

IN THE MATTER between **CHERYL SEAMAN C/O COLDWELL BANKER**,  
Applicant, and **DIANE MILLAR AND DARRIN MILLAR**, 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:

**CHERYL SEAMAN C/O COLDWELL BANKER**

Applicant/Landlord

- and -

**DIANE MILLAR AND DARRIN MILLAR**

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 costs in the amount of seven thousand three hundred forty three dollars and seven cents (\$7343.07).
2. Pursuant to section 45(4)(c) of the *Residential Tenancies Act*, the respondents shall pay the applicant utility costs paid on their behalf in the amount of two thousand forty eight dollars and twenty two cents (\$2048.22).
3. Pursuant to section 62(2) of the *Residential Tenancies Act*, the respondents shall pay the

applicant compensation for lost rent in the amount of four thousand five hundred dollars (\$4500.00).

DATED at the City of Yellowknife, in the Northwest Territories this 15th day of February, 2012.

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Hal Logsdon  
Rental Officer

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Applicant, and **DIANE MILLAR AND DARRIN MILLAR**, Respondents.

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R-5 (the "Act");

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BETWEEN:

**CHERYL SEAMAN C/O COLDWELL BANKER**

Applicant/Landlord

-and-

**DIANE MILLAR AND DARRIN MILLAR**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** February 3, 2012

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

**Appearances at Hearing:** Trisha DaCorte, representing the applicant  
Darrin Millar, respondent (via telephone)

**Date of Decision:** February 15, 2012

### **REASONS FOR DECISION**

The tenancy agreement between the parties was terminated on March 31, 2011 when the respondents moved out of the premises. The application was filed on November 29, 2011. The applicant sought an order requiring the respondents to pay repair costs which were not covered by their insurance, fuel and water costs paid on behalf of the respondents and compensation for lost rent.

The applicant sought leave to extend the time period permitted for applications pursuant to section 68 of the Act. She stated that the respondents had acknowledged the damages and agreed to pay the amounts owing. The applicant stated that the time to settle the insurance claim took longer than expected. She stated that she had every expectation that the matter would be resolved without recourse to legal action once the insurance claim was settled and the actual costs known. In my opinion, it is reasonable to extend the time limitation.

The tenancy agreement between the parties commenced on July 7, 2010 and was made for a term ending on June 30, 2012. On or about March 5, 2011 the premises ran out of fuel causing extensive damage due to freezing and water damage. The written tenancy agreement between the parties obligates the tenants to pay for utilities, including fuel during the term. The applicant had insurance which covered some of the repairs less a depreciation deduction for materials and a \$5000 deductible. The applicant sought relief for the depreciated deduction and the \$5000 deduction.

The applicant also sought compensation for other repairs including replacement of tenant damaged carpets and a damaged door, cleaning, compensation for lost rent and unpaid utilities. The applicant stated that the damage to the premises and the requirement for extensive cleaning made the premises unrentable in April, May and June, 2011. The applicant's claim is summarized as follows:

Insurance deductible	\$5000.00
Depreciation deduction	1661.94
Replacement of damaged carpet	1335.00
Replacement of damaged door	880.52
Unpaid fuel and water	2048.22
Removal of garbage	221.00
Compensation for lost rent	<u>4500.00</u>
Total	\$15,646.68

The applicant stated that they had retained the security deposit (\$1500) and interest and applied it to other repairs. There was no security deposit statement produced at the hearing. The respondent did not dispute any of the deductions from the security deposit.

The respondent did not dispute any of the allegations.

In my opinion, the relief for the insurance deductible, repair of the damaged door, unpaid utilities, garbage removal and compensation for lost rent are reasonable. The applicant took reasonable steps to mitigate the loss of rent.

In my opinion, it is not reasonable to provide the applicant relief for the depreciation deducted by the insurer. To do so would compensate the applicant for the replacement value which is considerably more than the remaining value of the materials, given their age and useful life.

Amounts provided for compensation should provide compensation for loss of value. The applicant's claim for \$1661.94 is denied.

Similarly, the claim for carpet replacement is based on the full replacement cost rather than the remaining value. The carpet was noted as new at the commencement of the tenancy. Given a useful life of ten years the remaining value of the carpet was 93% of the replacement cost or \$1241.55.

I find the respondents in breach of their obligations to repair damages to the rental premises which were caused by their negligence . I find the following repair costs to be reasonable:

Insurance deductible	\$5000.00
Replacement of damaged carpet	1241.55
Removal of garbage	221.00
Replacement of damaged door	<u>880.52</u>
Total	\$7343.07

I find the respondents in breach of their obligation to pay for utilities during the term of the tenancy agreement. I find the unpaid utilities to be \$2048.22 calculated as follows:

Water paid of behalf of respondents	\$938.58
Fuel	<u>1109.64</u>
Total	\$2048.22

I find that the respondents abandoned the premises and that the applicant took reasonable steps to mitigate the loss. I find reasonable compensation for lost rent to be \$4500.

April, May and June, 2011 rents @ \$1500/mo.    \$4500

An order shall issue requiring the respondents to pay the applicant repair costs, utility costs and

- 5 -

compensation for lost rent in the total amount of \$13,891.29.

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Hal Logsdon  
Rental Officer