

IN THE MATTER between **NORMAN E. HOWE**, Applicant, and **NORTHERN PROPERTY LIMITED PARTNERSHIP**, 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:

NORMAN E. HOWE

Applicant/Tenant

- and -

NORTHERN PROPERTY LIMITED PARTNERSHIP

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 2nd day of June, 2010.

Hal Logsdon
Rental Officer

IN THE MATTER between **NORMAN E. HOWE**, Applicant, and **NORTHERN PROPERTY LIMITED PARTNERSHIP**, 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.

BETWEEN:

NORMAN E. HOWE

Applicant/Tenant

-and-

NORTHERN PROPERTY LIMITED PARTNERSHIP

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: May 26, 2010

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Norman E. Howe, applicant
Maigan Lefrancois, representing the respondent

Date of Decision: June 2, 2010

REASONS FOR DECISION

The respondent's name on the application was incorrect. The style of cause of the order has been amended to reflect the legal name of the respondent.

The applicant stated that he was employed by the former owner of the residential complex and provided with a vacant apartment which was in very poor condition. The arrangement, as described by the applicant, was that he would fix up the apartment then move to another vacant unit and work on it. The applicant stated that he received no monetary remuneration for the work he performed and was not charged any rent.

The residential complex was sold and the new owner advised the applicant that he had no legal right to the apartment. The applicant stated that the new owner considered him a squatter and had the police assist them in obtaining possession of the apartment. The applicant stated that he was ejected from the apartment on April 30, 2010. The applicant sought unspecified compensation for lost wages and disturbance of his possession, compensation for hotel expenses following the loss of the apartment, and an order requiring the respondent to put him back in possession of the premises. The applicant provided a copy of the hotel bill in evidence as well as a letter from the former owner's property manager stating that the applicant was a resident of Apartment #101, 42 Con Road.

The respondent stated that the former owner had provided them with a list of all the apartments in the complex, showing the tenant names, the date of occupancy, and the security deposit information. A copy of the document was provided in evidence which indicated that the apartment in question, #101, was vacant.

Section 6 of the *Residential Tenancies Act* sets out the application of the Act.

6.(1) Subject to this section, this Act applies only to rental premises and to tenancy agreements, notwithstanding any other Act or any agreement or waiver to the contrary.

Tenancy agreement and rental premises are also defined in the Act.

"tenancy agreement" means an agreement between a landlord and a tenant for the right to occupy rental premises, whether written, oral or implied, including renewals of such an agreement.

"rental premises" means a living accommodation or land for a mobile home used or intended for use as rental premises and includes a room in a boarding house or lodging house.

The document listing all of the suites in the residential complex lists #101 as a suite, which presumably means it was intended for use as rental premises at some future time. The applicant stated that the suite was not currently suitable for use as rental premises since it was in very poor condition and lacked basic amenities such as appliances. It appears that the suite was certainly not presently intended to be used as rental premises.

There was no written agreement between the applicant and the former owner. The letter from the former property manager confirming that the applicant was an occupant of #101, 42 Con Road

does not necessarily imply that the applicant had the right to occupy those premises by virtue of a tenancy agreement. I presume the letter was written to confirm the applicant's northern residency. The applicant acknowledged that his arrangement with the former owner included the understanding that he would move to another vacant suite when the repairs were completed on #101 and undertake repairs on that apartment.

In my opinion, the arrangement between the applicant and the former owner did not entitle the applicant to exclusive possession of #101 or any suite in the residential complex and is not a tenancy agreement but a license. The applicant had only a personal privilege to occupy the property and could have been asked to occupy another suite at any time. This arrangement ceased when the ownership of the property was transferred. The respondent has no obligation to continue the arrangement.

As well, the premises were not intended for use as rental premises when the applicant occupied the apartment.

In *Colleen Chartrand operating as Chartrand Homes and Wassim Abil-Mona* [2002, NWTSC, 69], the relationship between the applicant and respondent was determined to be a license rather than a tenancy agreement and that the *Residential Tenancies Act* did not apply. It was determined that the respondent did not have exclusive possession of the apartment and was not required to pay any rent.

For these reasons, in my opinion, the *Residential Tenancies Act* does not apply and the application must be dismissed.

Hal Logsdon
Rental Officer