

IN THE MATTER between **M.C. AND T.C.**, Applicants, and **N.C.H.Y.P.L.P.**, 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, regarding a rental premises located within the **city of Yellowknife in the Northwest Territories**.

BETWEEN:

**M.C. AND T.C.**

Applicants/Tenants

-and-

**N.C.H.Y.P.L.P.**

Respondent/Landlord

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>June 28, 2022</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, NT via teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>M.C., Applicant</b>
	<b>T.C., Applicant</b>
<b><u>Date of Decision:</u></b>	<b>June 30, 2022</b>

### **REASONS FOR DECISION**

The Respondent was served with a Notice of Attendance sent by email on May 25, 2022. The Respondent failed to appear at the hearing. In my opinion it is reasonable to deem the notice served in accordance with section 71(1)(d) of the *Residential Tenancies Act*. The matter was heard in the absence of the Respondent.

The tenancy agreement between the parties commenced on February 1, 2016. The Applicants alleged that the Respondent breached the tenancy agreement by failing to maintain the rental premises in a good state of repair and sought an order compensating them for loss suffered as a direct result of the landlord's breach. The application was filed on April 22, 2022.

A previous order (file #17268, filed on August 24, 2021) found the landlord in breach of their obligation to maintain the premises and ordered the Respondent to comply with that obligation and ordered compensation of \$3,235.95 be paid to the Applicants. The breach related to significant water infiltration during early spring, causing leaks and damage to the ceiling and outlets throughout the apartment. The Applicants used the compensation as a rent credit. Some of the damages had been repaired at the time of the hearing and the landlord pledged to complete the remaining repairs in order to resolve the problem.

The current application relates to similar water infiltration problems as well as several other maintenance issues.

The Applicants stated that the locking mechanism and door handle had been missing from a side door to the residential complex allowing unimpeded access to the building by anyone. They stated that since the application had been made the door and locking mechanism had been repaired.

The Applicants stated that the bathroom tub faucet leaked continuously. The landlord was notified in March, 2022 and inspected the faucet but had not undertaken any repairs.

The Applicants acknowledged that the Respondent had undertaken repairs to the roof and attic and repaired some water damaged areas. However, they testified that in early March, 2022 the leaking started again, coming through the bathroom fan. The Applicants stated that they notified the Respondent of the recurring problem on March 7. The Applicants stated that leaks continued to drip from the ceiling throughout March and April. Water was also entering through light switches and electrical outlets. The dripping subsided in May and June leaving the drywall damaged, bits of the ceiling falling off, and a mouldy wet smell throughout the apartment. The Applicants stated that the Respondent failed to take any action to resolve the problem.

The Applicants produced communications with the landlord and photographs of the affected areas in evidence.

Comparing the leakage during spring of 2022 to the previous spring, the Applicants stated that there was somewhat less volume of water but the affected area was the same.

The Applicants stated that they discussed the possibility of a transfer to another apartment and was told the leasing agent would be consulted, but no offers or further discussions were forthcoming from the Respondent. The Applicants stated that they have purchased a home and expect to take possession in mid July, 2022.

Clearly, the Respondent has made some effort to resolve the water infiltration, but has not been able or willing to adequately resolve the problem. There does not appear to have been any additional work done to address the water infiltration since the largely unsuccessful efforts made in 2021.

In my opinion, there is no evidence to demonstrate that the Applicants suffered any significant loss of enjoyment of the premises due to the insecure side door or the leaking tub faucet. The door has been fixed. The Applicants do not pay for water that may have been wasted due to the leaky faucet and any loss of enjoyment is, in my opinion, trivial.

The persistent annual water leakage is another matter. Although the duration of the leakage was shorter and the volume of water somewhat less than the previous spring, the disruption of full enjoyment of the premises was significant. In my opinion, it is appropriate to apply a similar formula for compensation, as was previously ordered. Taking into consideration the diminished volume of water and the shorter duration of the leakage, I find the following compensation reasonable:

March/April, 2022@20% of monthly rent ( $\$1377 \times 20\% \times 2$ months)	\$550.80
May/June, 2022@10% of monthly rent ( $\$1377 \times 10\% \times 2$ months)	<u>275.40</u>
Total	\$826.20

Any repair order(s) would provide no relief to the Applicants since they are moving. None shall issue. I have also not considered any compensation for moving expenses mentioned by the Applicants. In my opinion, while moving expenses might be appropriate in some circumstances where a landlord fails to maintain premises, there is insufficient evidence that the decision to purchase a home and terminate this tenancy was directly related to the landlord's failure to repair.

An order shall issue requiring the Respondent to pay the Applicants compensation for loss suffered as a direct result of failing to maintain the rental premises in a good state of repair and fit for habitation and the consequential disruption of the Applicants' enjoyment of the rental premises in the amount of \$826.20.

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Hal Logsdon  
Rental Officer