

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,  
and **ANDREW DIVEKY**, 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:

**YELLOWKNIFE HOUSING AUTHORITY**

Applicant/Landlord

- and -

**ANDREW DIVEKY**

Respondent/Tenant

**EVICITION ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 63(4)(a) of the *Residential Tenancies Act*, the respondent shall be evicted from the premises known as G113, 900 Lanky Court, Yellowknife, NT on June 15, 2011.

DATED at the City of Yellowknife, in the Northwest Territories this 27th day of May,  
2011.

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Hal Logsdon  
Rental Officer

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and **ANDREW DIVEKY**, 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:

**YELLOWKNIFE HOUSING AUTHORITY**

Applicant/Landlord

-and-

**ANDREW DIVEKY**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** May 25, 2011

**Place of the Hearing:** Yellowknife, NT

**Appearances at Hearing:** Ella Newhook, representing the applicant  
Andrew Diveky, respondent

**Date of Decision:** May 27, 2011

### **REASONS FOR DECISION**

The tenancy agreement between the parties was made for a term ending on December 31, 2010. The parties did not enter into a new term agreement and the tenancy agreement became monthly on January 1, 2011 in accordance with section 49 of the *Residential Tenancies Act*. On March 29, 2011 the applicant personally served a notice of termination on the respondent to be effective on April 30, 2011. The reason stated for the termination was a breach of Article 12 of the tenancy agreement. The respondent remains in possession. The applicant sought an order evicting the respondent. The premises are subsidized public housing.

Article 12 of the written tenancy agreement sets out obligations of the tenant.

#### **12. Tenant's Promises**

The Tenant agrees that he:

- a) shall be responsible for the ordinary cleanliness of the premises;
- b) shall pay to the Landlord within a reasonable time the cost of repairing any damage to the premises caused by the wilful or negligent conduct of the Tenant or any persons who are permitted on the premises by the Tenant;
- c) shall conduct himself and require other persons in the premises to conduct themselves in a manner that will not disturb the Landlord's or other Tenants' possession or enjoyment of the premises or residential complex;
- d) shall not make any alterations or additions to the premises without the Landlord's prior consent;
- e) shall promptly notify the Landlord of any defect in or damage to the premises and shall pay the Landlord the cost of repairing damage resulting from the Tenant's failure to give such notice.

Specifically, the notice alleged that the respondent had failed to maintain the premises in a reasonable state of cleanliness, had changed the locks, and had failed to report damages to the premises.

The applicant stated that the owner of the building had inspected the premises and discovered significant damage. Photographs, taken by the owner were provided in evidence. The photographs show holes in the walls, a broken dishwasher, cigarette burns on the carpet and a damaged fan hood. The applicant followed up with their own inspection on March 29, 2011, confirming the damage and proceeded to issue the notice of termination.

The respondent testified that the police had raided the apartment and had damaged the door and some of the walls. He acknowledged that some of the damage was caused by himself. The respondent also stated that the state of cleanliness and damage was not as bad as the applicant claimed. The respondent stated that he had been a tenant for over 6 years and also had a medical condition that prevented him from keeping the apartment in perfect condition. A doctor's certificate was presented in evidence. The respondent stated that the apartment was in poor condition due to water infiltration and general lack of maintenance.

The matter was adjourned to enable the rental officer to inspect the premises. The applicant, respondent and the rental officer attended the premises on May 26, 2011.

Most wall surfaces in the apartment have been damaged. The damage has been very roughly patched. The repairs are not at all satisfactory. Several closet doors have also been damaged and very roughly patched. The carpet has numerous cigarette burns. The premises are cluttered and not particularly clean. A baseboard has been removed. The kitchen cabinets have been damaged and it appears the respondent is in the process of trying to glue them together. The entrance door

is split.

Comparing the check-in inspection report, provided by the applicant, the photographs taken by the owner and my observations, I conclude that although the apartment was not in the best of condition at the commencement of the tenancy, significant damage has been done by the respondent during the term of the tenancy. The carpet was new when the tenancy commenced and is now ruined by burns. Although the inspection report notes patched areas on walls, it is clear from the photographs that the respondent has created significant damage during the tenancy and the repairs he has attempted are totally unacceptable.

Section 63 of the *Residential Tenancies Act* sets out two criteria a rental officer must consider before issuing an eviction order. First, the tenancy agreement must be terminated in accordance with the Act. That has been accomplished by the applicant's notice of termination which I find was in accordance with sections 51(5) and 55(3) of the Act. Second, a rental officer must find that an eviction is justified. It is clear from the evidence that a significant breach of the tenancy agreement has occurred. The respondent has not given up possession of the premises. In my opinion, an eviction is justified.

An order shall issue evicting the respondent from the premises on June 15, 2011.

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Hal Logsdon  
Rental Officer