

IN THE MATTER between **JACQUELYN FRASER**, Applicant, and **KHAI NGUYEN**, 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 the rental premises at **YELLOWKNIFE, NT**.

BETWEEN:

**JACQUELYN FRASER**

Applicant/Tenant

- and -

**KHAI NGUYEN**

Respondent/Landlord

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 30(4)(d) of the *Residential Tenancies Act*, the respondent shall pay compensation to the applicant for the costs of repairs which she has incurred on his behalf in the amount of nine hundred six dollars and twenty one cents (\$906.21).

DATED at the City of Yellowknife, in the Northwest Territories this 16th day of April, 2003.

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Hal Logsdon  
Rental Officer

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AND IN THE MATTER of a Hearing before **Hal Logsdon**, Rental Officer.

BETWEEN:

**JACQUELYN FRASER**

Applicant/Tenant

-and-

**KHAI NGUYEN**

Respondent/Landlord

**REASONS FOR DECISION**

**Date of the Hearing:** April 8, 2003

**Place of the Hearing:** Yellowknife, NT

**Appearances at Hearing:** Jacquelyn Fraser, applicant  
Andreas Tesfaye, witness for the applicant  
Khai Nguyen, respondent

**Date of Decision:** April 16, 2003

**REASONS FOR DECISION**

The applicant rented premises from the respondent from July 1, 2001 to June 30, 2002. On May 28, 2002 the hot water tank ruptured causing flooding in portions of the premises. The applicant testified that an agreement had been reached with the respondent whereby she would pay for the cleaning of the carpets and the landlord would pay for the replacement of the water tank. The applicant contracted the replacement of the hot water tank and forwarded the invoice to the respondent for payment. The applicant testified that she had assumed the bill was paid by the landlord until the contractor recently notified her that it was still outstanding.

The applicant provided a statement from the contractor which indicated outstanding charges, including interest in the amount of \$906.21. The applicant sought an order requiring the respondent to pay the bill.

The respondent testified that the escape of water had caused serious damage to the premises and that he had requested the applicant to notify him prior to making any repairs costing over \$500. He indicated that if he had been notified, he would have chosen to replace the tank in another manner. The respondent also alleged that the applicant failed to pay for the full cost of water during the tenancy. He provided statements indicating outstanding water charges at the end of the tenancy in the amount of \$579.14 and testified that he had paid them.

Neither party produced a tenancy agreement but the parties agreed that the landlord was

responsible for repairs to the premises and the tenant was responsible for the cost of water during the tenancy.

I note that the incident that gave rise to this application occurred more than six months ago.

Given that the applicant was unaware that the invoice remained outstanding and assumed that the issue had been resolved, I do not feel it is unfair to either party to extend the time limit for making this application.

There is no evidence to suggest that the hot water tank ruptured due to any negligent act on the part of the tenant. It appears from the evidence that the parties agreed that the tenant would undertake repairs and the respondent would pay for them. The \$500 limitation is not, in my opinion, particularly relevant. Having been notified of the problem, the respondent was obligated to address it. The costs are reasonable and if the respondent had any concerns about the costs, he should have contracted the work himself.

In my opinion, the respondent can not offer the allegation of non-payment of the water bills or damages to the premises as a result of the flooding as a defence against the allegation that he failed to repair the premises. If the respondent feels that the tenant damaged the premises through her negligence or failed to pay for water during the tenancy, those allegations should be contained in an application so that the tenant may respond to them.

There is no provision in the Act to issue an order requiring a landlord to pay costs to a third party

which the tenant has incurred. As the work was contracted by the tenant, it is the tenant's obligation to pay the contractor. Compensation is the most appropriate order in this situation. An order shall be issued requiring the respondent to pay the applicant repair costs that the applicant has incurred in the amount of \$906.21.

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Hal Logsdon  
Rental Officer