

IN THE MATTER between **TUNG TRAM**, Applicant, and **LAURIE MCNEILL AND JOY MCNEILL**, 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:

**TUNG TRAM**

Applicant/Landlord

- and -

**LAURIE MCNEILL AND JOY MCNEILL**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 62(2) of the *Residential Tenancies Act*, the respondents shall pay the applicant compensation for lost rent in the amount of one hundred dollars (\$100.00).

DATED at the City of Yellowknife, in the Northwest Territories this 28th day of March, 2012.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **TUNG TRAM**, Applicant, and **LAURIE MCNEILL AND JOY MCNEILL**, 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:

**TUNG TRAM**

Applicant/Landlord

-and-

**LAURIE MCNEILL AND JOY MCNEILL**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** March 16, 2012

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

**Appearances at Hearing:** Tung Tram, applicant  
Laurie McNeill, respondent  
Joy McNeill, respondent

**Date of Decision:** March 27, 2012

### **REASONS FOR DECISION**

The applicant alleged that the respondents vacated the rental premises without giving proper notice and that as a result he was unable to re-rent the premises on a timely basis and lost rent. . The applicant sought an order requiring the respondents to pay compensation for lost rent in the amount of \$1300.

The tenancy agreement was verbal and ran month-to month. The applicant stated that the monthly rent was \$1300. The applicant stated that the respondents advised him verbally on December 5, 2011 that they had moved out. The rent had been paid to November 30, 2011. The applicant stated that he immediately placed an ad in the newspaper and showed the premises to prospective tenants. He stated that he did not re-rent the premises until February 1, 2012. He sought compensation for the lost December, 2012 rent.

The respondents acknowledged that they had not provided written notice to the applicant. They stated that they had moved out on November 28, 2011. The respondents also stated that the monthly rent for the premises had been increased from \$1250 to \$1300 on January 10, 2010. They stated that the applicant had failed to give them any written notice of the rent increase but they had paid the increased amount every month. The applicant acknowledged that he had not given written notice of the rent increase.

Section 52(1) of the *Residential Tenancies Act* sets out a tenant's obligation to give written

notice to end a monthly tenancy agreement.

- 52. (1) Where a tenancy agreement does not specify a date for the termination of the tenancy agreement, the tenant may terminate the tenancy on the last day of a period of the tenancy by giving the landlord a notice of termination,**
- (a) in the case of a weekly tenancy, not later than seven days before that day; or**
  - (b) in the case of a monthly tenancy, not later than 30 days before that day.**

Section 55(1) requires that such a notice be made in writing.

- 55. (1) A notice of termination from a tenant to a landlord must**
- (a) be in writing;**
  - (b) be signed by the tenant or an agent of the tenant;**
  - (c) identify the rental premises to which the notice applies; and**
  - (d) state the date on which the tenancy is to terminate.**

Clearly the respondents failed to give the required notice and are therefore liable for lost rent subject to the landlord's efforts to mitigate loss. In my opinion, the applicant took reasonable steps to mitigate that loss by advertising and showing the property and renting it as soon as possible. I find the respondents liable for his loss of the December, 2011 rent.

Section 47(2) of the Act requires that written notice of any rent increase be given to the tenant.

- 47.(2) The landlord shall give the tenant notice of the rent increase in writing at least three months before the date the rent increase is to be effective.**

The applicant failed to give the required written notice for the rent increase. Therefore the rent increase was not effective and the lawful monthly rent for the premises has remained at \$1250.

This resulted in a credit balance in favour of the tenant at the end of the tenancy agreement of

\$1150 calculated as follows:

|   |               |
|---|---------------|
| Rent due January, 2010 to November , 2011 (23 months @ \$1250)  | \$28,750      |
| Rent paid January, 2010 to November , 2011 (23 months @ \$1300) | <u>29,900</u> |
| Credit balance as at November 30, 2011                          | (\$1,150)     |

Taking into consideration the credit balance owing the respondents and the compensation for lost rent owing the applicant, I find a balance owing the applicant of \$100, calculated as follows:

|   |               |
|---|---------------|
| Compensation for lost rent due applicant (December, 2011) | \$1250        |
| Credit balance in favour of respondents                   | <u>(1150)</u> |
| Balance owing applicant                                   | \$100         |

An order shall issue requiring the respondents to pay the applicant compensation for lost rent of \$100.

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Hal Logsdon  
Rental Officer