I am satisfied that the Respondent is responsible for the damaged transition strip. The \$100 being claimed to repair the vinyl flooring would instead be a reasonable claim for repairing the transition strip, and as such I will allow the \$100 claim.

#### **#8. Replacement of four window screens**

The entry inspection report documented the living room window screens as having small holes in them, the master bedroom window screen as having a bent frame, and no reference was made to the second bedroom window screen from which I presume it was present and in good condition. The exit inspection report documented the living room window screens as missing, the master bedroom window screen as missing, and again no reference was made to the second bedroom window screen from which I must presume that it was present and in good condition. The photographs show that one of the living room window screens is still in the window and the remaining three window screens are in one of the bedroom closets, including what appears to be the previously bent screen referenced in the entry inspection report.

Given that it is evident that none of the four window screens are missing and there is no evidence to suggest they were damaged any more than they already were at the beginning of the tenancy, the Applicant's claim for costs to replace them is denied.



#### **#11. Replacement of one kitchen drawer front**

The entry inspection report documented one kitchen drawer front as missing. The exit inspection report documented one kitchen drawer front as missing. The photographs show where there is a kitchen drawer front missing.

Given the observation that the kitchen drawer front was missing at the commencement of the tenancy, and subsequent inquiries by the Applicant did not reveal evidence that the missing drawer front had ever been replaced during the Respondent's tenancy, the Applicant withdrew the claim for the costs to replace the kitchen drawer front by email sent October 18, 2021.

#### **#13. Replacement of three fridge bars**

The entry inspection report documented one damaged and one missing fridge door bar. The exit inspection report documented three missing fridge door bars. The photographs of the fridge show three missing fridge door bars. The initial damages statement claimed \$300 to "replace 3 door bars in fridge". The subsequent damages statement claimed \$100 to "replace 1 door bars in fridge".

Given the observation that two of the three missing fridge door bars were either damaged or missing at commencement of the tenancy, and subsequent inquiries by the Applicant did not reveal evidence that those two fridge bars had been repaired during the tenancy, the Applicant withdrew the claim for two of the three fridge bars.

The Respondent acknowledged two of the three fridge bars were damaged when he moved in, and accepted responsibility for the third damaged fridge bar. The average useful life of refrigerators is not a consideration for this type of damage when the claim being made is for the costs of repairs.

I am satisfied the Respondent is responsible for damaging one of the three fridge doors bars. I find claim of \$100 to repair the fridge door bar is reasonable and that the Respondent liable for that cost.

#### **#15. Repairing scratched kitchen cabinets**

The entry inspection report documented the upper kitchen cabinets as having scratches. The exit inspection report documented the kitchen cabinets as having lots of scratches. The photographs of the kitchen cabinets do not show any of the scratches and are inconclusive in that regard. The damages statements described "repair scratched cabinets".

Given the pre-existing presence of scratches on the kitchen cabinets and no evidence to suggest the scratches were repaired during the tenancy, I cannot be satisfied the Respondent caused the scratches observed at the end of the tenancy. The Applicant's representative agreed and withdrew the claim for costs to repair the scratched kitchen cabinets.

The allowed claims for repairs and cleaning are as follows:

1.	Cleaning throughout	\$425.00
2.	Removal of garbage and debris	\$319.49
3.	Repair exterior unit door	\$489.00
4.	Repair exterior patio door	\$634.00
5.	Patching and painting walls throughout	\$3,500.00
6.	Replacement of one closet shelf	\$60.00
7.	Repairing of hallway transition strip	\$100.00
8.	Replacement of five electrical covers	\$50.00
9.	Repairing of radiator covers	\$60.00
10.	Replacement of one kitchen drawer	\$120.00
11.	Replace one fridge bar	\$100.00
12.	Replacement of two sink stopper	\$20.00
13.	Replacement of two interior door	\$900.00
14.	Replacement of two light covers	\$180.00
15.	Repair of Bathroom counter and sink	\$300.00
	Sub-total	\$7,257.49
	10% Admin	\$725.75
	5% GST	\$399.16
	<b>Total</b>	<b>\$8,382.40</b>

Including the costs to replace the locks, I find the Respondent liable to the Applicant for costs of repairs and cleaning in the total amount of \$8,456.15.

*Orders*

An order will issue requiring the Respondent to comply with his obligation not to cause disturbances and not to breach that obligation again (p. 43(3)(a), p. 43(3)(b)) and requiring the Respondent to pay costs of repairs and cleaning in the total amount of \$8,456.15 (p. 42(3)(e), p. 45(4)(d)).

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Adelle Guigon  
Rental Officer