

IN THE MATTER between **ELAINE BRIERE**, Applicant, and **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, 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:

ELAINE BRIERE

Applicant/Tenant

- and -

NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 9th day of March, 2011.

Hal Logsdon
Rental Officer

IN THE MATTER between **ELAINE BRIERE**, Applicant, and **NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST**, 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:

ELAINE BRIERE

Applicant/Tenant

-and-

NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: February 23, 2011

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Elaine Briere, applicant
Maigan Lefrancois, representing the respondent

Date of Decision: March 9, 2011

REASONS FOR DECISION

The style of cause of this matter has been amended to reflect the full, unabbreviated name of the respondent.

The tenancy agreement between the parties was terminated on or about December 29, 2010 when the applicant gave up possession of the premises and the parties completed a move-out inspection. The respondent applied the security deposit (\$1650) and accrued interest (\$7.13) against carpet replacement costs (\$1580) and returned the balance (\$77.13) to the applicant. The applicant disputed the deductions and sought an order requiring the respondent to return the retained portion of the deposit.

The applicant submitted that the carpet was old and worn and should have been replaced. She also submits that the respondent failed to provide her with a statement of the security deposit within ten days.

Section 18 of the *Residential Tenancies Act* sets out the landlord's obligation to provide an itemised statement to the tenant if any or all of the security deposit is being retained and sets out a time frame for the completion of the statement. The security deposit statement is dated January 14, 2011 and the refund cheque is dated January 12, 2011. I do not find any evidence of an estimated statement of the deposit and deductions. Clearly, the security deposit statement was not completed in time to satisfy the requirements of section 18. In my opinion, however, the failure

of the respondent to complete the security deposit statement on time should not result in the forfeiture of the deposit. The applicant had the statement at the time the application was filed on January 20, 2011 and the matter should be decided on the reasonableness of the deductions.

Photographs of the carpet and a check-out inspection both indicate that the carpet was badly stained at the end of the tenancy. A white stain in bedroom #3 and three burns in bedroom #2 are noted on the check-in inspection. The stains in the hallway and living room, burns in the master bedroom and additional stains in bedroom #3 shown on the check-out inspection report indicate that considerably more damage was inflicted on the carpet by the applicant during the term of the tenancy. In my opinion, the replacement of the carpet was reasonable.

The applicant stated that the carpet was so worn and frayed that it should have been replaced anyway. The respondent's statement indicated that the replacement cost of the carpet has been reduced by 50% to take into consideration the age of the carpet (5 years) and its useful life (10 years). The photographic evidence indicates some fraying along one seam but does not show any other undue wear. In my opinion, the evidence supports the age of the carpet and the depreciated value used by the respondent is reasonable.

I find the deduction from the security deposit to be reasonable and shall dismiss the application.

Hal Logsdon
Rental Officer