

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **JULIE-ANN ANDRE**, 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 -

JULIE-ANN ANDRE

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 four hundred seventy seven dollars and ninety two cents (\$2477.92).

DATED at the City of Yellowknife, in the Northwest Territories this 8th day of December, 2010.

Hal Logsdon
Rental Officer

IN THE MATTER between **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, Applicant, and **JULIE-ANN ANDRE**, 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-

JULIE-ANN ANDRE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 23, 2010

Place of the Hearing: Inuvik, NT

Appearances at Hearing: Lee Smallwood, representing the applicant (by telephone)

Date of Decision: December 8, 2010

REASONS FOR DECISION

The respondent was sent a Notice of Attendance by registered mail. At the time of the hearing, there was no confirmation of delivery but the applicant testified that the respondent was still in possession of the rental premises. The respondent contacted the rental office on November 10, 2010 and it was determined that the applicant had provided the wrong address for the respondent. The respondent confirmed her correct mailing address and was advised that a copy of the application and a Notice of Attendance would be sent to her. The respondent was sent copies of the original application and the Notice of Attendance. The respondent failed to appear at the hearing and the hearing was held in her absence.

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. The applicant stated that the required security deposit had been paid in full.

The respondent provided a copy of the tenant ledger which indicated a balance of rent owing in the amount of \$2668. Included in that balance are two \$75 charges for returned cheques and four late rent penalties.

In my opinion, there is not sufficient evidence to demonstrate that the applicant's actual cost of handling a returned cheque is \$75. This amount is well in excess of the charges levied by the banks. The applicant submits that the amount also includes the administrative costs of the

landlord involved with handling the cheque. I am not inclined to accept such an arbitrary figure without some evidence that it represents incurred costs rather than being a penalty. Penalties, other than penalties for late rent, are prohibited pursuant to section 13 of the *Residential Tenancies Act*. Charges of \$150 for returned cheques are therefore denied.

Three of the four late rent penalties are in excess of the amounts permitted. The most recently applied penalty does not exceed the maximum amount prescribed pursuant to the regulations. Three of the four penalties totalling \$40.08 are therefore denied.

I find the respondent in breach of her obligation to pay rent and find the rent arrears to be \$2477.92 calculated as follows:

Balance as per ledger	\$2668.00
less NSF charges	(150.00)
less late fee	(10.70)
less late fee	(18.59)
less late fee	<u>(10.79)</u>
Amount due applicant	\$2477.92

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$2477.92.

Hal Logsdon
Rental Officer