

IN THE MATTER between **JENNIFER COCKNEY**, Applicant, and **GERALD PETRIN**, 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 **INUVIK, NT.**

BETWEEN:

JENNIFER COCKNEY

Applicant/Tenant

- and -

GERALD PETRIN

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 18.1(b) of the *Residential Tenancies Act*, the respondent shall return the security deposit and accrued interest to the applicant in the amount of one thousand six hundred dollars and fifty one cents (\$1600.51).
2. Pursuant to section 30(4)(d) of the *Residential Tenancies Act*, the respondent shall pay the applicant compensation for loss of possession due to the respondent's failure to repair the premises in a timely manner in the amount of one thousand one hundred eighty seven dollars and ten cents (\$1187.10).

DATED at the City of Yellowknife, in the Northwest Territories this 23rd day of July, 2013.

Hal Logsdon
Rental Officer

IN THE MATTER between **JENNIFER COCKNEY**, Applicant, and **GERALD PETRIN**, 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:

JENNIFER COCKNEY

Applicant/Tenant

-and-

GERALD PETRIN

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: **July 16, 2013**

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

Appearances at Hearing: **Jennifer Cockney, applicant**

Date of Decision: **July 23, 2013**

REASONS FOR DECISION

The respondent was sent a Notice of Attendance by registered mail which was confirmed delivered. The respondent failed to appear at the hearing and the hearing was held in his absence.

The tenancy agreement between the parties was terminated on April 30, 2013 when the applicant vacated the premises. The applicant testified that the respondent had failed to return her security deposit, had not provided any statement of deductions or completed written check-in or exit inspection reports. She sought an order requiring the respondent to return the security deposit and the accrued interest. The applicant testified that she paid the full amount of the required \$1600 security deposit on September 10, 2012.

The applicant also alleged that the respondent failed to repair the premises in a timely manner after the heating equipment failed causing the premises to freeze. The applicant stated that the unit froze on March 8, 2013. She stated that the premises were without any water until April 1, 2013 when the repairs were completed. The applicant stated that she continued to pay the full rent of \$1600 until she moved out on April 30, 2013. The applicant sought compensation for her loss of possession from March 8-31.

Sections 15 and 17 of the *Residential Tenancies Act* obligates a landlord to complete inspection reports at the commencement and the end of a tenancy and to provide those reports to the tenant. Section 18(5) of the Act sets out consequences for failure to meet these obligations.

- 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.**

Section 18 also sets out the landlord's obligation to provide an itemised statement of deductions from the security deposit to the tenant if all or part of the security deposit is retained.

Although there was no evidence that the repairs were made necessary by the tenant's negligence, I need not make such a determination to order the return of the security deposit. The respondent has forfeited his right to retain the deposit for repair costs and there are no rent arrears. I find interest on the deposit to be \$0.51. An order shall issue requiring the respondent to return the security deposit and interest to the applicant in the amount of \$1600.51.

Sections 30 and 42 of the Act set out obligations to repair the premises.

30. (1) A landlord shall

- (a) provide and maintain the rental premises, the residential complex and all services and facilities provided by the landlord, whether or not included in a written tenancy agreement, in a good state of repair and fit for habitation during the tenancy; and**
 - (b) ensure that the rental premises, the residential complex and all services and facilities provided by the landlord comply with all health, safety and maintenance and occupancy standards required by law.**
- (2) Any substantial reduction in the provision of services and facilities is deemed to be a breach of subsection (1).**

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.

The applicant testified that prior to the freeze-up, the respondent had advised her that he was replacing the fuel tank and advised her to not to fill the tank with fuel until he had completed the work. She stated that the landlord advised her on March 8, 2013 that the work had been completed and she put \$800 worth of fuel in the tank that day. When she returned to the unit later that day, she discovered it cold and notified the respondent.

I find no negligence on the part of the applicant. The applicant was unable to live in the premises without any water. Her rent was paid during this period entitling her to possession and the enjoyment of full services and facilities. In my opinion, compensation for rent paid during the 23 days the applicant was unable to live in the premises is reasonable. I calculate that amount to be $(23/31) \times \$1600 = \1187.10 . An order shall issue requiring the respondent to pay the applicant compensation of \$1187.10 for loss of possession due to his failure to repair the premises in a timely manner.

Hal Logsdon
Rental Officer