

IN THE MATTER between **BRIAN FIDLER AND DEBI SCOTT-FIDLER**,
Applicants, and **NPR LIMITED PARTNERSHIP**, 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:

BRIAN FIDLER AND DEBI SCOTT-FIDLER

Applicants/Tenants

- and -

NPR LIMITED PARTNERSHIP

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 18.1(b) of the *Residential Tenancies Act*, the respondent shall return a portion of the retained security deposit to the applicants in the amount of nine hundred forty six dollars and thirty two cents (\$946.32).

DATED at the City of Yellowknife, in the Northwest Territories this 7th day of March,
2014.

Hal Logsdon
Rental Officer

IN THE MATTER between **BRIAN FIDLER AND DEBI SCOTT-FIDLER**,
Applicants, and **NPR LIMITED PARTNERSHIP**, 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:

BRIAN FIDLER AND DEBI SCOTT-FIDLER

Applicants/Tenants

-and-

NPR LIMITED PARTNERSHIP

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: February 19, 2014

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Debi Scott-Fidler, applicant (by telephone)
Wendy Hackett, respondent

Date of Decision: February 19, 2014

REASONS FOR DECISION

The style of cause of this order has been amended to reflect the legal name of the respondent.

The tenancy agreement between the parties was terminated on November 30, 2013 when the applicants vacated the premises. The applicant retained the security deposit (\$1940.00) and accrued interest (\$0.32) applying it to rent arrears (\$970) penalties for late rent (\$24) and the December rent (\$1940) leaving a balance owing to the respondent of \$993.68. The respondent completed a statement of the security deposit and deductions.

The applicants disputed the deductions and sought the return of the security deposit which they claimed was \$970.

The respondent's ledger indicates that 50% of the security deposit was paid on June 5, 2013. In accordance with section 14(2) of the *Residential Tenancies Act*, a tenant is entitled to pay half of the required security deposit at the commencement of the tenancy and the remainder within three months. On October 1, 2013 the remaining 50% of the security deposit was debited and the applicants made a payment of \$1940 on that day. The respondent stated that they applied \$970 to the remaining security deposit balance and \$970 to the partial satisfaction of the October rent, leaving a balance of rent arrears of \$970. While this is quite reasonable, the applicants understood that the entire payment would be applied to rent, leaving half of the security deposit outstanding.

The ledger also contains two debits totalling \$24 for late rent penalties related to the partial payment of the October rent. I find the penalties reasonable as the rent was in arrears despite the understanding of the applicants that the October payment was applied solely to the October rent. While I find the application of the October payment to the security deposit and rent reasonable (application of payments to the oldest debt is a standard accounting practice) I would suggest that the ledger should clearly indicate the two transactions to avoid confusion.

Only arrears of rent and repairs of damages may be deducted from a security deposit. Arrears of rent are rents that have come due and have not been paid. The December, 2013 rent did not come due as the applicants terminated the tenancy agreement on November 30, 2013 when they gave up possession. Any claim for compensation for lost rent must be determined by a rental officer via an application by a landlord [Greenway Realty Ltd. v. Roy, 1998 CanLII 6979 (NWT SC)].

Only the outstanding \$970 from October and the penalties for late rent of \$24 represent rent arrears and may be deducted from the security deposit. Taking into consideration the retained security and interest, I find the amount of security deposit to be returned to be \$946.32 calculated as follows:

Security deposit	\$1940.00
Interest	0.32
less rent arrears	(970.00)
less penalties	<u>(24.00)</u>
Amount due applicants	\$946.32

An order shall issue requiring the respondent to return a portion of the retained security deposit in the amount of \$946.32.

Hal Logsdon
Rental Officer