

IN THE MATTER between **NPR LIMITED PARTNERSHIP**, Applicant, and **DAVID WINDLE**, Respondent;

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:

NPR LIMITED PARTNERSHIP

Applicant/Landlord

- and -

DAVID WINDLE

Respondent/Tenant

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 one thousand three hundred fifty six dollars and four cents (\$1356.04).

DATED at the City of Yellowknife, in the Northwest Territories this 13th day of November, 2014.

Hal Logsdon
Rental Officer

IN THE MATTER between **NPR LIMITED PARTNERSHIP**, Applicant, and **DAVID WINDLE**, 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-

DAVID WINDLE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: **October 8, 2014**

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

Appearances at Hearing: **Aya Burshan, representing the applicant**

Date of Decision: **November 11, 2014**

REASONS FOR DECISION

The respondent was sent a Notice of Attendance by registered mail. At the time of the hearing, there was no confirmation that the notice had been received but Canada Post confirmed that a notice had been left at the respondent's address advising him where the notice could be picked up. The respondent did not appear at the hearing and the hearing was held in his absence.

The original application, filed on September 17, 2014 and personally served on the respondent, alleged that the respondent had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement. At the hearing, the applicant stated that they wished to amend the application to include monetary relief for costs related to fire damage and provided a fire report, a quotation for repairs totalling \$16,380, and a total estimate of total repairs of \$36,380. The amendment to the application was mailed to the respondent on October 3, 2014.

The applicant stated that a fire had occurred in the respondent's apartment on September 21, 2014 which had rendered the premises temporarily uninhabitable. The applicant has not heard from the respondent since the fire and has not been advised that the respondent intends to continue the tenancy after repairs are completed. A statement, entered in evidence by the applicant indicates that no rent has been paid since June 30, 2014 and that the balance owing as at October 7, 2014 is \$4517 which includes the full rent for both September and October, 2014.

Section 1(3) of the *Residential Tenancies Act* sets out the criteria for abandonment of rental premises.

- 1(3) For the purposes of this Act, a tenant has abandoned the rental premises and the residential complex where the tenancy has not been terminated in accordance with this Act and**
- (a) the landlord has reasonable grounds to believe that the tenant has left the rental premises; or**
 - (b) the tenant does not ordinarily live in the rental premises, has not expressed an intention to resume living in the rental premises, and the rent the tenant has paid is no longer sufficient to meet the tenant's obligation to pay rent.**

In my opinion the tenancy agreement has not been terminated due to frustration as the apartment is repairable but it has been abandoned by the respondent. I find that the tenancy agreement was terminated on September 21, 2014 by reason of abandonment. I find rent arrears to that date of \$2762 calculated as follows:

Balance as per statement	\$4517.00
less September rent applied	(1350.00)
less October rent applied	(1350.00)
September 1-21 rent	<u>945.00</u>
Balance	\$2762.00

In my opinion, it is not reasonable to consider repair costs at this time. Much of the cost estimated by the applicant is not based on reliable estimates or quotations and the extent of the damage is still partially unknown. The respondent should be properly served with detailed repair costs and evidence concerning the cause of the fire. I make no finding on the alleged damages to the apartment or the cause of the fire at this time. This file shall be kept open until March 31, 2015 and the applicant may seek a continuance of the hearing on notice to a rental officer.

The applicant holds a security deposit of \$1315 with accrued interest of \$0.96. I find no evidence of a statement or estimated statement of the security deposit and deductions so the security deposit and accrued interest should be applied against the rent arrears, resulting in a balance of rent owing to the applicant of \$1356.04 calculated as follows:

Security deposit	(1315.00)
Interest	(0.96)
Rent arrears	<u>2672.00</u>
Amount owing applicant	\$1356.04

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$1356.04.

Hal Logsdon
Rental Officer