

IN THE MATTER between **SHAWN ROPER**, Applicant, and **SHERMAN CAVANAUGH**, 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:

SHAWN ROPER

Applicant/Landlord

- and -

SHERMAN CAVANAUGH

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of seventy dollars and fifty cents (\$70.50).
2. Pursuant to section 62(2) of the *Residential Tenancies Act*, the respondent shall pay the applicant compensation for lost rent in the amount of four hundred thirty eight dollars and fifty cents (\$438.50).

DATED at the City of Yellowknife, in the Northwest Territories this 1st day of October, 2012.

Hal Logsdon
Rental Officer

IN THE MATTER between **SHAWN ROPER**, Applicant, and **SHERMAN CAVANAUGH**, 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:

SHAWN ROPER

Applicant/Landlord

-and-

SHERMAN CAVANAUGH

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	September 17, 2012
<u>Place of the Hearing:</u>	Yellowknife, NT via teleconference
<u>Appearances at Hearing:</u>	Shawn Roper, applicant Sherman Cavanaugh, respondent
<u>Date of Decision:</u>	September 28, 2012

REASONS FOR DECISION

The tenancy agreement between the parties was verbal, commenced on April 1, 2012 and was terminated on June 29, 2012 when the respondent moved out. The parties agreed that the tenancy agreement obligated the respondent to pay \$750/month plus 50% of the expenses which included water, cable/internet and electricity. The respondent's share of the expenses were paid to the applicant making them rent. It does not appear that the total amount of rent charged by the applicant increased in May or June, 2012 eliminating any requirement to provide notice of rent increase.

The applicant alleged that the respondent gave only verbal notice on June 6, 2012 to terminate the tenancy agreement on July 15, 2012. The respondent acknowledged that he gave only verbal notice but stated that he gave the notice on June 2nd for June 30th. The applicant sought an order requiring the respondent to pay rent and compensation for lost rent, including 50% of the bills to July 15, 2012. The applicant stated that he had contacted a number of friends who might be interested in renting the premises and was able to re-rent the premises commencing August 1, 2012.

The applicant sought rent and compensation for lost rent in the amount of \$509 as follows:

Rent	\$363
Water	57
Electricity	62
Cable	<u>27</u>
Total	\$509

Copies of the water bill and electrical bills were provided in evidence.

The respondent disputed the applicant's claim for lost rent stating that he did not act swiftly enough to mitigate his loss. He also stated that he agreed to share only basic cable service rather than the cable package with additional channels. The applicant stated that he received notice immediately before leaving for a brief vacation and acted as quickly as he could. He stated that after he received the respondent's complaint about the enhanced cable package, he changed the service to basic cable.

Sections 55 and 52 of the *Residential Tenancies Act* set out requirements for a tenant's notice to terminate.

- 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.**

- 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.**

Notwithstanding the date the notice was given or the effective date of the termination, the respondent's notice can not be effective as it was not made in writing. Therefore the respondent is potentially liable for lost rent in July, 2012 subject to the applicant's efforts to mitigate that

loss. In my opinion the applicant took reasonable steps to mitigate the loss. While it is true that he did not begin to seek another tenant as soon as the respondent verbally notified him, the respondent's termination date appears to have been somewhat equivocal. The applicant is also not claiming the entire month of July but only 50% of the actual lost rent.

I find the calculations of the cable, water and electricity bills to be reasonable and shall consider that \$70.50 is rent to June 30, 2012 and the remainder, \$438.50 is compensation for lost rent for the period July 1-15, 2012.

An order shall issue requiring the respondent to pay the applicant rent arrears of \$70.50 and compensation for lost rent of \$438.50.

Hal Logsdon
Rental Officer