

IN THE MATTER between **EDUARDO MEJIA**, Applicant, and **META ANTOLIN**,  
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:

**EDUARDO MEJIA**

Applicant/Tenant

- and -

**META ANTOLIN**

Respondent/Landlord

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 18.1(b) of the *Residential Tenancies Act*, the respondent shall return the retained security deposit and accrued interest to the applicant in the amount of eight hundred fifty dollars and six cents (\$850.06).

DATED at the City of Yellowknife, in the Northwest Territories this 11th day of May,  
2012.

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Hal Logsdon  
Rental Officer

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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:

**EDUARDO MEJIA**

Applicant/Tenant

-and-

**META ANTOLIN**

Respondent/Landlord

**REASONS FOR DECISION**

**Date of the Hearing:** May 4, 2012

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

**Appearances at Hearing:** Eduardo Mejia, applicant  
Meta Antolin, respondent

**Date of Decision:** May 4, 2012

### **REASONS FOR DECISION**

The tenancy agreement between the parties was terminated on August 28, 2011 when the applicant vacated the premises. The applicant stated that the respondent did not return his security deposit of \$850 although the premises were returned to the landlord without any damage and in a clean state and the rent had been paid in full to August 31, 2011. The applicant sought an order requiring the respondent to return the security deposit of \$850.

The respondent acknowledged that the premises were returned in good repair and clean and that the applicant had paid rent to August 31, 2011. She stated that the applicant had failed to give her proper notice to terminate the tenancy agreement and despite her best efforts to mitigate loss of rent, she was not able to re-rent the premises in September, 2011.

Section 18(4) of the *Residential Tenancies Act* sets out what may be deducted from a security deposit.

**18.(4) A landlord may, in accordance with this section, retain all or a part of a security deposit, a pet security deposit or both for arrears of rent owing from a tenant to the landlord in respect of the rental premises, and for repairs of damage to the premises caused by the tenant or a person permitted on the premises by the tenant.**

Compensation for lost rent is neither arrears of rent or repair costs. It is not a permitted deduction from a security deposit.

In *Greenway Realty Ltd. v. Roy*, 1998 CanLII 6979 (NWT SC), Justice Vertes noted the

difference between arrears of rent and compensation for loss of future rent in paragraph 6.

[6] Nowhere in the Act is the landlord authorized to retain a security deposit as compensation for loss of future rents. That is an economic loss claim. A security deposit may be retained for *arrears of rent* but that is not the same as future rent. The term *arrears of rent*, as used in the Act, clearly means rent that was due at a fixed time and that time has now lapsed without payment being made. It is rent behind, not in the future. To hold otherwise would not only distort the plain meaning of the words used in the statute but could also be viewed as conflicting with the express statutory prohibition on taking a security deposit as security for the first or last month's rent: s.14(5).

For these reasons, an order shall issue requiring the respondent to return the security deposit of \$850 to the applicant along with the accrued interest which I calculate to be \$0.06.

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Hal Logsdon  
Rental Officer