

IN THE MATTER between **JAMES DOUGLAS**, Applicant, and **ARMANDO BERTON**, 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 **FORT SMITH, NT**.

BETWEEN:

JAMES DOUGLAS

Applicant/Tenant

- and -

ARMANDO BERTON

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 33(3)(c) of the *Residential Tenancies Act*, the respondent shall pay compensation to the applicant for withholding a vital service in the amount of three hundred thirty two dollars and ninety six cents (\$332.96).
2. Pursuant to section 33(3)(b) of the *Residential Tenancies Act*, the respondent shall not withhold a vital service again.

DATED at the City of Yellowknife, in the Northwest Territories this 1st day of April, 2014.

Hal Logsdon
Rental Officer

IN THE MATTER between **JAMES DOUGLAS**, Applicant, and **ARMANDO BERTON**, 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:

JAMES DOUGLAS

Applicant/Tenant

-and-

ARMANDO BERTON

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: March 14, 2014

Place of the Hearing: Yellowknife, NT via teleconference

Appearances at Hearing: James Douglas, applicant
Armando Berton, respondent

Date of Decision: March 14, 2014

REASONS FOR DECISION

The respondent's family name was spelled incorrectly on the application. The order shall reflect the correct spelling of his name.

The applicant alleged that the respondent shut off the supply of electricity to his apartment on February 4, 2014. The application was filed on February 12. The applicant stated that the electricity was restored on March 7 and that the respondent had given him a rent credit of \$125. The applicant sought additional compensation of \$332.96 to cover costs of perishable food which was lost due to a lack of refrigeration (\$126.56), meal costs due to the inability to cook (\$65), loss of cable and internet service (\$118.40) and miscellaneous items such as batteries, candles, etc.(\$23). The applicant provided calculations of each amount.

The respondent acknowledged that he shut off the electricity to the applicant's apartment, stating that the applicant had not paid rent. The respondent provided a handwritten statement showing the amount of rent alleged owing. The applicant did not dispute that he was in arrears of rent.

The rent for the premises includes utilities including electricity.

Section 33 of the *Residential Tenancies Act*, prohibits the withholding of any vital service, which includes electricity, until a tenant vacates or abandons the rental premises.

- 33.(1) In this section, "vital service" includes heat, fuel, electricity, gas, hot and cold water and any other public utility.**
- (2) No landlord shall, until the date the tenant vacates or abandons the rental premises,**
- (a) withhold or cause to be withheld the reasonable supply of a vital service that the landlord is obligated to supply under the tenancy agreement; or**
 - (b) deliberately interfere with the supply of a vital service, whether or not the landlord is obligated to supply that service under the tenancy agreement.**

Non-payment of rent cannot justify a landlord's breach of the obligation contained in section 33.

It is prohibited to interfere with the supply of a vital service if the tenant is still in possession of the premises. Clearly the applicant was in possession and clearly the respondent's actions caused the cessation of the supply of electricity.

Living without electricity for a month certainly results in a significant loss of enjoyment of the premises. The \$125 rent reduction provided by the respondent represents an 11% reduction of the monthly rent. The additional amount sought by the applicant represents the actual out of pocket expenses directly related to the landlord's breach. In my opinion, it is reasonable.

I find the respondent in breach of the obligation to not interfere with the provision of a vital service. An order shall issue requiring the respondent to pay the applicant compensation of \$332.96 and to not breach the obligation again. The applicant may elect to receive the compensation as a rent credit.

Hal Logsdon
Rental Officer