

IN THE MATTER between **HENRY WONG**, Applicant, and **POLAR DEVELOPMENTS LTD.**, 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:

HENRY WONG

Applicant/Tenant

- and -

POLAR DEVELOPMENTS LTD.

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 30(4)(e) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 5010 - 53rd Street, Yellowknife, NT shall be terminated on August 31, 2010 and the applicant shall vacate the premises on that date.

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

Hal Logsdon
Rental Officer

IN THE MATTER between **HENRY WONG**, Applicant, and **POLAR DEVELOPMENTS LTD.**, 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:

HENRY WONG

Applicant/Tenant

-and-

POLAR DEVELOPMENTS LTD.

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: July 28, 2010

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Cassandra Porter, representing the applicant
Karen McLeod, representing the respondent

Date of Decision: July 28, 2010

REASONS FOR DECISION

The applicant alleged that the respondent breached the tenancy agreement by failing to repair a fence on the property. In his *Application to a Rental Officer*, the applicant sought an order requiring the respondent to repair the fence and to pay his rent to a rental officer until the repairs were complete. On July 26, 2010 the applicant amended the application seeking the termination of the tenancy agreement as a remedy.

The tenancy agreement between the parties commenced in May, 2008 and was last renewed for a one year term ending on April 30, 2011. The applicant notified the respondent by e-mail on August 4, 2009 that the fence required repair. The respondent acknowledged the notice and informed the applicant that they were not able to provide a date when the fence would be repaired but advised that as soon as the repair could be scheduled they would advise the applicant.

On May 6, 2010 the applicant advised the respondent that the fence was about to collapse and provided some photographs. On May 18, 2010 the applicant advised the respondent that part of the fence had indeed collapsed and provided more photographs. On June 27, 2010 the applicant contacted the respondent seeking the status of the fence repairs, noting that he was running out of patience. The respondent replied on June 28, 2010 and confirmed that the project was on their summer work schedule but could not offer a date for the work to be done.

In a letter dated July 26, 2010 addressed to the rental officer amending the remedy requested in his application, the applicant stated that the respondent had repaired the fence by attaching 2x4s to it and anchoring them to the side of the house. The applicant does not consider the repairs undertaken to be adequate. The applicant notes that the respondent stated they had no intention of replacing the fence. In conclusion, the applicant states that he wants the tenancy agreement terminated by order on September 1, 2010. The applicant's representative stated that August 31, 2010 would be an equally acceptable date.

The respondent provided photographs of the repair and acknowledged that they had refused to replace the fence but would certainly repair it. The respondent was unwilling to mutually agree to terminate the tenancy agreement until September 30, 2010.

The fence appears to be a normal lumber picket fence constructed of wooden posts and wooden vertical pickets. I assume the posts have rotted at the ground level causing the fence to fall over. This is normal deterioration and is the responsibility of the landlord to repair. The only reasonable repair would be to replace the rotted posts. I must agree with the applicant that the respondent's repair is not acceptable. It fails to restore the structure or security of the original fence and is unsightly. The repair also presents a potential hazard.

I find the respondent in breach of their obligation to maintain the premises in a good state of repair. In my opinion, the applicant has met his responsibility to make the landlord aware of the problem and the landlord has not taken reasonable or timely steps to remedy the situation.

Termination of the tenancy agreement is an available remedy and I see no reason why the tenancy agreement should not be terminated on August 31, 2010.

An order shall issue terminating the tenancy agreement on August 31, 2010.

Hal Logsdon
Rental Officer