

IN THE MATTER between **JO-ANN MCLAREN**, Applicant, and **NIKITA PAZIUK AND GRANT PAZIUK**, 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 **FORT SMITH, NT.**

BETWEEN:

**JO-ANN MCLAREN**

Applicant/Tenant

- and -

**NIKITA PAZIUK AND GRANT PAZIUK**

Respondents/Landlords

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 18(5) of the *Residential Tenancies Act*, the respondents shall return the security deposit and accrued interest to the applicant in the amount of seven hundred ninety four dollars and ten cents (\$794.10).

DATED at the City of Yellowknife, in the Northwest Territories this 19th day of March, 2010.

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Hal Logsdon  
Rental Officer

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BETWEEN:

**JO-ANN MCLAREN**

Applicant/Tenant

-and-

**NIKITA PAZIUK AND GRANT PAZIUK**

Respondents/Landlords

**REASONS FOR DECISION**

**Date of the Hearing:** March 17, 2010

**Place of the Hearing:** Fort Smith, NT

**Appearances at Hearing:** Jo-Ann McLaren, applicant  
Grant Paziuk, respondent

**Date of Decision:** March 17, 2010

### **REASONS FOR DECISION**

The tenancy agreement between the parties was terminated on June 27, 2009 when the applicant vacated the premises. The applicant alleged that the respondents had not returned her security deposit or provided her with an itemized statement of the deposit or deductions. The applicant testified that she provided a security deposit of \$775 on September 10, 2008.

The respondent did not dispute that he was provided with a \$775 security deposit on September 10, 2008. He acknowledged that he had not provided an itemized statement to the applicant after the tenancy agreement was terminated.

The respondent stated that the applicant had not given the required notice to terminate the tenancy agreement and although he initially thought he would be able to re-rent the premises on July 1, 2009 the anticipated tenancy agreement was not formed. The respondent also stated that he had to replace the deadbolt and although he did not provide any statement to the applicant of these costs, he now had the costs along with an invoice.

The respondent also noted that he had sent an e-mail money transfer to the applicant for \$350 as a partial return of the security deposit but it had been returned to him. The applicant acknowledged that she had received notice of the transfer but it had expired before she had an opportunity to cash it.

Section 18(2) of the *Residential Tenancies Act* sets out what may be deducted from a security deposit and section 18(3) sets out the landlord's obligation to provide an itemized statement to the tenant when all or part of the security deposit is retained.

- 18.(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.**

The respondent failed to provide the required statement of deductions and is not therefore entitled to retain the security deposit and interest. It is not reasonable for the respondent to now document and defend the deductions nearly nine months later in response to the tenant's application.

I also note that part of the respondent's justification for not returning the security deposit was that the tenant failed to give proper notice. While the applicant may have been liable for compensation for lost rent, a matter on which I express no opinion, these losses may not be deducted from a security deposit. It is neither rent nor a repair cost.

I find the interest on the security deposit to be \$19.10. An order shall issue requiring the respondents to return the security deposit and accrued interest to the applicant in the amount of \$794.10.

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Hal Logsdon  
Rental Officer