

IN THE MATTER between **JODPHUR HOLDINGS LTD.**, Applicant, and **CAMILIA ZOE-CHOCOLATE**, 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:

JODPHUR HOLDINGS LTD.

Applicant/Landlord

- and -

CAMILIA ZOE-CHOCOLATE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondent shall pay the applicant repair costs in the amount of five thousand eight hundred sixty five dollars and twenty eight cents (\$5865.28).
2. Pursuant to section 67(4) of the *Residential Tenancies Act*, the respondent shall pay the applicant compensation for the use and occupation of the rental premises after the tenancy agreement had been terminated in the amount of six hundred six dollars and sixty seven cents (\$606.67).
3. Pursuant to section 45(4)(c) of the *Residential Tenancies Act*, the respondent shall pay the

applicant fuel costs which were paid on her behalf in the amount of five hundred forty eight dollars and thirty six cents (\$548.36).

DATED at the City of Yellowknife, in the Northwest Territories this 13th day of July,
2010.

Hal Logsdon
Rental Officer

IN THE MATTER between **JODPHUR HOLDINGS LTD.**, Applicant, and **CAMILIA ZOE-CHOCOLATE**, 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:

JODPHUR HOLDINGS LTD.

Applicant/Landlord

-and-

CAMILIA ZOE-CHOCOLATE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: July 2, 2010

Place of the Hearing: Yellowknife, NT via teleconference

Appearances at Hearing: Peter Herridge, representing the applicant
Morgan Bastow, witness for the applicant
Camilia Zoe-Chocolate, respondent

Date of Decision: July 13, 2010

REASONS FOR DECISION

This tenancy agreement was terminated by order on November 5, 2009. The applicant alleged that the respondent failed to pay any rent for November, 2009 and failed to vacate the premises until November 18, 2009. The applicant retained the security deposit of \$1400 and issued an estimated statement of the security deposit on November 24, 2009 including rent arrears of \$6650 and estimated repair costs of \$4000. The monthly rent for the premises was \$1400.

There is no evidence that the applicant followed up with a final security deposit statement as required by section 18(4) of the *Residential Tenancies Act*. The applicant filed an *Application to a Rental Officer* on March 22, 2010 seeking the following relief:

Replacement of 3 closet doors	\$1688.60
Replacement of exterior door and and hardware, replacement of bathroom door and hardware	2843.00
Patching and painting	2520.00
Replace carpeting	3517.50
Replace refrigerator and stove	1028.98
Replace sealed window unit	360.45
Payment of fuel oil	548.36
Rent arrears	<u>5615.00</u>
Total	\$18,121.89

At the hearing, the applicant also asked for compensation for overholding for the period November 6 to 18, 2009. The applicant provided invoices in evidence documenting the above noted repair expenses. An inspection report, outlining the condition of the premises at the end of the tenancy and signed by the respondent was also provided in evidence. There was no evidence

that an inspection report outlining the condition of the premises at the beginning of the tenancy was completed as required by section 15 of the *Residential Tenancies Act*.

A previous order (file #10-11063, filed on October 29, 2009) terminated the tenancy agreement on November 5, 2009 and ordered the respondent to pay the applicant rent arrears of \$5615 which represented the rent arrears to October 31, 2009 and bank charges for 3 NSF cheques. The applicant has asked for the same relief in this application. The applicant has the previous order. There is no requirement for another. The applicant is, however, entitled to the rent for November 1-5, 2009 which I calculate to be \$233.33 and compensation for the use and occupation of the premises from November 6 -18, 2009 which I calculate to be \$606.67.

In the matter of the alleged damages and repair costs, I find the following:

Replacement of closet doors

The respondent disputed that the closet doors were damaged by her. She testified that one closet had no doors at all at the beginning of the tenancy agreement and the other two were missing one panel. The inspection report indicates that the closet door in bedroom #2 needs replacing. There is no notation for the master bedroom and the notation for bedroom #3 is "OK". The estimated security deposit statement makes no mention of closet door damage. On the balance of probabilities, I conclude that one door was damaged but there is no evidence to conclude that it was damaged by the respondent. The relief sought by the applicant is therefore denied.

Replacement of exterior and bathroom doors

The respondent acknowledged that the bathroom door was broken during the tenancy agreement but disputed that the exterior door had to be replaced. The respondent stated that the glass in the exterior door had been broken during the tenancy but that the remainder of the door was not damaged. The inspection report notes only that the window in the door was broken. The applicant's estimated security deposit statement notes that the door, "is so damaged, bent beyond repair, that that, too, will need to be replaced." On the balance of probabilities, I conclude that both doors were damaged and required replacement. I find the costs of \$2843 to be reasonable.

Patching and painting

The damage to the walls during the tenancy agreement was acknowledged by the respondent and the inspection report and estimated security deposit statement both note the wall damage. The applicant stated that to the best of his knowledge the premises had been re-painted in 2007. Given a useful life of residential interior paint of 5 years, it is reasonable to depreciate the cost by 50%. In my opinion, reasonable compensation is \$1260.

Carpet replacement

The respondent acknowledged that the carpet was damaged during the tenancy and the inspection report and security deposit statement both noted the damage. The applicant was not sure about the age of the carpet. Given a ten year useful life it is reasonable to

depreciate the replacement value by 15%. I find reasonable compensation to be \$2989.88.

Replace refrigerator and stove

The respondent disputed the alleged damage to the refrigerator and stove. She stated that the oven never worked and that the fridge leaked water. The inspection report fails to note any refrigerator damage and notes that the stove “was not working very well when she moved in.” The security deposit estimated statement notes that the refrigerator is damaged but does not specify the damage. There is no mention of damage to the stove. The applicant testified that the appliances were deemed to be beyond economic repair so they were replaced. I do not find any evidence that suggest that the appliances were damaged by the respondent. It is clear that the stove did not work properly at the beginning of the tenancy. A leaking refrigerator is not usually the result of misuse or damage but a component failure due to normal wear and tear. In my opinion, the replacement the appliances was not made necessary due to any damage or misuse by the respondent. The relief requested is therefore denied.

Replace sealed window unit

Neither the applicant, respondent or the applicant’s witness could provide any details regarding the replacement of this window. Neither the inspection report nor the security deposit estimated statement make any mention of a broken window and the respondent denied that any windows, except the exterior door window had been damaged. The applicant’s request for relief is therefore denied.

Fuel Oil

The respondent acknowledged that the fuel tank was not filled at the end of the tenancy agreement. The applicant provided a delivery slip indicating that the tank was filled following the end of the tenancy. I find the costs claimed of \$548.36 to be reasonable.

The respondent has not taken into consideration the retained security deposit or the accrued interest. I find the interest to be \$60.93. Applying the retained security deposit first to rent arrears, I find a balance of repair costs owing to the applicant of \$5865.28 calculated as follows:

Security deposit	\$1400.00
Interest	60.93
Bathroom and exterior door	(2843.00)
Patch and paint	(1260.00)
Carpet replacement	(2989.88)
Rent arrears	<u>(233.33)</u>
Total repair costs	\$5865.28

An order shall issue requiring the respondent to pay the applicant repair costs of \$5865.28, compensation for overholding of \$606.67 and fuel costs paid on her behalf of \$548.36.

Hal Logsdon
Rental Officer