**File #10-10916B**

IN THE MATTER between **SCOTT ROBERTSON AND RICHARD ANTHONY**, Applicants, and **WILLIAM GOERTZEN**, 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:

**SCOTT ROBERTSON AND RICHARD ANTHONY**

Applicants/Tenants

- and -

**WILLIAM GOERTZEN**

Respondent/Landlord

**ORDER**

IT IS HEREBY ORDERED:

1. The previous order (file #10-10916, filed on July 13, 2009) provided reasonable compensation. No additional relief is ordered.

DATED at the City of Yellowknife, in the Northwest Territories this 4th day of May, 2010.

Hal Logsdon
Rental Officer

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-and-

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## REASONS FOR DECISION

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| **Date of the Hearing:** | **April 13, 2010** |
| **Place of the Hearing:** | **Yellowknife, NT** |
| **Appearances at Hearing:** | **Scott Robertson, applicant**<br>**Richard Anthony, applicant**<br>**William Goertzen, respondent** |
| **Date of Decision:** | **May 4, 2010** |

## REASONS FOR DECISION

This application was filed on June 16, 2009. The applicants alleged that the respondent had breached the tenancy agreement by not allowing the tenants to take possession of the rental premises on the day they were entitled to do so. The applicants sought compensation for the additional rent and utilities they were required to pay for the premises they rented from another party.

At the hearing it was determined that the respondent was in breach of his obligation to not disturb the applicants' lawful right of possession and the difference in rent was determined to be $3000 over the one-year term of the tenancy agreement. The applicants were provided with total relief of $4216.45 representing the difference in rent ($3000), compensation for amenities not provided ($91.45) and the return of prepaid rent ($1125). The matter of utility costs was adjourned to provide the parties time to assemble some information on utility costs to address the applicants' request for additional relief.

The matter of additional relief was heard on April 13, 2010. The applicants provided records of water, electricity and fuel costs for a six month period from July, 2009 to December, 2009. The total cost of utilities for that period was $3092.98. The applicants submitted that reasonable compensation for utilities, in addition to the compensation already provided would be twice that amount or $6185.96.

The respondent objected to the additional relief. He stated that he felt the differences between the premises he originally offered for rent and the applicants' current premises did not justify additional compensation. The respondent also stated that the utility costs appeared to be similar to the costs he paid for the premises originally offered to the applicants.

The residential complex belonging to the respondent ( the Goertzen property) is a house containing one rental unit on the top floor and another on the main floor. It is approximately 1200 square feet in area. The rent for the premises was to be $2250/month including utilities. The premises currently rented by the applicants is a detached unit with approximately 1800 square feet. The rent is $2500/month and the utilities are the responsibility of the tenant.

The applicants also stated that when they discovered that the respondent was not going to honour the tenancy agreement, they took measures to find other accommodation at a similar price and quality. Because they had two dogs the selection was somewhat limited. They stated that there was a townhouse available for $1950/month, not including utilities, which permitted pets and was about the same size as the Goertzen property, however not of the same quality.

Assuming that the utility costs for the townhouse would be equivalent to the utility costs borne now by the applicants, the annual difference in cost between the Goertzen property and the townhouse would be $2285.

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| Annual cost of Goertzen property - rent ($2250 x 12) | $27,000.00 |

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| Annual cost of townhouse - rent + utilities<br>($1950 x 12) + $6185.96 | $29,585.96 |
| Difference | $2585.96 |

Had the applicants entered into a tenancy agreement for the townhouse, their annual expenses would have been significantly less than they are now. It is apparent that their current premises are one-third larger than the Goertzen property although they were described previously as comparable in size. It is also a detached dwelling, which is usually considered preferable to a duplex property. Although the townhouse property may not be of the same quality as the Goertzen property, in the applicants' opinion, it would appear to be more comparable overall than the current premises of the applicants.

Compensation is intended to place the offended party back in a position as if the breach had not occurred. It is not intended to punish or penalize the offender or enrich the offended party.

Considering that there may be some difference in quality between the Goertzen property and the townhouse and that the applicants have already received $3000 in compensation for the difference in rent, in my opinion, the compensation already provided is adequate. There shall be no additional compensation ordered.

Hal Logsdon
Rental Officer