

IN THE MATTER between **HOA PHUOC DO**, Applicant, and **NORTHERN PROPERTY LIMITED PARTNERSHIP**, 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 **YELLOWKNIFE, NT**.

BETWEEN:

HOA PHUOC DO

Applicant/Tenant

- and -

NORTHERN PROPERTY LIMITED PARTNERSHIP

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 28(a) of the *Residential Tenancies Act*, the respondent shall comply with the provisions regarding entry to rental premises and shall not breach those provisions again.

DATED at the City of Yellowknife, in the Northwest Territories this 4th day of February, 2011.

Hal Logsdon
Rental Officer

IN THE MATTER between **HOA PHUOC DO**, Applicant, and **NORTHERN PROPERTY LIMITED PARTNERSHIP**, 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:

HOA PHUOC DO

Applicant/Tenant

-and-

NORTHERN PROPERTY LIMITED PARTNERSHIP

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: February 1, 2011

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Hoa Phuoc Do, applicant
Rosetta Morales, representing the respondent

Date of Decision: February 4, 2011

REASONS FOR DECISION

The applicant alleged that the respondent had entered his rental premises without written notice and without his permission at the time of entry. The applicant testified that an employee of the landlord entered his apartment on January 6, 2011 at approximately 10:50 AM. He stated that he was asleep and did not believe they knocked on the door before entering. The applicant stated that he had not received any notice of the entry before the incident. The applicant stated that the employee was fully inside the apartment when he awakened and discovered his presence. The applicant also alleged that employees of the landlord had entered the apartment on January 4 and January 5, 2011 and asked him when he intended to move out.

The respondent submitted that the tenancy agreement had been terminated by order on December 31, 2010 and that the "unit checks" were done because they had reason to believe that the tenant had vacated. She stated that all employees doing "unit checks" are instructed to knock before entering.

Section 27 sets out three situations where a landlord may enter rental premises without written notice.

- 27. (1) A landlord has the right to enter the rental premises without giving the notice required by subsection 26(3) where**
- (a) an emergency exists;**
 - (b) the tenant consents at the time of entry; or**
 - (c) the landlord has reasonable grounds to believe that the tenant has vacated or abandoned the rental premises.**

The tenancy agreement had been terminated by order on December 31, 2010 (file #10-11783, filed on December 3, 2010). The respondent filed an application seeking an order evicting the overholding applicant on January 5, 2011. The application was personally served on the applicant at the rental premises on January 6, 2011. In my opinion, there was no reason to assume on January 6th that the tenant had vacated. The respondent had been at the premises the day before and found the tenant in possession. Entering the apartment without notice in order to serve an application was a breach of the Act. The application could just as well been served on the tenant by registered mail if no one answered the door.

The landlord enjoys certain rights of entry but they must be carried out in accordance with the Act. In my opinion, the respondent had no valid reason to believe that the applicant had vacated the premises and cannot rely on section 27(1)(c) to justify their entry on January 6, 2011. I find the respondent in breach of the Act and shall issue an order for the respondent to comply with the provisions regarding entry and to not breach those provisions again.

Hal Logsdon
Rental Officer