

IN THE MATTER between **VALERIE MAREMBO**, Applicant, and **LENA ADJUN**,
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:

VALERIE MAREMBO

Applicant/Tenant

- and -

LENA ADJUN

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 12th day of October,
2012.

Hal Logsdon
Rental Officer

IN THE MATTER between **VALERIE MAREMBO**, Applicant, and **LENA ADJUN**,
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:

VALERIE MAREMBO

Applicant/Tenant

-and-

LENA ADJUN

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: September 26, 2012

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Valerie Marembo, applicant (by telephone)
Lena Adjun, respondent
Kyle Aviak, witness for the respondent

Date of Decision: October 11, 2012

REASONS FOR DECISION

The landlord was ordered to return the applicant's personal property to a location of her choice at the landlord's expense. (files #10-13022 and #10-13023, filed on August 21, 2012). The applicant was granted leave to file an application for loss or damage to the personal property. The applicant alleged that certain items were damaged or missing and sought an order for compensation.

The applicant stated that she instructed the respondent to deliver the property to a storage unit. She stated that she was present at the storage unit when the property was delivered. The property was delivered on August 25, 2012. When the property was removed from the storage unit by the applicant on or about August 30, 2012 the following items were missing or damaged:

- A white upholstered chair had a tear in the upholstery. The applicant stated that the chair was approximately one year old and had a replacement cost of \$150.
- A red upholstered chair had a split wooden leg. The chair was similar in age and replacement cost to the one named above.
- A paper shredder had a cracked case. The shredder was operational and had a replacement value of \$40.
- A wooden bed frame was broken. The applicant stated that it had to be repaired by a carpenter which would cost approximately \$500.
- iPad box and accessories (earphone and power cords) were missing. The applicant stated that the replacement cost of the accessories was \$70.

Photographs were presented by the applicant in evidence. The applicant stated that the

photographs were taken at the storage unit when the possessions were removed.

On August 31, 2012, the respondent filed an inventory of the personal property which was removed from the premises and stored in their garage on August 17, 2012. The inventory does not mention the condition of any of the items. The inventory includes the two chairs, shredder and bed frame. It includes an iPad but does not list any accessories. The applicant stated that the accessories were in the iPad box.

The respondent stated that none of the possessions were damaged when they were moved from the premises to their garage. The respondent denied that any of the property was damaged or missing when they returned the property to the applicant. The respondent stated that they had hired professional movers to remove the goods from their garage and deliver them to the storage unit. Mr. Aviak stated that he personally monitored the move of the possessions from the garage to the storage unit and did not observe any damages when the goods were loaded or unloaded.

The respondent stated that they did not remove or store any iPad accessories. Ms Adjun acknowledged that there was a iPad box with the iPad. She stated that she did not look in the box and listed the item on the inventory as "1 Ipad".

The applicant acknowledged that she was present at the storage unit when the possessions were delivered on August 25 but did not take note of any damages until she removed the items from the storage unit. She stated that the damages were noted prior to moving the possessions from the storage unit to her present accommodation on August 31, 2012 and that the photographs were

taken at the site of the storage unit.

In the August 21, 2012 rental officer decision, the landlord was found to be in breach of sections 25 and 34 of the *Residential Tenancies Act*.

25. (1) No landlord or tenant shall, during occupancy of the rental premises by the tenant, alter or cause to be altered the locking system on any door giving entry to the rental premises except by mutual consent.

(2) A landlord or tenant shall not change the locks on any entrance to the residential complex so as to unreasonably interfere with the other's access to the complex.

34. (1) No landlord shall disturb a tenant's possession or enjoyment of the rental premises or residential complex.

Both section 25 and 34 contain remedies of compensation for loss suffered as a direct result of the breach. After the applicant was locked out of her premises, the landlord moved her belongings into their garage. The respondent arranged the move of the possessions from the garage to the moving truck and then to the storage unit as ordered. In my opinion, the respondent remained responsible for the personal possessions until they were delivered to the storage unit on August 25, 2012.

The applicant claims that the possessions were all in good condition when she was locked out of the premises. This is supported by the testimony of the respondent who stated that they observed no damaged items when the possessions were removed from the premises. Therefore the damages must have occurred sometime between August 17, 2012 when the possessions were moved to the landlord's garage and to August 30, 2012 when the applicant noted the damages.

Clearly, the chairs, shredder and bedframe are damaged. Had the applicant noted the condition of the property at the time it was returned to her, it could be conclusively established when the damage occurred. However, several days passed, during which the goods were in the possession of the applicant, before the damages were documented. During this time, it is conceivable that the damages could have occurred. The onus is on the applicant to prove her allegations on the balance of probabilities. In my opinion, she has failed to establish that the personal possessions were damaged by the respondent.

I note that the iPad was returned, presumably with the box. In my opinion, there is not sufficient evidence to conclude that the accessories were not in the box or that the box was not returned.

In summary, the allegations are not adequately supported by the evidence and the application shall be dismissed.

Hal Logsdon
Rental Officer