

IN THE MATTER between **5655 NWT LTD.**, Applicant, and **MISTYCOLBORNE AND MORGHAN COLBORNE**, Respondents;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act") as amended;

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer, regarding the rental premises at **YELLOWKNIFE, NT.**

BETWEEN:

**5655 NWT LTD,**

Applicant/Landlord

- and -

**MISTYCOLBORNE AND MORGHAN COLBORNE**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*. The respondent shall pay the applicant rent arrears in the amount of six hundred forty four dollars and ninety nine cents (\$644.99).
2. Pursuant to section 61(2) of the *Residential Tenancies Act*, the respondent shall pay the applicant compensation for lost rent in the amount of one thousand forty dollars and thirty two cents (\$1040.32).

DATED at the City of Yellowknife, in the Northwest Territories this 24th day of September, 2014.

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Hal Logsdon  
Rental Officer

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BETWEEN:

**5655 NWT LTD.**

Applicant/Landlord

-and-

**MISTYCOLBORNE AND MORGHAN COLBORNE**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** August 6, 2014 continued on August 15, 2014

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

**Appearances at Hearing:** Lynn Elkin, representing the applicant  
Ted Studer, representing the applicant  
Misty Colborne, respondent

**Date of Decision:** September 23, 2014

### **REASONS FOR DECISION**

The tenancy agreement between the parties commenced on October 1, 2013 and was made for a one year term ending on September 30, 2014. The applicant alleged that the tenant had abandoned the premises on July 27, 2014. The applicant retained the security deposit (\$2150) and accrued interest (\$1.01) applying it against yard and shed clean-up (\$83), repairs of lawn and fencing (\$170), wall repairs (\$168), general cleaning (\$125), repairs to the tub/shower fixture and replacing shower doors (\$88), replacement of trim (\$155), lock changes (\$172), replacement of a missing extension cord and repair to an exterior electrical outlet (\$50), rent arrears for July (\$2150) penalties for late rent (\$51) and compensation for 15 days of lost rent in August (\$1040.32) resulting in a balance owing the applicant of \$2101.31. The applicant sought monetary relief in that amount.

The applicant provided the tenancy agreement, inspection reports, photographs, estimated and final security deposit statements, correspondence, and advertisements in evidence.

The respondent did not dispute that she vacated the premises before the end of the term or that she failed to pay the rent for July, 2014. She did disagree with all of the repair and cleaning costs.

#### **Yard and Shed Clean-up**

The applicant sought compensation of \$83 for the removal of various items left in the shed, yard and porch. The respondent acknowledged that the items could have belonged to her. The check in

inspection report shows some items in the shed at the commencement of the tenancy but all are the property of the landlord and intended for use by the tenant during the term. A photograph of the abandoned items suggests that they could easily be transported to the dump in one small truck load. The applicant has claimed labour (\$35/hour), truck expenses (\$25/hour) and dump fees as components of cost. It suggests that the task took about 1.5 hours, which in my opinion is reasonable.

#### Repairs of Lawn and Fencing

The applicant sought \$170 to repair the holes that had been dug in the yard and re-seed portions of the lawn. Part of the cost was to re-attach some fence boards in the front and rear of the house. The respondent acknowledged that there had been two dogs kept on the property and the photographs show numerous holes and damaged areas of the yard. There were no holes indicated on the check-in inspection. The respondent stated that the fence boards came loose either through normal wear and tear or because water and sewer upgrades being undertaken in the neighbourhood may have necessitated their temporary removal. In my opinion the fence repairs were not required as a result of any negligence by the respondent. The fence costs are not identified separately but I find \$100 to be a reasonable cost for the yard repairs which I find were the responsibility of the tenant.

#### Wall Repairs

The respondent acknowledged that she had hung curtains throughout the premises and had not left the hangers in place when she vacated or filled the holes in walls. She stated that there were

similar holes in the walls when the tenancy commenced and that she filled them herself although there were no observations of these holes on the check-in report. I find the amount of \$168 sought by the applicant to be reasonable.

#### General Cleaning

The applicant sought \$125 for general cleaning which, at the labour rate used by the landlord, represent over 3.5 hours of labour. Neither the check-out report or the photographic evidence suggest that much cleaning was required. Both the kitchen and bath including appliances and fixtures were left clean. In my opinion, the few areas which required minor cleaning could have been cleaned in 2 hours. I find \$70 to be reasonable compensation.

#### Tub/Shower Fixture/Shower Doors

The shower valve handle on the tub/shower fixture had come off the fixture and the shower doors had been removed and stored in the shed. The applicant sought repair costs of \$88 to repair or replace the fixture and reinstall the shower doors. The check-in report indicates that the fixtures were in good working order at the commencement of the tenancy and the shower doors installed. The photograph of the fixture suggests that the shower valve handle had simply come off due to normal wear and tear. It does not appear to be the result of any negligence on the part of the tenant. The installation of the shower doors should only take one hour of labour to reinstall. In my opinion \$35 is reasonable compensation.

### Replacement of Trim

The applicant sought compensation of \$155 for replacement of damaged door trim, baseboards, trim around woodstove, etc. Photographs suggest that the damage was caused by a dog chewing on the trim. The check-in report does not indicate damages to these items. I find compensation of \$155 to be reasonable.

### Lock Change

The applicant stated that the locks had been changed by the respondent and it was necessary to install new locks consistent with other locking mechanisms in the landlord's portfolio of properties. The applicant acknowledged that the tenant had requested a lock change because the mechanisms were often difficult to unlock. The applicant stated that the delivery of the replacement locks "took a while" (the respondent claims five months) and the respondent ordered and installed her own locks. The respondent stated that the locks she installed cost her \$65. The applicant sought \$172 to change the locks.

The locks were not damaged by the respondent. Their malfunction was clearly due to normal wear and tear. Although neither landlord or tenant is permitted to change the locks without the other's permission, I do not believe the tenant should be expected to ensure a malfunctioning lock for that length of time. The applicant's request for compensation for replacing the locks is denied and the respondent shall be compensated for her expenses of \$65 to purchase the new locks.

Extension Cord and Repair of Plug Cover

The check in inspection report notes no damage to the plug cover and includes two extension cords in the shed. The check-out inspections notes only one extension cord and a missing plug cover. The respondent has noted on the check-out inspection that the plug cover was missing at the commencement of the tenancy agreement but no note was made on the check-in inspection. I find the relief sought of \$50 sought by the applicant to be reasonable

The applicant has calculated the penalties for late rent incorrectly. Regulation 3 sets the rate for late penalties.

- 3. For the purposes of subsection 41(2) of the Act, a late payment penalty respecting the rent due under a tenancy agreement must not exceed \$5 plus \$1 for each day after the due date that the rent is late, to a maximum of \$65.**

The penalty for the non-payment of the July rent to the date of the hearing should be \$50.

$$30 \text{ days in July} + 15 \text{ days in August} = 45 \text{ days} \times \$1 = \$45 + \$5 = \$50.$$

The applicant provided copies of advertisements for the premises from June 30 to August 11, 2014. The applicant testified that the premises were re-rented on August 16. The respondent disputed the quantum of compensation requested submitting that the rent increase of \$100 applied to the new tenant did not result in a reasonable rent. The applicant stated that the last rent increase for the premises occurred in November 2012.

Landlords may raise the rent as long as 12 months has elapsed since the last rent increase for the premises. More than 20 months has past since the last rent increase for this unit. In my opinion, a

rent increase of less than 5% does not constitute an unreasonable rent increase. I find compensation for lost rent of \$1040.32 to be reasonable.

Applying the retained security deposit first to the repair costs, I find rent arrears of \$644.99 calculated as follows:

Security deposit	(2150.00)
Interest	(1.01)
Yard & shed clean-up	83.00
Yard repair	100.00
Wall repair	168.00
General cleaning	70.00
Shower repairs	35.00
Trim replacement	155.00
Lock credit	(65.00)
Missing items	50.00
Rent arrears	2150.00
Late penalties	<u>50.00</u>
Total	\$644.99

An order shall issue requiring the respondent to pay rent arrears of \$644.99 and compensation for lost rent of \$1040.32.

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Hal Logsdon  
Rental Officer