

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **FOSTER AREY**, Respondent;

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 **INUVIK, NT.**

BETWEEN:

**NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**

Applicant/Landlord

- and -

**FOSTER AREY**

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 one thousand five hundred dollars and eighty three cents (\$1500.83).

DATED at the City of Yellowknife, in the Northwest Territories this 2nd day of November, 2010.

---

Hal Logsdon  
Rental Officer

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **FOSTER AREY**, 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 REAL ESTATE INVESTMENT TRUST**

Applicant/Landlord

-and-

**FOSTER AREY**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:**                      **October 29, 2010**

**Place of the Hearing:**                      **Inuvik, NT via teleconference**

**Appearances at Hearing:**                      **Lee Smallwood, representing the applicant**

**Date of Decision:**                      **November 2, 2010**

### **REASONS FOR DECISION**

The respondent was served with a Notice of Attendance sent by registered mail and confirmed delivered. The respondent failed to appear at the hearing and the hearing was held in his absence.

The tenancy agreement between the parties was terminated on September 30, 2010 when the respondent vacated the premises. The applicant retained the security deposit (\$1475) and interest (\$0.87) applying it to rent arrears (\$3027.20) resulting in a balance owing of \$1551.33. The applicant sought an order for that amount. A copy of the tenant rent statement was provided in evidence.

The statement indicates that a penalty for late rent of \$50.50 was applied in August, 2010. The penalty for late rent is set out in section 41 of the *Residential Tenancies Act* prior to the amendments which came into force on September 1, 2010.

- 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.**
- (2) A tenant who pays his or her rent later than the dates specified by the tenancy agreement is liable to a penalty.**
- (3) The penalty referred to in subsection (2) is calculated for each day that the rent is late by multiplying**
- (a) the rent due,**
- by**
- (b) the bank deposit rate on deposit receipts for 30 days, as determined and published by the Bank of Canada in the periodic publication entitled the *Bank of Canada Review*, in effect on January 1 in the year that the late payment is calculated, and the total is divided by 365.**

The interest rate in effect for August, 2010 was 0.36%. The applicant has used an interest rate of 36%. The resultant penalty of \$50.50 is not in accordance with the Act and is therefore denied.

I find the respondent in breach of his obligation to pay rent and find the rent arrears to be

\$1500.83 calculated as follows:

|                          |                |
|--------------------------|----------------|
| Arrears as per statement | \$1551.33      |
| Less August penalty      | <u>(50.50)</u> |
| Total                    | \$1500.83      |

An order shall issue requiring the respondent to pay the applicant rent arrears of \$1500.83.

---

Hal Logsdon  
Rental Officer