

IN THE MATTER between **TINA LORENZEN AND DARCY LORENZEN**,  
Landlords, and **JANICE PICKERING**, Tenant;

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 **NORMAN WELLS, NT.**

BETWEEN:

**TINA LORENZEN AND DARCY LORENZEN**

Landlords

- and -

**JANICE PICKERING**

Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 66(b) of the *Residential Tenancies Act*, the landlords shall pay compensation to the tenant for wrongful disposition of abandoned personal property in the amount of sixty eight dollars and eighty three cents (\$68.83).

DATED at the City of Yellowknife, in the Northwest Territories this 15th day of July,  
2011.

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Hal Logsdon  
Rental Officer

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AND IN THE MATTER of a Hearing before **Hal Logsdon**, Rental Officer.

BETWEEN:

**TINA LORENZEN AND DARCY LORENZEN**

Landlords

-and-

**JANICE PICKERING**

Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** June 17, 2011

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

**Appearances at Hearing:** Tina Lorenzen, landlord  
Darcy Lorenzen, landlord  
Janice Pickering, tenant

**Date of Decision:** July 15, 2011

### **REASONS FOR DECISION**

The tenancy agreement between the parties was terminated by order on January 31, 2011 and the tenant was evicted on February 10, 2011.

The landlords' application was filed on March 21, 2011 and sought an order requiring the tenant to pay rent arrears (\$3065), compensation for use and occupation (\$857.14), cleaning costs (\$1065), repair costs (\$102), storage fees (\$150), utilities (\$177.49) and sheriff's fees (\$215) net of the retained security deposit (\$1200) and interest (\$1.89). The total relief sought by the landlords was \$4429.74.

The tenant's application was filed on April 19, 2011 alleging that the landlords had breached the tenancy agreement by failing to repair the stove top, a window and the dishwasher and sought compensation for loss of full enjoyment of the premises in the amount of \$4896.25. The tenant also alleged that the landlords had harassed her and sought compensation of \$3000. The tenant also alleged that the landlords did not in good faith require the premises for their own use and sought compensation for moving, food and hotel expenses totalling \$7,362.50. Finally, the tenant alleged that the property left on the premises after the tenant was evicted was not removed and stored in a safe place in accordance with section 64 of the *Residential Tenancies Act*. She sought compensation for loss and damage to the goods of \$2840. The total relief sought by the tenant was \$18,098.75.

As both applications related to the same tenancy agreement and rental premises, both matters were heard at a common hearing.

The tenant disputed only the amount sought for compensation for use and occupation, stating that the only notice for the rent increase was provided to her on October 15, 2010 to be effective on January 15, 2011. The tenant stated that in her opinion this notice was not effective. She stated that she never received any other notice regarding a rent increase. The landlords stated that an amended notice was provided. No notices of rent increase were provided in evidence. The tenancy agreement between the parties required the tenant to pay the monthly rent in advance. In my opinion, a notice of rent increase served on October 15 could only be effective on February 1 of the following year if the rent was payable in advance. I see no evidence of such a notice and therefore must consider the compensation for use and occupation from February 1-10 at the original rent of \$1200. I find that amount to be \$428.57.

The landlords' request for rental arrears of \$3065 is denied. A previous order provided that relief.

The landlord's request for compensation for storing the tenant's possessions after she was evicted is also denied. The *Residential Tenancies Act*, permits a landlord to remove abandoned personal property but obligates the landlord to store the property in safe place and return it to the tenant if claimed. Before releasing the property, the landlord may demand reasonable removal and storage costs. If the tenant fails to claim the property after 60 days, the landlord may seek permission to sell the property and may apply the proceeds to the removal and storage costs. The Act does not

set out any other method of collecting storage costs and therefore I have no jurisdiction to order relief.

The sheriff fees for evicting the tenant are also denied as there is no provision in the Act for such relief. In my opinion, this is a cost of doing business. Consequently the relief requested for this item is denied.

I find the other costs to be reasonable and find the amount due to the landlord to be \$571.17 calculated as follows:

Security deposit	\$1200.00
Interest	1.89
Cleaning	(1065.00)
Bedroom door	(102.00)
Rent arrears	<u>(428.57)</u>
Rent due landlord	\$393.68
Utilities	<u>177.49</u>
Total due landlord	\$571.17

The landlords disputed the tenant's claim for reimbursement of the stove top repair and additional food costs stating that the tenant had indicated that her daughter had broken the stove top. They noted that glass stove tops did not simply explode and suggested that the breakage was necessarily the result of abuse. They also stated that the premises contained a microwave and a barbeque which made eating out and the purchase of fast food unnecessary.

There have been instances of glass stove tops spontaneously breaking but it appears to be a very uncommon occurrence. The tenant has acknowledged that her daughter had created damages to

the premises and seemed to initially accept that the damage was the result of her daughter's negligence. In an e-mail from the landlords to the tenant dated June 3, 2010 the landlord expresses her concern about damage to the premises caused by parties conducted by the tenant's daughter and her teenage friends.

"I've gotten a couple of complaints regarding your daughters parties in my home. I am very concerned about the condition of the house....  
....I have been in your shoes with teenager situations and know they can destroy a home in just one night. I would like to know if more damage has been done beside the doors and stove?

The tenant appeared to accept that the damage, including the stove top was the result of her daughter's parties and replied,

I am glad you told me about the rumours of parties....  
I really do want to make sure the doors and the stove are fixed.....  
I've been waiting to hear back from Whiponic regarding the estimates....

Later the tenant concluded that the stove top simply "exploded" and it was therefore the landlords' obligation to repair the appliance. She stated that the police had concluded that the stove top was not damaged by her daughter. No police report or evidence as to how the police came to that conclusion were provided.

On the balance of probabilities, I find that the stove top was damaged by the tenant or persons she permitted in the premises. Rightfully, she paid for the repairs. The reimbursement of the repair costs is denied as are the associated additional food costs claimed.

The landlords did not dispute that the broken window was boarded up and not repaired in a timely manner. The tenant claims that her heating and electrical costs increased due to the failure

of the landlords to attend to this repair. The tenant claims that she has compared previous electrical and fuel costs to those incurred when the window was board up and determined that the difference was an increase of \$1250. No analysis or data was provided to substantiate this claim. I am not prepared to consider relief without some evidence to determine if there was an increase in utilities or if the relief sought is reasonable. Therefore the relief is denied.

The landlords did not dispute that the dishwasher did not work. They had initially claimed that the dishwasher was damaged by the tenant but withdrew their claim for relief, stating that they were able to fix it themselves and did not incur any cost. The nature of the problem with the dishwasher was not provided. The tenant stated that she had notified the landlords of the dishwasher problem. There is no evidence to suggest the dishwasher was damaged by the tenant's negligence. Therefore it was the landlords' obligation to undertake repairs. In my opinion the tenant's request for compensation of \$100 for loss of full enjoyment of the rental premises is reasonable.

The tenant's request for monetary compensation for alleged harassment is denied. There is no compensation remedy for harassment contained in the Act and I therefore have no jurisdiction to consider relief.

The landlords disputed the allegation that they did not live in the premises after gaining possession through an order pursuant to section 58(1)(a) of the Act. The landlords acknowledged that they maintained a residence in Yellowknife but stated that Mr. Lorenzen worked in Norman

Wells and made the premises his home from the time the landlords were put in possession to the time the premises were sold. Section 58(1)(a) does not require the applicant to use the premises as their principal residence nor does it stipulate any time period that the applicant must occupy the premises before selling the property. The tenant's evidence based primarily on her observations of footprints in the snow does not, in my opinion serve to prove that the landlords did not use the premises as their residence. Therefore the relief related to food costs, hotel costs and moving costs are dismissed.

The landlords did not dispute that they had failed to file an inventory of abandoned personal property. They stated that they stored the personal property in their garage and after a time delivered it to a "Sea-Can" container at Matco where the tenant had stored her other possessions. Finding the container locked, they placed the property outside the container. The landlords disputed that any of the possessions could have been damaged stating that they were all placed on pallets and wrapped with plastic to protect them from the elements. The landlords also stated that the tenant was promptly made aware that the possessions had been delivered to the container but took no action to put them in the container with her other possessions.

The tenant provided a list of missing or damaged items with an estimated value for each. The tenant stated that floor lamps, bowls and painting frames were broken and that a ice cream maker, pressure cooker and espresso machine were missing. She also stated that an electric lawn mover was wet, a push mover was rusty. No photographs or other evidence was provided to indicate the condition of the property.



Clearly the landlords have failed to deal with the abandoned personal property in the manner required by the Act. However, it is also clear that the tenant took little or no action to reduce or prevent any loss. She left the property exposed to the elements after becoming aware of their whereabouts and took no action to protect them from damage. If her lawn mover was rusty and her electric mover was wet, they were surely left exposed to the elements for more than just a few days or weeks after the tenant's eviction on February 10, 2011. In my opinion, it is reasonable to consider compensation only for those items noted broken or missing by the tenant. In my opinion, the damage to the items due to exposure to the elements could have reasonably been avoided if the tenant had taken reasonable action to mitigate that loss. The values provided by the tenant for the missing or broken items are, in my opinion, reasonable. I find reasonable compensation to be \$540 calculated as follows:

Floor lamps (broken)	\$20
Broken bowls	100
Broken picture frames	300
Missing ice cream maker	50
Missing espresso machine	50
Missing pressure cooker	<u>20</u>
Total	\$540

I find the amount due to the tenant to be \$640, calculated as follows:

Non-use of dishwasher	\$100.00
Loss of value - property	<u>540.00</u>
Total due tenant	\$640.00

Subtracting the amount due to the landlords from the amount due to the tenant I find compensation for wrongful disposition of abandoned personal property due to the tenant of

\$68.83. An order requiring the landlords to pay the tenant that amount shall issue.

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Hal Logsdon  
Rental Officer