

IN THE MATTER between **DEBORAH WOTHERSPOON**, Landlord, and **PEARL SASNETT**, Tenant;

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 LIARD, NT**.

BETWEEN:

DEBORAH WOTHERSPOON

Landlord

- and -

PEARL SASNETT

Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 28(a) and 28(b) of the *Residential Tenancies Act*, the landlord shall comply with her obligation concerning entering the rental premises and shall not breach that obligation again.

DATED at the City of Yellowknife, in the Northwest Territories this 29th day of July, 2010.

Hal Logsdon
Rental Officer

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BETWEEN:

DEBORAH WOTHERSPOON

Landlord

-and-

PEARL SASNETT

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	July 21, 2010
<u>Place of the Hearing:</u>	Fort Liard, NT via teleconference
<u>Appearances at Hearing:</u>	Deborah Wotherspoon, Landlord Pearl Sasnett, Tenant
<u>Date of Decision:</u>	July 21, 2010

REASONS FOR DECISION

The landlord's application was filed on June 14, 2010 alleging that the tenant had failed to pay the monthly rent on the days it was due and failed to provide the required security deposit. The landlord sought an order terminating the tenancy agreement.

The tenant's application was filed on June 22, 2010 alleging that the landlord had entered the rental premises without notice or permission at the time of entry. The tenant sought an order prohibiting any future breach.

With the consent of both parties, both applications were heard at a common hearing.

The tenancy agreement commenced on January 21, 2010 and was oral in nature. The parties agreed that the monthly rent for the premises was \$900 but disagreed on when the rent was due. The landlord stated that they agreed that the monthly rent would be due in advance but the tenant stated that no specific date was agreed on and that she often paid the rent in two installments which was acceptable to the landlord. The landlord did not have a record of when rent payments were made but stated that some were made after the first of the month and others made in two installments. There is no evidence of any notices or other objections by the landlord concerning the dates that the rent was paid.

Section 41 of the *Residential Tenancies Act* sets out the tenant's obligation to pay rent.

41.(1) A tenant shall pay to the landlord the rent lawfully required by the tenancy agreement on the dates specified by the tenancy agreement.

Therefore the landlord must specify in the tenancy agreement, whether it be written or oral, when the rent is due. There is not sufficient evidence to conclude that the oral tenancy agreement required the monthly rent to be paid in advance.

The landlord testified that the oral tenancy agreement required a security deposit of \$900 and no deposit had been received from the tenant. The tenant testified that the requirement for a security deposit was not mentioned at the commencement of the tenancy. She stated that she only became aware of the landlord's request for a security deposit when the *Application to a Rental Officer* was served on her, six months after the commencement of the tenancy.

Section 14 of the *Residential Tenancies Act* does not require a tenant to provide a security deposit. The Act only limits the amount that a landlord may require to one month's rent. The evidence does not support the requirement for a security deposit contained in the oral tenancy agreement between the parties.

Finding no breach of the tenant's obligation to pay the rent on time or to provide a security deposit, the landlord's request for an order terminating the tenancy agreement must be denied.

The tenant alleged that the landlord entered her premises on June 2, 2010 without written notice or her permission to enter and delivered a dryer. The landlord did not dispute the allegation but

stated that she had told the tenant on the previous day that she intended to deliver the dryer.

Sections 26 and 27 of the *Residential Tenancies Act* set out the rights and obligations of a landlord concerning entry. Clearly the landlord had the right to enter the premises to provide the dryer but she also had the obligation to either provide written notice 24 hours prior to the entry or obtain the tenant's permission at the time of entry. She failed to do either.

I find the landlord in breach of her obligation to provide written notice of entry or seek permission at the time of entry. An order shall issue requiring the landlord to comply with these obligations and to not breach them again.

Hal Logsdon
Rental Officer