

IN THE MATTER between **POLAR PAINTING LTD.**, Applicant, and **JOHN O'CONNOR AND LEAH O'CONNOR**, Respondents;

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:

POLAR PAINTING LTD.

Applicant/Landlord

- and -

JOHN O'CONNOR AND LEAH O'CONNOR

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondents shall pay the applicant repair and cleaning costs in the amount of two thousand two hundred sixty five dollars and ninety six cents (\$2265.96).
2. Pursuant to section 45(4)(c) of the *Residential Tenancies Act*, the respondents shall pay the applicant fuel costs of one thousand ninety nine dollars and eighty nine cents (\$1099.89).

DATED at the City of Yellowknife, in the Northwest Territories this 17th day of January, 2012.

Hal Logsdon
Rental Officer

IN THE MATTER between **POLAR PAINTING LTD.**, Applicant, and **JOHN O'CONNOR AND LEAH O'CONNOR**, Respondents.

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:

POLAR PAINTING LTD.

Applicant/Landlord

-and-

JOHN O'CONNOR AND LEAH O'CONNOR

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	November 23, 2011 continued on January 11, 2012
<u>Place of the Hearing:</u>	Yellowknife, NT
<u>Appearances at Hearing:</u>	Karen McLeod, representing the applicant John O'Connor respondent Leah O'Connor, respondent (November 23, 2011 only)
<u>Date of Decision:</u>	January 17, 2012

REASONS FOR DECISION

The tenancy agreement between the parties was terminated on June 30, 2011. The respondent retained the security deposit (\$1600.00) and accrued interest (\$21.76) applying it against boiler servicing (\$150), filling the fuel tank (\$1099.89), patching and painting (\$2268), carpet replacement (\$829.92), general cleaning (\$1700) and miscellaneous repairs (\$302.50) leaving a balance owing of \$4728.55. The applicant completed a statement of the security deposit and deductions in accordance with section 18 of the *Residential Tenancies Act*. The applicant stated that the respondents had acknowledged the debt and made several payments totalling \$1180 since vacating the premises, reducing the amount owing to \$3548.55. The applicant sought an order requiring the respondents to pay that amount.

The respondents disputed some of the deductions and the matter was adjourned to provide the parties an opportunity to file additional evidence. The respondents also noted that Ms. O'Connor had not occupied the premises since October 30, 2010 but there was no indication that the tenancy agreement had been assigned to Mr. O'Connor as sole tenant or the parties to the tenancy agreement otherwise altered. The hearing was resumed on January 11, 2012. The applicant provided photographs and inspection reports in evidence.

The respondent disputed charges of \$100 to clean oil stains on the driveway which were included under "miscellaneous repairs". He acknowledged that he was responsible for some staining but stated that there were also some stains at the commencement of the tenancy. The

applicant provided a photograph of the driveway taken prior to the commencement of the tenancy and another taken at the conclusion of the tenancy. It is clear that most of the oil stains were created during the tenancy. I find the cleaning charges to be reasonable.

The respondent also disputed the repair costs of \$105 for the replacement of a bedroom door listed under "miscellaneous repairs". He stated that the door was dragging due to shifting of the building causing it to eventually delaminate. There was no evidence that the condition was reported to the landlord. In my opinion, by continuing to open and close the dragging door instead of having it repaired, the respondent has caused the damage. I find the repair costs to be reasonable.

The respondent disputed the cost of \$2268 for patching and painting the interior. The parties agreed that the entire premises had been freshly painted at the commencement of the tenancy. The respondent stated that the paint used was inferior and that he could have painted the premises himself for considerably less. The applicant provided an invoice substantiating the amount paid to a professional painter and the photographs indicate a need for both patching and painting. Taking into consideration a 5 year useful life of the paint and a tenancy of 25 months, I find the depreciated cost calculated by the applicant to be somewhat high. In my opinion, the depreciated cost should be \$2205 calculated as follows:

1- (25/60) x \$3600 =	\$2100
GST @ 5%	<u>105</u>
Total	\$2205

The respondent also disputed the need to replace the bedroom carpets which he stated were not new at the commencement of the tenancy. The inspection report indicates that carpet in one bedroom was new at the commencement of the tenancy and the applicant stated that the carpet in the other bedroom was one year old. Both are indicated to be in good condition at the commencement of the tenancy. The photographs taken at the end of the tenancy and the inspection reports indicate badly stained carpets which require replacement. Based on a 10 year useful life of the carpets and ages of 25 months and 37 months. I find a reasonable depreciated cost of \$710.22, calculated as follows:

Bedroom A	$1-(25/120) \times \$456 = \361.00
	GST @ 5% <u>18.05</u>
Total	\$379.05

Bedroom B	$1-(37/120) \times 456 = \315.40
	GST @ 5% <u>15.77</u>
Total	\$331.17

The respondent did not dispute the remainder of the costs claimed by the applicant. Applying the security deposit and accrued interest first to repair and cleaning costs, I find an amount owing to the applicant of \$3365.85 calculated as follows:

Boiler servicing	\$150.00
Patch/paint	2205.00
Carpet	710.22
Cleaning	1700.00
Misc. repairs	302.50
Security deposit	(1600.00)
Interest	(21.76)
Payments received	<u>(1180.00)</u>
Total repairs/cleaning	\$2265.96
Fuel costs	<u>1099.89</u>
Total	\$3365.85

An order shall issue requiring the respondents to pay the applicant repair and cleaning costs of \$2265.96 and fuel costs of \$1099.89.

Hal Logsdon
Rental Officer