

IN THE MATTER between **MOHAMED ABDEL LATIF**, Applicant, and **NPR LIMITED PARTNERSHIP**, 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:

MOHAMED ABDEL LATIF

Applicant/Tenant

- and -

NPR LIMITED PARTNERSHIP

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 18.1(b) of the *Residential Tenancies Act*, the respondent shall return the balance of the retained security deposit to the applicant in the amount of six hundred eighty dollars (\$680.00).

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

Hal Logsdon
Rental Officer

IN THE MATTER between **MOHAMED ABDEL LATIF**, Applicant, and **NPR LIMITED PARTNERSHIP**, 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:

MOHAMED ABDEL LATIF

Applicant/Tenant

-and-

NPR LIMITED PARTNERSHIP

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: September 5, 2012

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Mohamed Abdel Latif, applicant
Maigan Lefrancois, representing the respondent

Date of Decision: September 11, 2012

REASONS FOR DECISION

This tenancy agreement commenced on August 1, 2011 and the applicant took possession on August 6, 2011. The tenancy agreement was terminated on July 31, 2012. The respondent deducted painting expenses (\$600) and cleaning expenses (\$80) from the security deposit (\$1575) and accrued interest (\$0.64) returning \$895.64 to the applicant. The applicant disputed the deductions and sought an order requiring the respondent to return the deductions of \$680.

The applicant stated that the walls were damaged at the commencement of the tenancy agreement. He stated that there were marks on the walls as well as small holes. He acknowledged that there were some areas of damage that were done during his tenancy but stated that he repaired the damage and repainted the damaged walls himself. He also disputed the requirement for cleaning. The applicant stated that he did not receive a check-out inspection report.

The respondent provided one move-in inspection report and two move-out inspection reports in evidence. The move-in inspection report is dated August 6, 2011. Although there is no indication that the applicant was given a copy of this report, it was signed by the applicant. The report notes "black marks on walls" in bedroom #2 and the living room.

One move-out inspection report is dated July 31, 2012. It is also signed by the applicant and indicates that a copy was given to the tenant. The report notes that the stove, tub and toilet were not clean but notes "tenant will clean". The report also notes that walls in the living room and master bedroom require painting and notes that "tenant will paint tonight will check tomorrow".

The report also notes that touch-up painting is required in the bathroom and hallway.

The other move-out report is not signed by either party and there is no indication that it was provided to the applicant. This report contains the notation "1:00 PM July 31 reschedule". This report does not indicate any requirement for cleaning. The report outlines the requirement to paint three walls in the living room, one wall in the master bedroom and two walls in bedroom #2. It also indicates the need to touch up paint in the bathroom and hallway. This report also indicates estimated costs of repair which include a total of \$850 for painting and \$40 for missing blind slats. There are no estimated cleaning costs.

The respondent stated that an initial check out inspection found the painting of the damaged walls to be unsatisfactory and the landlord gave the applicant an opportunity to repaint. Similarly, the applicant was given an opportunity to clean the areas noted as requiring cleaning. The applicant acknowledged that he painted the walls twice but did not repair some small holes which he claimed existed at the commencement of the tenancy.

The respondent provided photographs of the premises. It is not clear if the photographs were taken when the first move-out inspection report was created or when the second move-out inspection report was created. The photographs show soiled areas in the bathroom and kitchen. The photographs also indicate a much less than perfect patching and painting of the walls with wall colour on the baseboards and ceiling and poorly finished patching. Numerous small holes remain unrepaired.

Section 17.1 of the *Residential Tenancies Act* requires a landlord to offer the tenant an opportunity to participate in an exit inspection of the premises, prepare an inspection report and provide the tenant with a copy of the report.

- 17.1. (1) A landlord or his or her agent shall**
- (a) conduct an inspection of the condition and contents of rental premises vacated by a tenant at the end of a tenancy; and**
 - (b) offer the tenant reasonable opportunities to participate in the inspection.**
- (2) A landlord or his or her agent shall, with or without the tenant, conduct an inspection of the condition and contents of rental premises abandoned by the tenant, within one week after the day the landlord ascertains that the tenant has abandoned the rental premises.**
- (3) Without delay on the completion of an inspection, the landlord or his or her agent shall**
- (a) prepare an exit inspection report;**
 - (b) sign the exit inspection report; and**
 - (c) if the tenant participated in the inspection, provide the tenant with an opportunity to include comments in the exit inspection report and to sign it.**
- (4) An exit inspection report may be in the approved form.**
- (5) A landlord shall ensure that a copy of an exit inspection report is given to the tenant within five days after the day of the inspection.**

Section 18(5) of the *Residential Tenancies Act* prohibits a landlord from retaining any amount of a security deposit if they fail to complete the required inspection reports or fail without reasonable excuse to provide the reports to the tenant.

- 18.(5) A landlord may not retain any amount of a security deposit or pet security deposit for repairs of damage to the rental premises if the landlord or his or her agent**
- (a) fails to complete an entry inspection report and an exit inspection report; or**
 - (b) fails, without a reasonable excuse accepted by a rental officer, to**

give a copy of each report to the tenant.

The existence of two move-out reports is confusing. It appears that the one signed by the tenant found that the cleaning and the wall repairs and painting were not acceptable and that the tenant was given an opportunity to remedy the noted deficiencies. It appears that the other move-out report was not done in the presence of the tenant or provided to him. It appears to indicate that the wall repairs were still unacceptable but that the cleaning had been done.

I do not accept that the move-out inspection report that was signed by the tenant represents a true check-out inspection report as set out in section 17(1) as it does not set out the condition of the premises after the tenant was permitted to re-enter the apartment to repaint or clean. The unsigned move-out inspection would appear to be the final report but was clearly not signed by the tenant and does not appear to have been given to him. Therefore, the wall repair expenses can not be deducted from the deposit. It also appears from the unsigned move-out report that the cleaning issues were resolved. I conclude that the photographs were taken when the signed inspection report was created. I find that the evidence does not support the requirement for any cleaning.

An order shall issue requiring the respondent to return the retained portion of the security deposit to the applicant in the amount of \$680.

Hal Logsdon
Rental Officer