

IN THE MATTER between **NORTHERN PROPERTY LIMITED PARTNERSHIP**,
Applicant, and **VERONIQUE BEZHA**, 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:

NORTHERN PROPERTY LIMITED PARTNERSHIP

Applicant/Landlord

- and -

VERONIQUE BEZHA

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 two thousand one hundred fifty dollars (\$2150.00).
2. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 1454 Gitzel Street, Yellowknife, NT, shall be terminated on July 31, 2010 and the respondent shall vacate the premises on that day, unless the rent arrears in the amount of two thousand one hundred fifty dollars (\$2150.00) are paid in full.

DATED at the City of Yellowknife, in the Northwest Territories this 20th day of July,
2010.

Hal Logsdon
Rental Officer

IN THE MATTER between **NORTHERN PROPERTY LIMITED PARTNERSHIP**,
Applicant, and **VERONIQUE BEZHA**, 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:

NORTHERN PROPERTY LIMITED PARTNERSHIP

Applicant/Landlord

-and-

VERONIQUE BEZHA

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: July 7, 2010

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Joyce Dust, representing the applicant
Veronique Bezha, respondent

Date of Decision: July 20, 2010

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement unless the rent arrears were paid by July 31, 2010.

The applicant provided a statement of the rent account in evidence which indicated a balance of rent owing in the amount of \$2300. The applicant stated that the required security deposit had been paid in full.

The respondent did not dispute the rent arrears.

Included in the balance owing of \$2300 are three charges for \$50 for NSF cheques. Section 13 of the *Residential Tenancies Act* prohibits penalties and accelerated rent.

13. No tenancy agreement shall contain any provision to the effect that a breach of the tenant's obligation under the tenancy agreement or this Act results in the whole or any part of the remaining rent becoming due and payable or results in a specific sum becoming due and payable, and a provision of this kind is of no effect.

In my opinion, section 13 would not preclude a landlord from seeking compensation from the tenant for N.S.F. charges that they incurred but would prohibit a penalty from being applied. The tenancy agreement between the parties appears to be consistent with this interpretation

ADDITIONAL CLAUSES:

1.00 The Tenants will pay the **incurred bank charges on all N.S.F. cheques.**

The applicant has previously provided information which they submit demonstrates that the \$50/cheque NSF fee charged is a true cost charged to them by their bank for processing these transactions and not a penalty. According to the information provided, it appears that approximately 225 cheques/annum are returned due to insufficient funds. Given the applicant's portfolio size, this results in a ratio of returned cheques to rent payments of approximately 1.5%. This is well within the range experienced by other landlords in this market. The applicant claims that their bank does not charge them a fee per cheque but instead charges them a monthly rate of \$2500 for "all of our NSF's and banking charges." The applicant argues that this results in a cost per cheque of \$133.33, considerably lower than the \$50 they pass on to the tenant.

Other landlords charge NSF fees ranging from \$5 to \$30. All of them manage portfolios which are considerably smaller than the applicant's. It does not seem logical that other landlords would charge an NSF fee that does not reflect their costs or that the applicant's larger volume of business would result in higher fees per transaction. I have asked the applicant to identify what is contained in the above mentioned "banking charges", but have received no response. Surely the annual \$30,000 bank charges covers a wider variety of fees than just NSF cheque transactions.

I am not prepared to accept the \$50 NSF fee without additional information that indicates that the fee is a reasonable estimate of what the applicant is charged by their bank. Therefore at this time, the request for the \$150 relief for NSF cheques is denied.

I find the respondent in breach of her obligation to pay rent and find the rent arrears to be \$2150,

calculated as follows:

Balance as per statement	\$2300
Less NSF charges	<u>(150)</u>
Amount owing applicant	\$2150

In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the arrears are promptly paid.

An order shall issue requiring the respondent to pay the applicant rent arrears of \$2150 and terminating the tenancy agreement on July 31, 2010 unless the arrears are paid in full.

Hal Logsdon
Rental Officer