

IN THE MATTER between **MIKE MADUKE**, Landlord, and **LUCIE RANGER AND DWAYNE KING**, Tenants;

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:

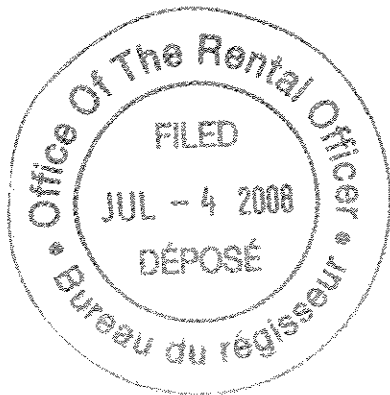
MIKE MADUKE

Landlord

- and -

LUCIE RANGER AND DWAYNE KING

Tenants



ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the tenants shall pay the landlord rent arrears in the amount of five thousand five hundred fifty three dollars and forty one cents (\$5553.41).
2. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the tenants shall comply with their obligation to not keep pets on the rental premises without the permission of the landlord.
3. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the tenants shall comply

with their obligation to pay for the cost of water during the term of the tenancy agreement.

4. Pursuant to section 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 36B Otto Drive, Yellowknife, NT shall be terminated on July 31, 2008 and the tenants shall vacate the premises on that date, unless the rent arrears are paid in full.

DATED at the City of Yellowknife, in the Northwest Territories this 3rd day of July, 2008.



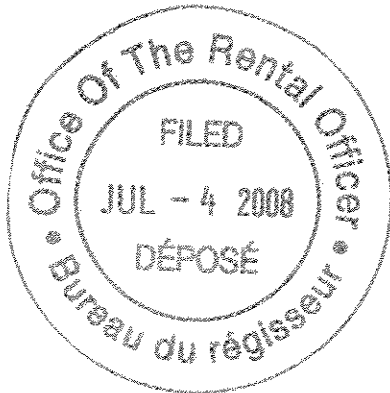
Hal Logsdon
Rental Officer

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BETWEEN:



MIKE MADUKE

Landlord

-and-

LUCIE RANGER AND DWAYNE KING

Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	April 29, 2008, continued on June 10 and July 02, 2008
<u>Place of the Hearing:</u>	Yellowknife, NT
<u>Appearances at Hearing:</u>	Mike Maduke, landlord Lucie Ranger, tenant Dwayne King, tenant (April 29 and June 10)
<u>Date of Decision:</u>	July 2, 2008

REASONS FOR DECISION

The landlord's application was filed on April 3, 2008 and the tenants' application was filed on April 10, 2008. As both applications relate to the same tenancy agreement and the same rental premises both matters were heard at a common hearing.

The landlord alleged that the tenants had breached the tenancy agreement by failing to pay rent and sought an order requiring the tenants to pay the alleged rent arrears and terminating the tenancy agreement.

The tenants alleged that the landlord had breached the tenancy agreement by failing to maintain the premises in a good state of repair. Specifically, they alleged that the heating equipment, which served two suites contained in the residential complex, made it difficult to determine each tenant's fair share of the heating costs. The tenants also alleged that the heating system was faulty as the fuel consumption was excessive. The tenants sought an order requiring the landlord to make necessary repairs to lower the heating costs and compensation for fuel that they had paid for which was the responsibility of the other tenants.

The matter was adjourned on April 29 to permit the rental officer an opportunity to inspect the premises and to give the parties an opportunity to submit any invoices for fuel which had been paid. The landlord was also directed to submit any invoices for fuel that had been paid by the other tenants.

The rental officer inspected the premises on May 6, 2008 with the landlord and tenants in attendance.

The duplex is heated with a single oil-fired hot water boiler and supplied with fuel from a single fuel tank. The boiler and other utilities are located in a partial basement which is heated. The headers and some of the concrete wall are insulated on the inside. It was not possible to determine if there was any rigid insulation below grade on the outside of the foundation wall. The boiler was operating during the inspection. There did not appear to be any problems with the mechanical system which would result in the excess consumption of fuel. There were a few small voids where pipes used to be routed into the building that need to be sealed but none would permit the volume of air infiltration that would seriously affect the fuel consumption.

The tenants invited a plumber to attend the premises and point out to the rental officer why the premises consumed so much fuel. The tenants stated that this plumber was familiar with the heating system and had noted a number of major problems to them previously. When the plumber arrived, he stated that he was not aware of any problems which would be code violations or any malfunction of the heating plant.

Prior to leaving the premises, I noticed that two windows and a patio door were open although the outside temperature was 5C. The inside of the premises was at least 20C if not more. The landlord stated that when he had attended the premises in the past, it was always quite warm.

I can find no deficiencies with the premises that would result in the unreasonable consumption of fuel. In my opinion, any higher than normal consumption is most likely attributable to the lifestyles of the tenants. It may be the case that the ventilation in the building is poor and the tenants are opening windows during cold weather and turning up the thermostat.

Both parties submitted invoices for fuel to the rental officer. Since each tenant is obligated to pay for fuel, the total cost of fuel should be divided by two to arrive at the tenants' share of the expense. Deducting the amount previously paid by the tenants results in a credit of \$396.59, calculated as follows:

Cost of fuel paid for by Ranger/King	\$5458.44
Cost of fuel paid for by Maduke and other tenants	<u>4665.26</u>
Total cost of fuel for period	\$10,123.70
Tenants' share (50%)	\$5061.85
Previously paid	<u>5458.44</u>
Tenants' credit	\$396.59

Both parties agreed that the above calculations were a reasonable division of the fuel costs between the two premises.

In the matter of rent arrears, the landlord testified that the rent had not been paid in full in February, 2008 and no rent had been paid in March, April and July, 2008. The landlord testified that the rent arrears were \$5950 calculated as follows:

February/08	\$1000
March/08	1650
April/08	1650
July/08	<u>1650</u>
Total arrears	\$5950

The landlord stated that he had no objection to continuing the tenancy agreement provided the rent arrears were promptly paid and suggested that they be paid by July 31, 2008. The tenant agreed to that date.

The landlord also alleged that the tenants had failed to pay for the full amount of water during the term of the tenancy agreement and testified that their account with the City of Yellowknife was in arrears. The landlord also alleged that the tenants kept pets on the premises without his permission.

The tenant acknowledged that the water account was in arrears and that she had cats and a ferret as pets. She stated that the landlord was aware of the pets and had never objected to them previously. The written tenancy agreement between the parties requires the tenants to pay for water during the term of the agreement and prohibits pets on the premises without the landlord's permission.

Although I find the consumption of fuel for the premises considerably higher than expected, I can find no breach of the landlord's obligation to maintain the premises in a good state of repair. The current arrangement for fuel (whenever the tank runs low, someone buys some fuel) is totally unmanageable. I suggest in the future that the landlord arrange for automatic delivery in his name and bill each tenant accordingly, providing them with the invoices as his proof of purchase on their behalf. I also suggest that the tenants consider some conservation measures to reduce their consumption.


I find the tenants in breach of their obligation to pay rent. Deducting the accumulated credit for fuel, I find the amount of rent owing to be \$5553.41 calculated as follows:

Rent arrears	5950.00
less fuel credit	<u>(396.59)</u>
Rent owing landlord	\$5553.41

In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the arrears are promptly paid. An order shall issue requiring the tenants to pay the landlord rent arrears in the amount of \$5553.41 and terminating the tenancy agreement on July 31, 2008 unless the rent arrears are paid in full.

I also find the tenants in breach of their obligation to pay for water and to not keep pets on the premises. The tenants shall be ordered to comply with the obligation contained in their tenancy agreement regarding pets either by obtaining the permission of the landlord or removing the pets from the premises. The tenants shall also to comply with their obligation to pay for water during the term of the tenancy agreement.

This decision was made known to the parties at the conclusion of the hearing.



Hal Logsdon
Rental Officer