

IN THE MATTER between **DA**, Applicant, and **DPM**, 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**, Rental Officer, regarding a  
rental premises located within the **city of Yellowknife in the Northwest Territories**.

BETWEEN:

**DA**

Applicant/Tenant

-and-

**DPM**

Respondent/Landlord

**REASONS FOR DECISION**

**Date of the Hearing:** June 7, 2023

**Place of the Hearing:** Yellowknife, Northwest Territories

**Appearances at Hearing:** DA, Applicant  
KS, representing the Respondent

**Date of Decision:** June 7, 2023

### **REASONS FOR DECISION**

An application to a rental officer made by DA as the Applicant/Tenant against DPM as the Respondent/Landlord was filed by the Rental Office April 28, 2023. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was served by email on the Respondent on May 1, 2023.

The Applicant claimed the Respondent had failed to return their security deposit at the end of the tenancy and an order was sought requiring the Respondent to return the security deposit.

A hearing was held on June 7, 2023, by teleconference. The Applicant, DA, appeared at the hearing, as did KS, representing the Respondent.

#### *Tenancy agreement*

Evidence was presented establishing a residential tenancy agreement between the parties for the term August 15, 2022 to August 31, 2023. The Applicant provided, as evidence, their notice by email to the Respondent dated December 29, 2022. In this notice, they explained because of repeated issues relating to heating for the rental unit and because they had found a more suitable place, it was their intention to vacate the rental premises and terminate their tenancy on January 31, 2023. At the hearing, they testified they did not receive a response from the Respondent to this notice.

Under section 50 of the *Residential Tenancies Act* (the 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”. Further, under subsection 51(1) of the Act, “where a tenancy agreement specifies a date for the termination of the tenancy agreement, the tenant may terminate the tenancy on the date specified in the agreement by giving the landlord a notice of termination not later than 30 days before the termination date”.

In this case, the Applicant gave notice of termination of their tenancy eight months before the date for the termination of the tenancy agreement and did not receive agreement in writing. Based on the information provided, it is my opinion that the tenancy was not terminated according to the Act, and for the purposes of the Act, the Respondent abandoned the rental premises on January 31, 2023.

I am satisfied a valid tenancy agreement was in place in accordance with the Act, and this tenancy was terminated on January 31, 2023.

### *Security Deposit*

The parties agreed that a security deposit of \$2,000 was paid to the Respondent by September 22, 2022, in accordance with the Act and section 12 of the written tenancy agreement. An entry inspection was carried out at the beginning of the tenancy, however, no inspection was carried out at the end of the tenancy. The Respondent retained the security deposit at the end of the tenancy without any written explanation to the Applicant for doing so, in breach of the Act.

Under subsection (ss) 18(3) of the Act, "a landlord who holds a security deposit shall within 10 days after the day the tenant vacates or abandons the rental premises, ensure that (a) the deposit is returned to the tenant; and (b) the tenant is given an itemized statement of account for the deposit or deposit". Under the Act, the security deposit may be retained to pay arrears of rent or repair of damages (ss 18(4)), but can only be retained for repair of damages if both an entry and exit inspection were completed and a copy provided to the tenant (ss 18(5)). Finally, a landlord who intends to retain part or all of the deposit must give notice along with an itemized statement of the repairs required (ss 18(7) and 18(8)).

On May 30, 2023 and on June 7, 2023, the Respondent provided statements to the Applicant and the Rental Office with details on the rental account and the claims against the security deposit. The statements confirmed the security deposit paid was \$2,000 and no rent was owing at the end of the tenancy. The statement included charges against the security deposit for compensation for lost rent for the period February 1, 2023, to March 15, 2023, totalling \$3,096.77, cleaning charges of \$199.50, and suggesting that the Applicant also owed an amount, not yet determined, for a pending water bill.

At the hearing, I explained that the security deposit could not be retained for compensation for loss of future rent, and as an exit inspection was not carried out, charges for damages or cleaning could also not be claimed against the security deposit. I found that the full security deposit including interest (calculated at 8 cents) should be returned to the Applicant.

I suggested the Respondent file their own application, if they wished to pursue claims for other costs such as lost rent, cleaning, and the water bill.

*Other matters*

According to the Respondent's statement dated May 30, 2023, the Applicant had received a deduction of \$800.43 on their January rent as compensation for costs to stay at a hotel when there were heating issues with the rental premises. The Applicant provided, as evidence, another receipt for a hotel stay in November 2022, for \$564.18. The Respondent provided a revised statement on June 7, 2023 prior to the hearing. This statement removed the credit of \$800.43 and replaced that credit with the amount for the November 2022 hotel stay of \$564.18. At the hearing, the Applicant explained that the November cost was in addition to the \$800.43 cost previously credited by the Landlord, and the Respondent (although previously providing a credit) disputed the need for a hotel stay and the associated claim for costs.

At the hearing, I pointed out that a claim for compensation related to the heating issues in the rental premises is outside the purpose of this application, and the Applicant has not provided evidence to support this claim. The Applicant testified they were satisfied with the credit they had previously received and the return of the security deposit, and would not be pursuing a further claim for the November hotel stay.

*Orders*

An order will issue to return the security deposit with interest in the amount of \$2,000.08 (ss 18.1 (b)).

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Janice Laycock  
Rental Officer