

IN THE MATTER between **UNION OF NORTHERN WORKERS**, Applicant, and  
**MICHELE LETOURNEAU**, 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:

**UNION OF NORTHERN WORKERS**

Applicant/Landlord

- and -

**MICHELE LETOURNEAU**

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 seven hundred nine dollars and twenty eight cents (\$709.28).

DATED at the City of Yellowknife, in the Northwest Territories this 1st day of March,  
2013.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **UNION OF NORTHERN WORKERS**, Applicant, and  
**MICHELE LETOURNEAU**, 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:

**UNION OF NORTHERN WORKERS**

Applicant/Landlord

-and-

**MICHELE LETOURNEAU**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** February 13, 2013

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

**Appearances at Hearing:** Trisha DaCorte, representing the applicant  
Patricia Ducharme, witness for the applicant  
Michele LeTourneau, respondent

**Date of Decision:** February 28, 2013

### **REASONS FOR DECISION**

The tenancy agreement between the parties was terminated on December 31, 2012. The applicant retained the security deposit (\$1220) and accrued interest (\$4.22) deducting repair costs to a fence (\$630), estimated cleaning costs (\$375) and rent arrears (\$1568) resulting in a balance owing the applicant of \$1348.78. The applicant sought an order requiring the respondent to pay the balance owing. The applicant provided a statement of the security deposit although it contains an arithmetic error indicating that the balance owing is \$1273.78.

The applicant stated that the December, 2012 rent of \$1568 was not paid. The applicant also amended the cleaning costs to \$365.50 and provided an invoice in support of that expense. The applicant's witness testified that the respondent cut a hole in a fence on the west side of the property. An invoice for \$600 representing the repair cost for the fence was provided in evidence. The applicant's witness stated that the respondent had previously agreed to pay for the repair but had not done so.

The respondent did not dispute that the December, 2012 rent was not paid nor did she dispute the cleaning costs. The respondent disputed the fence repair costs on the grounds that they were not a legitimate deduction from the security deposit.

Section 42 of the *Residential Tenancies Act* sets out the tenant's obligation to repair damage.

**42. (1) A tenant shall repair damage to the rental premises and the residential**

**complex caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant.**

“Rental Premises” and “Residential Complex” are defined in section 1(1) of the Act

**"rental premises" means a living accommodation or land for a mobile home used or intended for use as rental premises and includes a room in a boarding house or lodging house.**

**"residential complex" means a building, related group of buildings or mobile home park, in which one or more rental premises are located and includes all common areas, services and facilities available for the use of tenants of the building, buildings or park.**

Clearly the fence is not part of the rental premises which are considered to be the area (room, apartment, house) where the tenant enjoys exclusive possession. On the other hand, a tenant is obligated to repair damages to the residential complex which includes common areas and services and facilities available for the use of tenants.

“Service and Facilities” are defined as follows:

**"services and facilities" includes furniture, appliances and furnishings, parking and related facilities, laundry facilities, elevator facilities, common recreational facilities, garbage facilities and related services, cleaning or maintenance services, storage facilities, intercom systems, cable television facilities, heating facilities or services, air-conditioning facilities, utilities and related services, and security services or facilities.**

The fence is clearly not part of the residential complex as it is not part of a building in which the rental premises are located. In my opinion it was not a common area or a service or facility available for the use of tenants. Therefore, the damage to the fence can not be considered to be a breach of section 42 and as rental officer, I have no jurisdiction to issue any order.

I find the respondent in breach of her obligation to pay rent. I also find the cleaning costs of \$365.50 to be reasonable. Applying the retained security deposit first to the cleaning costs, I find a balance of rent arrears due to the applicant of \$709.28, calculated as follows:

Security deposit	(\$1220.00)
Interest	(4.22)
Cleaning	365.50
Rent arrears	<u>1568.00</u>
Amount owing applicant	\$709.28

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$709.28.

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Hal Logsdon  
Rental Officer