

IN THE MATTER between **SUZANNE J. BEZTILNY**, Applicant, and **ELIZABETH HOVDEBO**, 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:

SUZANNE J. BEZTILNY

Applicant/Landlord

- and -

ELIZABETH HOVDEBO

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of one thousand seven hundred dollars (\$1700.00).

DATED at the City of Yellowknife, in the Northwest Territories this 30th day of October, 2009.

Hal Logsdon
Rental Officer

IN THE MATTER between **SUZANNE J. BEZTILNY**, Applicant, and **ELIZABETH HOVDEBO**, Respondent.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act");

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BETWEEN:

SUZANNE J. BEZTILNY

Applicant/Landlord

-and-

ELIZABETH HOVDEBO

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: **October 28, 2009**

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Suzanne J. Beztlny, applicant
Elizabeth Hovdebo, respondent

Date of Decision: **October 28, 2009**

REASONS FOR DECISION

The respondent's family name is incorrectly spelled on the application. The order shall reflect the proper spelling of the respondent's name.

The respondent rented a room in the applicant's apartment. The rent for the room was \$600/month inclusive of all utilities. The respondent vacated the room on or about June 4, 2009. The applicant did not hold a security deposit.

The applicant alleged that the respondent paid only \$100 for the month of March, 2009 and paid no rent whatsoever in April and May, 2009. The applicant sought an order requiring the respondent to pay the alleged rent arrears of \$1700.

The respondent vigorously disputed the allegations but was unable to say what rent, if any was owing. Unfortunately, the applicant had no written record of the dates or amounts payments were received and the respondent paid in cash and failed to demand any receipts. The only written evidence provided at the hearing, submitted by the respondent, was an undated handwritten note (containing the writing of both applicant and respondent) outlining the rent that was owing. Although, the respondent appeared to have other written evidence, she declined to submit it at the hearing.

The written note contained the following in the handwriting of the applicant:

<u>Rent due Liz</u>	
Feb	270
	<u>100</u>
Pd for Feb	370
Owing Feb	230
March Owing	600
April	<u>600</u>
Owed	\$1530

This note was obviously written in April, 2009 and contains an arithmetic error. The balance owed should be \$1430. I conclude from this note that in April, 2009 the applicant believed that she had received all the rent owing to January 31, 2009 but had received only two payments of \$270 and \$100 for February, 2009 and no payments for March and April, 2009. The respondent's handwriting on the note corrects the balance owing to \$1430 and deducts \$300 for a Canadian Tire Gift Card resulting in a "total owing" of \$1130. There are two other notations on the documents which do not appear to be related to this dispute between the landlord and tenant.

The respondent stated that she became ill in February, 2009 causing her to fall behind in the rent. This is consistent with the applicant's handwritten note. February, 2009 appears to be when the respondent began to fall into arrears.

The respondent stated that she had given the applicant the Canadian Tire Gift Card in lieu of rent and noted that it was not applied in the applicant's calculations. The applicant acknowledged accepting the gift card in lieu of rent and stated that she had applied it to the February, 2009 rent. The respondent argued that it could not have been applied to the February, 2009 rent because she

didn't give the applicant the gift certificate until the last month of the tenancy agreement. This does not serve to rebut the applicant's testimony. It is usual to apply any payment to the oldest debt regardless of when the payment was received. It is apparent that the applicant did not apply the gift certificate to the rent account in April - most likely she had not received it yet.

The respondent did not produce any further evidence of payments made which were not accounted for by the respondent.

Although I can not commend either landlord or tenant for their accurate record keeping, on the balance of probabilities, I believe the landlord's written note, except for the arithmetic mistake is accurate. Further, I believe the applicant applied the \$300 gift certificate, at par, to the outstanding February, 2009 rent of \$230 leaving \$70 which she applied to the next oldest debt, the outstanding March rent, leaving a balance owing of \$1730 calculated as follows:

March/09 rent arrears	\$530
April /09 rent arrears	600
May rent arrears	<u>600</u>
Total	\$1730

As the relief sought by the applicant is somewhat less, in my opinion, it is reasonable. I find the respondent in breach of her obligation to pay rent. An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$1700.

Hal Logsdon
Rental Officer