

IN THE MATTER between **MBL and BS**, Applicants, and **SH and OP**, Respondents;

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:

MBL and BS

Applicants/Landlords

-and-

SH and OP

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 30, 2024
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	MBL and BS, Applicants RS, TPM, witness for the Applicants CB, MRL, representing the Applicants SH, the Respondent and on behalf of Oscar Pond
<u>Date of Decision:</u>	November 4, 2024

REASONS FOR DECISION

An application to a rental officer made by MBL and BS as the Applicant/Landlord against SH and OP as the Respondents/Tenants was filed by the Rental Office September 17, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was deemed served on the Respondents by email on October 7, 2024.

The Applicant claimed the Respondents had abandoned personal property after their tenancy ended, and was responsible for costs to store and dispose of the property, as well as outstanding utilities. An order was sought for payment of costs to store and dispose of the personal property and to pay outstanding utilities.

A hearing was held on October 30, 2024, by three-way teleconference. The Applicants, MBL and BS, appeared at the hearing. RS from TPM, and CB, Legal Counsel from MRL, also appeared at the hearing representing the Applicants. SH appeared at the hearing on behalf of herself and OP.

At the hearing, it was clarified that the spelling of the Applicant's name is BS not S and the style of cause was amending accordingly.

I reserved my decision at the hearing in order to further review the evidence and testimony of the parties.

Previous order

Previous Rental Officer Order #18076, MBL and BS v SH and OP, was issued on February 29, 2024:

1. Requiring the Respondents to pay rental arrears totalling \$2,707.99 (p. 41(4)(a) and subsection 67(4));
2. Requiring the Respondents to pay costs to remove and store abandoned property totalling \$1,945 and requiring them to remove this property by March 31, 2024 (p. 45(4)(d), ss. 64(6) and ss. 83(2));
3. Authorizing the Applicants to dispose of property not removed by the Respondents by March 31, 2024, and to compensate the Applicants for reasonable costs to remove and dispose of the abandoned property (p. 65(1) and ss. 83(2));
4. Requiring the Respondents to pay costs of repairs and cleaning in the amount of \$2,635.51 (p. 42(3)(e) and p. 45(4)(d));
5. Requiring the Respondents to compensate the Applicant for losses suffered as a direct result of failing to maintain the utilities' accounts to the rental premises in the amount of \$1,191.83 (p. 45(4)(d)).

At the hearing, the Respondent testified they had been making payments to the Applicant. After some discussion, the parties agreed that payments had been made and applied against the previously order amounts, the previous order had not yet been satisfied, and no payments had been applied against the amounts claimed in this application.

Tenancy agreement

A copy of the written tenancy agreement was not provided with this application, however, according to the reasons for decision for previous Rental Officer Order #18076, a residential tenancy agreement was entered into between the parties commencing on April 1, 2014, was terminated by agreement on July 17, 2023, and the Respondents vacated the rental premises on October 18, 2023. The parties agreed at the hearing.

I am satisfied a valid tenancy agreement was in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Abandoned personal property

Previous Rental Office Order #18076 required the Respondents to remove their property by March 31, 2024. According to the evidence and testimony of the Applicant, the Respondents were not able to do this as the items which were stored outside were frozen to the ground. The Applicant allowed the Respondents to keep their personal property at the rental premises until April 30, 2024, for an additional \$200 in storage fees and \$100 for rental of fencing. The Respondents agreed to pay these amounts.

At the end of April 2024, the Applicants entered into a purchase and sale agreement to sell the premises, the agreement required the Applicants to deliver up vacant possession of the rental premises by July 2, 2024.

The property was not removed by April 30, 2024, because the weather continued to be cold, and the Applicants agreed to let the Respondents remove the property by May 31, 2024, with additional costs of \$200 for storage and \$100 for fencing during May.

The property was not removed by May 31, 2024, and the Applicant proceeded to charge the Respondents for costs totalling \$600 for storage and fence rental for April and May 2024. An invoice #154551 from TEL, was issued on July 12, 2024, detailing the costs to remove and dispose of the abandoned property:

- \$1,512.18 - waste bin rental, dump fees, two trips to landfill;
 - \$1,200.00 - labour to load bin, clean yard (two man crew 16 hours at \$75/hour);
 - \$ 60.00 - GST
- \$2,772.18 - disposal of abandoned property
\$ 600.00 - storage and fence rental for April and May 2024
\$3,372.18 - total

At the hearing, the Respondent did not challenge these costs, agreeing they are responsible for not removing their property.

Based on the evidence and the testimony, I am satisfied that the Respondents did not comply with part three of Previous Rental Officer Order #18076, and are responsible for reasonable costs to store and dispose of the abandoned property. I find the Respondents owe the Applicants \$3,372.18 and an order will be issued for that amount.

In their application, the Applicants also claimed an additional \$136.50 to clean up property later found in the crawlspace under the rental premises. They provided invoice #154550 from TE dated July 12, 2024, for costs to "remove garbage and debries from under the home" - 2 hours at \$65/hour plus GST.

The Applicant testified the property discovered under the unit appeared to be similar to other property abandoned by the Respondents - clothing and books, and had only been discovered when they went under the rental unit to do some repairs. As they had to move the property to access this area and the Respondents had been in the unit for nine years, they felt it clear that the property belonged to the Respondents.

The Respondent testified that the property was not theirs, and questioned why they should have to pay this additional cost. They also expressed concern with this new charge, wondering what other charges will be brought forward in the future. They later sounded less sure about the property and stated that they just wanted to be done with this matter and know how much they had to pay.

At the hearing, I questioned why this claim is coming up now, almost a year after the Respondents vacated the rental premises. Although, I believe it likely, the property was stored under the unit during the Respondent's tenancy by the Respondents, I am denying the Applicants' claim for an additional \$136.50 to clean up property found under the rental unit.

Under subsection 68(1) of the Act, an application by a landlord must be made within six months after the breach of an obligation under the Act or tenancy agreement arose. Subsection 68(3) allows a rental officer to extend the time for making the application if it is not unfair to do so.

I believe it was as a result of an oversight on the part of the Landlord, that the property was not discovered in the fall of 2023, when this breach occurred, and included in the original application filed with the rental office. I see no reason to extend the time for making this application.

Utilities

The Applicant also claimed that the Respondents had an outstanding charge of \$64.79 for City of Yellowknife utilities that the Landlord had paid. They provided, as evidence, a copy of a City of Yellowknife transaction journal, and copy of City of Yellowknife invoice to SH, dated June 30, 2024 for \$64.79. According to the transaction journal, the amount owing at the end of October was \$322.43. This amount was included in the previous application and ordered paid under Rental Officer Order #18076. Further, the transaction journal shows the amount owing on November 30, 2024, was \$56.75 and with penalties as of June 30, 2024, was \$64.79.

At the hearing, I denied the Applicants' claim for \$64.79, pointing out that Respondent's vacated the rental premises in October 2023, and the charges according to the Applicants' evidence, were for the provision of water during the month of November 2023. It may be that through some error, the account was not transferred to the Landlord, and remained in the name of the Respondents, however, they did not use the service, as they were not occupying the rental premises and in my opinion were not responsible for the costs.

Order

An order will issue requiring the Respondents to pay the Applicant costs to store and dispose of the abandoned property totalling \$3,372.18 (ss. 65(1) and ss. 83(2)).

Janice Laycock
Rental Officer