

IN THE MATTER between **KEVIN KAM SO**, Applicant, and **MARY BETH LEVAN AND BILL SCHRAM**, Respondents;

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:

KEVIN KAM SO

Applicant/Tenant

- and -

MARY BETH LEVAN AND BILL SCHRAM

Respondents/Landlords

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 18.1(b) of the *Residential Tenancies Act*, the respondents shall return to the applicant a portion of the retained security deposit in the amount of one thousand four hundred sixty nine dollars and thirty six cents (\$1469.36).

DATED at the City of Yellowknife, in the Northwest Territories this 20th day of August, 2013.

Hal Logsdon
Rental Officer

IN THE MATTER between **KEVIN KAM SO**, Applicant, and **MARY BETH LEVAN AND BILL SCHRAM**, Respondents.

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:

KEVIN KAM SO

Applicant/Tenant

-and-

MARY BETH LEVAN AND BILL SCHRAM

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: July 30, 2013

Place of the Hearing: Yellowknife, NT via teleconference

Appearances at Hearing: Kevin Kam So, applicant
Trisha Da Corte, agent for the respondents
Meda Shannahan, witness for the respondents

Date of Decision: August 20, 2013

REASONS FOR DECISION

The tenancy agreement between the parties was terminated on June 30, 2013. The respondents' agent issued a statement of the security deposit indicating the following repair and cleaning costs and an amount due to the applicant of \$305.47

Security deposit	\$2200.00
Less listed repairs	1527.03
Less cleaning	<u>367.50</u>
Balance	\$305.47

Interest of \$0.85 was calculated on a separate statement and added to the balance bringing the total to \$306.32. The respondents' agent stated that none of the security deposit or interest had been returned to the applicant pending the outcome of the hearing. The applicant sought an order requiring the respondents to return the full amount of the security deposit plus interest.

The applicant also sought the return of \$661.50 that he had paid the respondents to thaw frozen water lines. The respondents' agent alleged that the applicant had shut off a circulating pump which prevented the water lines from freezing during the winter. The applicant paid the bill but stated that he did not shut off the pump and did not feel that the frozen lines were caused by his negligence.

The security deposit statement issued did not itemize the costs of the repairs. Only a total cost was provided. The respondents' witness, who undertook the repairs, provided the following itemization of the repair costs:

Repair holes	\$600.00
Screen door	375.33
Door repair	309.00
Fridge	125.00
Curtain rod removal	45.00
GST	<u>72.70</u>
Total	\$1527.03

The respondents' agent provided numerous photographs taken at the commencement of the tenancy agreement and at the end of the agreement. The respondents' agent also provided inspection reports and an invoice for the cleaning costs in evidence.

The applicant acknowledged that there were several small holes where a curtain rod had been removed and another by the front door but disputed the cost of \$600. The applicant stated that the patching of the holes should not have cost more than \$164 to repair given their size. The inspection report does not note any wall damage on either check-in or check-out. The photographic evidence indicates only minor damage to the wall surfaces. In my opinion, the evidence more closely supports the cost of \$164.

The respondents' agent stated that the glass in the screen door was missing. The applicant stated that the glass was missing at the commencement of the tenancy agreement. The check-in inspection does not note the missing glass but the check-out inspection does. Both inspections were signed by the applicant. In my opinion, the evidence supports the allegation of the respondents and the costs of replacement are reasonable.

The respondents' agent alleged that the entry door was damaged by forcing it open. The applicant

acknowledged the damage but submitted that the wood door stile on the metal clad door cracked due to it drying out. There is no damage to the door noted on the check-in inspection but damage is noted on the check-out inspection. A photograph of the damaged door shows a conventional metal clad insulated door with wood stiles. There is a door knob installed with a dead bolt above. A long crack extends from the exterior edge of the stile, through both the knob pawl and dead bolt holes and back to the exterior edge of the stile. The pawl faceplate is missing.

The applicant provided an email sent to a “maintenance manager” in evidence. The applicant poses the question, “Can you tell the difference between an outside door that has been kicked in versus cracked because of dryness?” The manager’s response, written on the email is, “ No! Unless it is splintered from force. Separation from dry is clean.”

Although solid wooden doors are quite susceptible to warping and cracking do to climatic changes, insulated steel doors are quite stable. When forced, they fail at the weakest point, which are the holes drilled in the wooden stile to accommodate the pawl and deadbolt mechanism. I have observed many forced steel clad doors and they fail in the same manner. The typical pattern of the damage and the fact that the pawl faceplate is missing convinces me that the door was forced. I believe that if the maintenance manager was shown a photograph of this damage, he/she would agree. I find the repair costs reasonable.

The applicant acknowledged that the refrigerator shelves were broken but stated that the shelves had been broken before he moved in and had been glued together. He submitted that it would

have been difficult to notice the faults at the check-in inspection and that the racks subsequently broke though normal use. He noted that one area of the refrigerator photograph showed a thin line on one rack that was a glued repair. Neither the check-in inspection report or the check-out report indicate any damage to the appliance. The invoice notes that three shelves were repaired and the photograph taken at the end of the tenancy shows several shelves damaged.

Although the alleged glued crack is difficult to see clearly, I am willing to accept that if it had been repaired, it could have easily been missed on the check-in inspection. However, the photograph in question only indicates one repaired shelf, not three. In my opinion, two-thirds of the repair costs (\$83.33) are reasonable.

The applicant stated that the premises were left in a reasonably clean condition. In my opinion the photographs do not support his position. The photographs show floors that have not been swept and dirty walls. In my opinion, cleaning was necessary to bring the premises to a condition of reasonable cleanliness and the costs claimed by the applicant are reasonable.

The respondents' agent stated at the hearing that she was now of the opinion that the freeze up was not caused by the circulation pump being shut off and intended to refund the \$661.50 that the applicant had paid for the repairs. She acknowledged that she had not yet done so.

In summary, and taking into account the credit for the \$661.50 due to the applicant and the as yet unreturned security deposit, I find an amount owing to the applicant of \$1469.36 calculated as

follows:

Credit for thawing pipes	(\$661.50)
Security deposit	(2200.00)
Interest	(0.85)
Wall repairs	164.00
Screen door repair	375.33
Exterior door repair	309.00
Refrigerator repair	83.33
Curtain rod removal	45.00
GST	48.83
Cleaning	<u>367.50</u>
Total owing applicant	\$1469.36

An order shall issue requiring the respondents to return to the applicant \$1469.36.

Hal Logsdon
Rental Officer