

IN THE MATTER between **M.E.**, Applicant, and **A.G.**, 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,

BETWEEN:

M.E.

Applicant/Tenant

-and-

A.G.

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 24, 2023
<u>Place of the Hearing:</u>	Yellowknife, NT via teleconference
<u>Appearances at Hearing:</u>	M.E., Applicant
	A.G., Respondent
<u>Date of Decision:</u>	November 23, 2023

REASONS FOR DECISION

The Applicant alleged that the Respondent had breached the tenancy agreement by failing to maintain the premises in a state of good repair and sought an order requiring the Respondent to reimburse him for repair expenses paid on behalf of the Respondent.

The premises consist of an apartment (Apt B) contained in a residential complex of two apartments. The Applicant stated that a written tenancy agreement had been executed with the Respondent in July, 2022 but, despite his repeated requests, he had not been provided with a copy of the agreement. The Applicant provided a notice of rent increase for the premises in evidence dated March 31, 2023 to be effective on July 1, 2023.

The Respondent acknowledged that a tenancy agreement had been executed but was unable to produce a copy. She acknowledged receiving rent from the Applicant. The Respondent stated that the premises (Apt B) are owned by Y.E. and the other apartment (Apt A) in the residential complex is owned by herself. She stated that Y.E. was the rightful landlord and should be responsible for the maintenance of the premises.

The Respondent stated that she had petitioned the court to order the rent for the premises (Apt B) be directed to her. The Respondent testified that an order was granted in July, 2022 ordering "Any rent payable by the tenants occupying the property (described) shall pay rent directly to the petitioner" The Respondent did not produce a copy of the court order. The parties agreed that after the issuance of the order they executed a monthly tenancy agreement.

The issue of who is the legal landlord could not be definitively determined with the evidence available at the hearing. The *Residential Tenancies Act* defines landlord as:

landlord includes the owner, or other person permitting occupancy of rental premises, and his or her heirs, assigns, personal representatives and successors in title and a person, other than a tenant occupying rental premises, who is entitled to possession of a residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent;

The ownership of the property is critical in determining if the Respondent is indeed the landlord. There is no doubt that the Respondent has enforced the landlord's right to collect rent and indeed to raise the amount of monthly rent. However, unless the Respondent is an owner or otherwise entitled to possession, they can not be considered the landlord.

The Respondent was directed to provide evidence of the ownership of the property(s) in question as well as the court order directing rent payments to her. No evidence was received,

As a rental officer, I made inquiries as to the ownership of the land and was advised in writing by the town of Norman Wells that both rental premises (Apt A and Apt B) occupied a single lot. The title of that lot was searched at the Land Titles Office and confirmed to be jointly owned by the Respondent and Y.E.. This information was provided to both parties for comments. The Respondent replied stating, "the property (A) and (B) is on a single lot but is under two separate titles." The evidence indicates otherwise.

I find the Respondent meets the definition of landlord and a valid tenancy agreement exists between the Applicant and the Respondent. Consequently the Respondent is obligated to maintain the premises in accordance with section 30 of the *Residential Tenancies Act*.

Reimbursement for Repairs

The Applicant provided correspondence with the Respondent regarding necessary repairs to the premises and receipts outlining repairs that he had arranged and paid for.

December 31, 2022	Unclogging kitchen and laundry drains	\$273.00
January 9, 2023	Boiler failure, repair and parts	159.74
December 1, 2022	Boiler, repair and parts	411.60
May 4, 2022	Hot water heater replacement	301.88
March 3, 2022	Unspecified labour/materials	323.94

The Respondent disputed the costs incurred prior to July, 2022 when the current tenancy agreement commenced. An application for these costs should have been made within 6 months of the end of that tenancy. Therefore the costs associated with the March 3, 2022 and May 4, 2022 invoices are denied.

The unclogging of drains is normally considered to be due to tenant negligence unless some fault of the draining system is indicated. Finding no evidence of any plumbing defect, the December 31, 2022 costs are also denied. I find the remaining costs of \$571.34 to be reasonable and the responsibility of the Respondent.

Although the Applicant provided photographs of other items in the premises requiring repairs, he sought only compensation for the above noted repairs. The Applicant did not seek other remedies "at this time". Since the primary issue of this dispute appears to have been the question of who is the landlord, I suggest the parties review any outstanding repair issues and try to mutually determine if they were a result of the Applicant's negligence, normal wear and tear, or damages that existed prior to the commencement of the tenancy agreement. A future application may be filed if the parties are unable to resolve these issues.

I find the Respondent in breach of their obligation to maintain the premises in a reasonable state of repair and find the expenditures claimed by the Applicant to be reasonable and adequately documented. An order shall issue requiring the Respondent to pay compensation to the Applicant in the amount of \$571.34.

Hal Logsdon
Rental Officer