

IN THE MATTER between **NPR LIMITED PARTNERSHIP**, Applicant, and  
**MOHAMMED UDDIN**, 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:

**NPR LIMITED PARTNERSHIP**

Applicant/Landlord

- and -

**MOHAMMED UDDIN**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 10th day of July,  
2014.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **NPR LIMITED PARTNERSHIP**, Applicant, and  
**MOHAMMED UDDIN**, 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:

**NPR LIMITED PARTNERSHIP**

Applicant/Landlord

-and-

**MOHAMMED UDDIN**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** June 25, 2014

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

**Appearances at Hearing:** Aya Burshan, representing the applicant  
Mohammed Uddin, respondent

**Date of Decision:** July 9, 2014

### **REASONS FOR DECISION**

The applicant alleged that the respondent's failure to comply with instructions provided to him regarding preparation for treatments for a cockroach infestation resulted in continued infestation of the pests. The applicant sought monetary relief for the additional treatments required and termination of the tenancy agreement.

The applicant stated that when cockroaches were discovered in the apartment, they scheduled an exterminator to treat the premises and provided a notice to the tenant regarding what preparations had to be done prior to the treatment. The applicant stated that the notices were put under the door of the apartment. The applicant provided a copy of the notice which was allegedly provided to each tenant whose apartment was scheduled for treatment but was unable to provide any copies of notices with the respondent's suite or scheduled date indicated.

A report by the exterminator, provided in evidence, indicated that the first treatment was done on October 7, 2013. It states that the unit was not prepared for the treatment as items were not removed from kitchen cupboards and the bathroom. The report also noted that the cockroaches were discovered by the tenant six months ago but he had not reported them to the landlord. The report states that they inspected this unit because the unit upstairs had reported the pests. The report also notes that there were holes under the bathroom and kitchen sinks and recommended that these be filled with foam. The exterminator recommended another treatment be done on the apartment in 14 days as well apartments 7,14,20,13,19 and 21.

An invoice from the exterminator for the October 7 treatment was provided in evidence. It indicated that the respondent's apartment as well as apartments 13 and 20 were treated for \$129 plus GST each. The applicant sent the respondent an invoice for \$1653.75 for this first treatment. The applicant provided no details as to how the \$1653.75 charge was calculated.

A second treatment was carried out on October 22, 2013. The exterminator's report again indicates that the tenant had not fully prepared the premises for the treatment or followed up on the last one by removing dead cockroaches and cleaning up cabinet areas. The report again recommended that the holes in the kitchen and bathroom should be filled with foam. It recommended that another treatment be done in 14 days and that apartments 7,14,20,13,19,21,15,22 and 18 be treated at that time as well.

An invoice from the exterminator for the October 22 treatment was provided in evidence. It indicated that the respondent's apartment as well as apartments 20,13,19,14 and 21 were treated for \$129 plus GST each. The applicant sent the respondent an invoice, provided by the respondent in evidence, for \$2443.35 for this second treatment. This invoice was not posted to the resident ledger and the applicant provided no details concerning how the charges to the respondent were calculated.

A third treatment was carried out on November 4, 2013. The exterminator's report again indicates that the tenant had not fully prepared the premises for the treatment or followed up on the last one by removing dead cockroaches and cleaning up cabinet areas. The report again recommended

that the holes in the kitchen and bathroom should be filled with foam. It recommended that another treatment be done in 14 days and that apartments 7,14,20,13,19,21,15,22,18,10,1,5,16,4 and 3 be treated at that time as well.

An invoice from the exterminator for the November 4 treatment was provided in evidence. It indicated that the respondent's apartment as well as apartments 13, 20, 19, 14 and 21 were treated for \$129 plus GST each. The applicant sent the respondent an invoice, provided by the respondent in evidence, for \$3234 for this third treatment. This invoice was not posted to the resident ledger and the applicant provided no details concerning how the charges to the respondent were calculated.

A fourth treatment was carried out on November 21, 2013. The exterminator's report again indicates that the tenant had not fully prepared the premises for the treatment or followed up on the last one by removing dead cockroaches and cleaning up cabinet areas. A number of photographs were attached to the report. There was no evidence of any invoice from the exterminator or any charges billed to the respondent.

A fifth treatment was carried out on December 6, 2013. The exterminator's report indicates that the tenant had prepared the premises for the treatment and followed up on the last one by removing dead cockroaches and cleaning up cabinet areas. The exterminator again noted that the holes in the kitchen and bathroom had not been filled. The report indicated that the infestation had been reduced. There was no evidence of any invoice from the exterminator or any charges

billed to the respondent.

A sixth treatment was carried out on January 6, 2014. The exterminator's report indicates that the tenant had prepared the premises for the treatment and followed up on the last one by removing dead cockroaches and cleaning up cabinet areas. The exterminator again noted that the holes in the kitchen and bathroom had not been filled. The report indicated that the infestation had been reduced. There was no evidence of any invoice from the exterminator or any charges billed to the respondent.

Initially, the applicant sought relief of \$1653.75, the amount of their first invoice to the respondent. The applicant later revised the figure to \$2031.75, the sum of the three invoices from the exterminator.

The respondent disputed the charges. He testified that he had notified the landlord that there were cockroaches in the apartment in November, 2012 and again in January, 2013. He questioned how the exterminator could have any knowledge of his notice to the landlord. He denied having been given any sheet of instructions to prepare for the treatments, stating that all instructions were provided to him verbally by telephone. He stated that the person who did the extermination had told him that his preparation was acceptable. The respondent also noted that the recommendation to fill the holes in the bathroom and kitchen were not followed by the landlord and that the exterminator considered this repair to be critical to avoid the spread of the infestation. The respondent provided a number of undated photographs in evidence showing empty cabinets.

Section 42 of the *Residential Tenancies Act* deals with tenant caused damage to the premises.

**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.**

A rental office may order a tenant to compensate a landlord for loss suffered as a direct result of the tenant's breach of section 42. An infestation of cockroaches, bedbugs, ants and the like certainly constitutes damage but to find a tenant liable for compensation it must be established that the tenant, through a willful or negligent act, contributed to that damage.

There is rarely any evidence to support an allegation that a tenant wilfully or negligently introduced vermin to the premises. So it is with this matter. Although the exterminator reported that he believed the infestation spread from the respondent's apartment there is no evidence to support that the respondent willingly or negligently introduced the vermin to the apartment.

The exterminator reported that the respondent failed to report the infestation, implying that was a contributing factor in the spread of the infestation. Clearly, the exterminator has no direct knowledge of such events. The tenant testified that he reported the pests to the landlord on several occasions in 2012 and 2013. On the balance of probabilities, I cannot conclude that the respondent failed to inform the landlord of the infestation in a timely manner.

If a tenant is provided clear instructions for the preparation for an infestation treatment and fails to follow the instructions they may be in breach of section 43 if their breach causes continuing damage or contributes to the spread of the infestation. In this matter, I do not find sufficient

evidence to conclude that the respondent failed to follow the instructions given to him or that his actions or lack of action directly caused the spread of the infestation.

I cannot conclude on the balance of probabilities that the written instructions provided in evidence by the applicant were served on the respondent. The instruction sheet provided with the application has neither the apartment number, the time or date of the treatment or the respondent's name on it. There is no other notice of intended entry. There is no proof of service. The respondent testified that all instructions given to him were verbal and he believed on verbal advice from the exterminator that he had substantially complied with the instructions.

It also appears from the evidence that the landlord may have failed to respond to the tenant's complaint of the cockroaches in a timely manner, leading to a more widespread infestation that was more difficult to eradicate with just one or two treatments. It is also clear from the evidence that the landlord failed to comply with the repeated recommendations of the exterminator to seal the openings in the kitchen and bathroom which may have led to the continuing spread of the infestation. After the second treatment, the exterminator recommended that nine other apartments be treated but the landlord only treated five. I can not conclude that it was the tenants action that directly caused the infestation to spread or hindered the eradication of the cockroaches.

For the above reasons, I cannot find the respondent liable for the costs of extermination. There are no grounds for the termination of this tenancy agreement. The application is dismissed. I need not comment on the calculation of the costs that were charged to the respondent except to say



that the invoices that were sent to the tenant bear little resemblance to the costs billed to the landlord by the exterminator.

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Hal Logsdon  
Rental Officer