

IN THE MATTER between **NORTHERN PROPERTY LIMITED PARTNERSHIP**,
Applicant, and **MATTHEW LAFFERTY**, 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:

NORTHERN PROPERTY LIMITED PARTNERSHIP

Applicant/Landlord

- and -

MATTHEW LAFFERTY

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent shall pay future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 20th day of May,
2009.

Hal Logsdon
Rental Officer

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BETWEEN:

NORTHERN PROPERTY LIMITED PARTNERSHIP

Applicant/Landlord

-and-

MATTHEW LAFFERTY

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: May 13, 2009

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Connie Diener, representing the applicant
Matthew Lafferty, respondent

Date of Decision: May 19, 2009

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement unless the arrears were paid in full.

The parties entered into a tenancy agreement on January 1, 2009 for premises at 5465 - 52nd Street. The parties mutually agreed to terminate that tenancy agreement on March 1, 2009 and enter into a new tenancy agreement for premises at Garden town homes. There were no damages to the 52nd Street premises but there were rent arrears in the amount of \$26.55.

Rather than deduct rent arrears from the \$1425 security deposit and accrued interest held by the applicant, the security deposit principal was applied to the Garden town homes account and that account debited with the \$26.55 rent arrears. The accrued interest was not returned to the tenant or credited to the Garden town homes account. The Garden town homes account was also debited with the difference between the two security deposit principals (\$425).

Section 18 of the *Residential Tenancies Act* requires a landlord to return the security deposit and interest to the tenant less any repair costs or rent arrears after a tenant vacates rental premises.

18.(1) Subject to this section, where a landlord holds a security deposit the landlord shall, within 10 days after the tenant vacates or abandons the rental premises,

- (a) return the security deposit to the tenant with interest; and**
- (b) give the tenant an itemized statement of account for the**

security deposit.

- 2) A landlord may, in accordance with this section, retain all or part of the security deposit for repairs of damage caused by a tenant to the rental premises and for any arrears of the rent.**
- (3) Where a landlord objects to returning all or a part of the security deposit on the grounds that a tenant has caused damage to the rental premises and repairs to the rental premises are necessary or the tenant is in arrears of the rent, the landlord shall, within 10 days after the tenant vacates or abandons the rental premises,**
 - (a) send a notice to the tenant and a rental officer of the intention of the landlord to withhold all or part of the security deposit;**
 - (b) give the tenant an itemized statement of account for the security deposit;**
 - (c) give the tenant an itemized statement of account for the repairs or arrears of the rent; and**
 - (d) return the balance of the security deposit with interest to the tenant.**

Therefore the balance of the security deposit, including the interest should have been returned to the respondent or credited to the Garden town homes account at his option. The applicant did not know when the security deposit had been paid but assumed it had been paid in full at the commencement of the tenancy agreement on January 1, 2009. I calculate the interest to be \$5.01. I find the balance of the old security deposit due to the respondent to be \$1403.46, calculated as follows:

Security deposit	\$1425.00
Interest	5.01
Less rent arrears	<u>(26.55)</u>
Balance	\$1403.46

Section 14(2) of the *Residential Tenancies Act*, permits a tenant to pay the required security deposit in two payments.

14.(2) Where a tenant is liable for a security deposit for a tenancy other than a weekly tenancy, the tenant may pay

- (a) 50% of the security deposit at the commencement of the tenancy; and**
- (b) the remaining 50% of the security deposit within three months of the commencement of the tenancy.**

As the new tenancy agreement for the Garden town homes commenced on March 1, 2009, the second half of the required security deposit is not due until June 1, 2009. Deducting the second half of the required security and adding the interest on the former security deposit, I find no rent arrears. I find a credit balance of \$223.48 calculated as follows:

Security deposit credit	(1403.46)
Security deposit (50% for Garden town homes)	925.00
March/09 rent	1850.00
Pmt	(1000.00)
Pmt	(480.00)
Pmt	(235.00)
Pmt	(235.00)
Pmt	(26.55)
April/09 rent	1850.00
Pmt	(600.00)
Power charge	131.53
May/09 rent	1850.00
Pmt	(1600.00)
Pmt	(1000.00)
Pmt	<u>(250.00)</u>
Balance as at May 13, 2009	(223.48)

The ledger indicates that the rent has not always been paid in advance on the first day of the month as required by the written tenancy agreement between the parties. I find the respondent in breach of this obligation and shall issue an order requiring that future rent be paid on time. There are, in my opinion, insufficient grounds to consider termination of the tenancy agreement.

Hal Logsdon
Rental Officer