

IN THE MATTER between **VERONIQUE SCHELL**, Applicant, and **MICHEL DESJARDIN AND JEANANN CAMPBELL**, 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 **HAY RIVER, NT**.

BETWEEN:

**VERONIQUE SCHELL**

Applicant/Landlord

- and -

**MICHEL DESJARDIN AND JEANANN CAMPBELL**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 14(6)(a) of the *Residential Tenancies Act*, the respondents shall pay the applicant the required security deposit in the amount of seven hundred dollars (\$700.00).
2. Pursuant to section 54(4) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as #11, 102nd Street, Hay River, NT shall be terminated on December 15, 2005 and the respondents shall vacate the premises on that date, unless the security deposit is paid in full.

DATED at the City of Yellowknife, in the Northwest Territories this 30th day of November, 2005.

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Hal Logsdon  
Rental Officer

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BETWEEN:

**VERONIQUE SCHELL**

Applicant/Landlord

-and-

**MICHEL DESJARDIN AND JEANANN CAMPBELL**

Respondents/Tenants

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>November 30, 2005</b>
<b><u>Place of the Hearing:</u></b>	<b>Hay River, NT via teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>Veronique Schell, applicant Michel Desjardin, respondent</b>
<b><u>Date of Decision:</u></b>	<b>November 30, 2005</b>

**REASONS FOR DECISION**

The applicant alleged that the respondents had carried on a criminal act in the rental premises, disturbed the landlord, failed to pay for utilities and failed to provide a security deposit in accordance with the tenancy agreement. The applicant sought an order requiring the respondents to pay the alleged outstanding utility payments and terminating the tenancy agreement.

I note that only two of the respondents named in the application are tenants. The style of cause of the order shall be amended to show only the names of the joint tenants.

The applicant served a notice of early termination on the respondents on October 13, 2005 seeking vacant possession on October 31, 2005. The respondents failed to vacate the premises.

The applicant testified that the RCMP had notified her that one of the respondents had threatened to cause harm to her if she attempted to enter the rental premises. She also stated that one of the respondents had threatened to burn down the premises while in the Northland Utilities office. She also alleged that the respondents had been abusive and threatening while she was at the premises. There do not appear to have been any charges laid by the police.

The applicant provided a copy of the tenant ledger which indicated a balance owing in the amount of \$1331.56 which included the outstanding security deposit of \$700. Beside rent, the ledger includes charges for utilities which were to be paid to the landlord.

The respondent disputed that there was any rent owing and stated that the landlord had agreed to provide a rebate for electricity costs as her garage used electricity through the same service. He also disputed the charge for the fuel in the tank at the commencement of the tenancy.

In my opinion, there is not sufficient evidence to indicate that an illegal act was committed on the premises or that there was a threat uttered. One would assume that if the threat was made through the police, a charge would be laid. On the balance of evidence, I can not find that the respondents have disturbed the landlord or committed a criminal act on the rental premises.

In the matter of rent and/or utilities owing, I find no arrears. In fact, I find a credit balance of \$459.40 based on the following:

1. The security deposit of \$700 has not been paid but appears on the ledger as a debit.
2. The applicant has charged the respondents for the value of fuel which was in the tank at the commencement of the tenancy agreement in the amount of \$575. The tenancy agreement obligates the respondents to pay for fuel during the term of the tenancy and states,

**The amount of fuel left in the tank at the time of occupancy is: 5/8 full (over 1/2 tank). The tenant is responsible for leaving the same amount of fuel in the tank upon vacating the premises.**

Besides being a totally impractical method, charging the value of the fuel in the tank to the respondents at commencement and then requiring them to leave the tank 5/8 full at termination would result in the respondents paying for 5/8 of a

tank of fuel that they did not consume.

3. The applicant has charged the respondents \$415.96 for power which was consumed at other premises. The applicant stated that she paid the power bill as a favour to the respondents. In my opinion, this is a personal loan and unrelated to the tenancy agreement. The amount is not rent or any other charge which the tenants are obligated to pay pursuant to the tenancy agreement. I have no jurisdiction in this matter and can not consider it a liability of the respondents under the tenancy agreement.
4. The parties agreed that there was an agreement to reduce the charge for power in consideration of the power consumed by the applicant's garage. The applicant stated that she had agreed to reduce any monthly bill that exceeded \$110-115 by \$50 yet has not done so on the ledger. My review of the ledger indicates that there should be an additional credit of \$100 for the months of September and October, 2005.

Notwithstanding the security deposit, I find a credit balance on the rent/utilities ledger of \$459.40

calculated as follows:

Balance on ledger - October 27/05	\$1331.56
Rent - November	700.00
Payment - November 3/05	(700.00)
Security deposit	(700.00)
Charges for fuel reversed	(575.00)
Loan to pay power reversed	(415.96)
Power credit applied	<u>(100.00)</u>
Credit balance on account	(\$459.40)

In the matter of the security deposit, the ledger indicates that it is still outstanding in the amount of \$700. It appears that a payment was initially taken as the deposit but applied to rent in May, 2005.

I find the respondents in breach of their obligation to pay the required security deposit. I find the outstanding deposit to be \$700. In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the deposit is promptly paid. An order shall issue requiring the respondents to pay the applicant the security deposit of \$700 and terminating the tenancy agreement on December 15, 2005 unless that deposit is paid in full. The credit balance may be applied to future rent or to the partial satisfaction of the order.

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Hal Logsdon  
Rental Officer