

IN THE MATTER between **NORTHERN PROPERTY LIMITED PARTNERSHIP**,
Landlord, and **MORGAN LEIGH GRUBEN**, Tenant;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act") and amendments thereto;

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer,
regarding the rental premises at **YELLOWKNIFE, NT**.

BETWEEN:

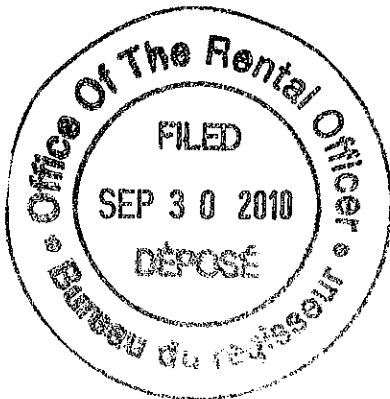
NORTHERN PROPERTY LIMITED PARTNERSHIP

Landlord

- and -

MORGAN LEIGH GRUBEN

Tenant



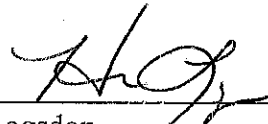
ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the tenant shall pay the landlord rent arrears in the amount of one thousand three hundred seventy five dollars (\$1375.00).
2. Pursuant to section 45(4)(c) of the *Residential Tenancies Act*, the tenant shall pay the landlord for the cost of electricity paid on her behalf in the amount of three hundred four dollars and fifty three cents (\$304.53).
3. Pursuant to section 41(4)(c) and 45(4)(e) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Apartment 207, 490 Range

Lake Road, Yellowknife, NT shall be terminated on September 30, 2010 and the respondent shall vacate the premises on that date.

DATED at the City of Yellowknife, in the Northwest Territories this 30th day of September, 2010.

A handwritten signature in black ink, appearing to read 'H. Logsdon', is written over a horizontal line.

Hal Logsdon
Rental Officer

IN THE MATTER between **NORTHERN PROPERTY LIMITED PARTNERSHIP**,
Landlord, and **MORGAN LEIGH GRUBEN**, 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.

BETWEEN:

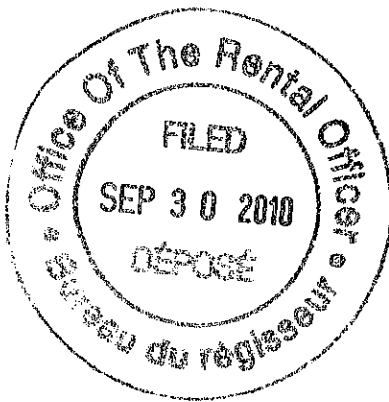
NORTHERN PROPERTY LIMITED PARTNERSHIP

Landlord

-and-

MORGAN LEIGH GRUBEN

Tenant



REASONS FOR DECISION

Date of the Hearing: September 29, 2010

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Rosetta Morales, representing the landlord
Janet Stephenson, representing the tenant
Morgan Leigh Gruben, Tenant

Date of Decision: September 29, 2010

REASONS FOR DECISION

The style of cause of the order has been amended to reflect the full and proper names of the parties.

The landlord's application was filed on August 16, 2010 seeking relief for rent arrears, electrical costs, repair costs and termination of the tenancy agreement. The tenant's application was filed on September 7, 2010 seeking compensation for damages due to water escape, loss of possession and false accusations contained in the landlord's application. As these two applications relate to the same tenancy agreement, with the consent of both parties, both matters were heard at a common hearing.

The landlord alleged that the tenant had failed to pay the rent for September, 2010 in the amount of \$1375 and had failed to pay for electrical costs of \$304.53 which were paid on her behalf. The landlord also alleged that the toilet water supply was damaged by the tenant, causing water escape and requiring clean-up and repairs costing \$1338.75. A copy of the tenancy agreement and a statement of account were provided in evidence. The tenancy agreement obligates the tenant to pay for electricity during the term. The statement indicates rent arrears of \$1375, electrical charges of \$304.53 and repair costs of \$1338.75.

The tenant alleged that the landlord had failed to maintain the premises and had failed to respond to the emergency in a timely manner, causing damage to her property. The tenant sought

compensation for her time and expenses involved in washing laundry in the amount of \$6850. The tenant also sought compensation for helping the landlord clean up the flooding in the amount of \$450. The tenant alleged that the landlord's application falsely accused her of owing rent on the day it was filed when her rent was paid in full on that date. She sought unspecified compensation.

The landlord stated that the tenant had told her that she had knocked the toilet water supply with a broom while cleaning the bathroom, causing the water to escape. The tenant acknowledged that the water escape had started while she was cleaning the bathroom but denied she had knocked the water supply or broken the assembly. The tenant stated that after reporting the incident, it took the landlord 1.5 hours to attend the premises to address the water escape exacerbating the damage to her property. The tenant acknowledged that the rent for September, 2010 had not been paid and acknowledged that she had not established an account for electricity with the supplier or paid for electricity during the term of the tenancy. The tenant stated that the landlord's application accused her of owing rent when she, if fact, owed no rent on the day the application was filed.

Section 42 of the *Residential Tenancies Act* obligates a tenant to repair damages caused by the wilful or negligent conduct of the tenant or their guests.

42. (1) A tenant shall repair damage to the rental premises and the residential complex caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant.

A typical toilet water supply begins with a 1/2 inch stub of pipe from the main house supply coming through the wall under the toilet tank. Soldered or threaded to the stub is a shut-off valve.

A flexible plastic or metal pipe connects the valve to the toilet tank, usually with compression fittings. The entire assembly is low on the wall and under the toilet tank and not easily accessible. The sturdy construction of the assembly and its location make it difficult to imagine how it could be broken by knocking it with a broom during the course of cleaning. The landlord's testimony regarding her conversation with the tenant is contradicted by tenant.

Section 30 of the *Residential Tenancies Act* obligates a landlord to maintain rental premises.

30. (1) A landlord shall

- (a) provide and maintain the rental premises, the residential complex and all services and facilities provided by the landlord, whether or not included in a written tenancy agreement, in a good state of repair and fit for habitation during the tenancy; and**
- (b) ensure that the rental premises, the residential complex and all services and facilities provided by the landlord comply with all health, safety and maintenance and occupancy standards required by law.**

There is no evidence to suggest that the toilet water supply was not kept in a good state of repair. The tenant stated that the assembly showed no signs of deterioration or leaking prior to the rupture. No preventative maintenance program would have detected that the assembly was prone to failure and the assembly is not a component like a furnace, oil filter or oil tank that requires scheduled maintenance or replacement. I can not find any evidence to conclude that the failure of the component was the result of the landlord's failure to maintain the premises.

In my opinion, the failure of the toilet supply assembly was not related to any breach of the landlord's obligations or the tenant's obligations. It was an accident; an unforeseen and unpredictable failure of a plumbing component. The landlord has no general duty to respond to

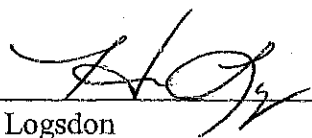
emergencies unless they are the result of a breach of an obligation. Therefore, the landlord's request for relief for repair costs is denied as well as the tenant's request for compensation related to the resultant clean-up.

The tenant's request for compensation for including allegations of failure to pay rent when the rent was paid is also denied. The Act does not give me jurisdiction to apply such a remedy.

I find the tenant in breach of her obligation to pay rent and her obligation to pay for electricity during the term of the tenancy agreement. I find the rent arrears to be \$1375 and the electrical costs to be \$304.53. The landlord sought the termination of the tenancy agreement and the tenant also wished to terminate the agreement. Both parties stated that September 30, 2010 would be an appropriate date. Although the parties could mutually agree to terminate the agreement in writing, I shall save them the effort and issue an order to that effect. In my opinion there are sufficient grounds to do so.

An order shall issue requiring the tenant to pay the landlord rent arrears of \$1375, electrical costs of \$304.53 and terminating the tenancy agreement on September 30, 2010.

This decision was made known to the parties at the conclusion of the hearing.



Hal Logsdon
Rental Officer