

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **GLENN DOUGLAS AND SHANNON WARD**, 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, **HAL LOGSDON**, Rental Officer, regarding the rental premises at **YELLOWKNIFE, NT**.

BETWEEN:

NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Applicant/Landlord

- and -

GLENN DOUGLAS AND SHANNON WARD

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 18(5) of the *Residential Tenancies Act*, the applicant shall return a portion of the security deposit to the respondents in the amount of two hundred eighteen dollars and twenty four cents (\$218.24).

DATED at the City of Yellowknife, in the Northwest Territories this 3rd day of October, 2005.

Hal Logsdon
Rental Officer

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-and-

GLENN DOUGLAS AND SHANNON WARD

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REASONS FOR DECISION

Date of the Hearing: September 15, 2005

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Krista Cooper, representing the applicant
Shannon Ward, respondent (by telephone)

Date of Decision: September 30, 2005

REASONS FOR DECISION

The applicant alleged that the respondents vacated the premises on or about August 8, 2005 without having paid the full amount of rent. The applicant retained the security deposit, deducting rent arrears and cleaning charges and demanded that an additional sum of \$1149.01 be paid. The applicants disputed the rent arrears, stating that the agreed upon rent for the premises was \$1025.00, and the applicant adjusted the rent account and security deposit statement and demanded \$924.01. The respondents failed to pay the amount and the applicant filed an application to a rental officer on August 22, 2005. The applicant seeks an order requiring the respondents to pay \$924.01 as per the revised statement.

The parties had agreed to enter into a tenancy agreement for Apartment #302 but when the tenancy agreement was executed, Apartment #302 was being renovated and was not available for occupancy. The parties instead entered into a six month tenancy agreement for Apartment #214 at a monthly rent of \$1025.00. The respondents testified that they were told the rent would be the same when they were able to take occupancy of #302 and the tenancy agreement does contain a note stating "Tenants will take over #302RLS". Apartment #302 was not available until April 1, 2005 and the tenants took occupancy on that date. No new tenancy agreement was executed.

The revised security statement makes the following deductions from the deposit resulting in a balance owing to the landlord of \$924.01.

Security deposit	\$1000.00
Interest	13.24
Cleaning	(187.25)
Rent arrears	<u>(1750.00)</u>
Amount due landlord	\$924.01

The rent arrears have been calculated as follows as indicated on the revised statement of rent provided by the applicant in evidence.

Rent (April-July @ \$1025)	\$4100.00
Rent - (August @\$1225)	1225.00
Amounts paid	<u>(3575.00)</u>
Rent arrears	\$1750.00

The respondents did not agree that the revised security deposit statement reflected rent charged as per the tenancy agreement in the amount of \$1025.00. My review of the statements confirms that for the months of April to July, 2005, the monthly rent was \$1025.00. However, the landlord has charged the August rent at a higher rate of \$1225.00.

The respondents stated that they gave written notice to the landlord on June 30, 2005 and provided a copy of the notice in evidence. The applicant stated that she had no record of receiving it but the respondents stated they delivered it to the landlord's office when they paid the July rent. The applicant stated that the respondents failed to vacate the premises until August 8, 2005 when the keys were returned. The respondents stated that they left the apartment on July 31, 2005 returning only to clean and had expected to return the keys when the landlord scheduled a final inspection of the premises. The respondents stated that they finally returned the keys to the landlord's offices on August 8, 2005 because they were leaving town on that day.

The respondents disputed the deductions for cleaning stating that the premises were very clean. The applicant provided no evidence of the requirement for cleaning. The applicant stated that she had a written check-out inspection. Since the document had not been submitted with the application or provided to the respondents, I have not considered it.

After reviewing the evidence I find the rent arrears to be \$525.00 calculated as follows:

Rent (April - July @ 1025)	\$4100.00
Amount paid	<u>(3575.00)</u>
Rent arrears	\$525.00

I also find the respondents maintained possession of the rental premises from August 1-8, 2005 after the tenancy agreement was terminated by their notice. The landlord is entitled to compensation for overholding in the amount of \$270.00. While it may be true that the respondents only returned to the apartment to clean after July 31, 2005, they maintained their access to the premises and exercised that access. I find no evidence to support the deductions for cleaning. Taking into account the retained security deposit and interest I find an amount due to the respondents of \$218.14 calculated as follows:

Security deposit and interest	\$1013.24
less rent arrears	<u>(525.00)</u>
Security deposit to be returned	\$488.24
less compensation for overholding	<u>(270.00)</u>
Amount due respondents	\$218.24

An order shall issue requiring the applicant to return a portion of the security deposit in the amount of \$218.24.

Hal Logsdon
Rental Officer