

IN THE MATTER between **Marie-Louise Laberge**, Applicant, 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, **Adelle Guigon**, Deputy Rental Officer, regarding a rental premises located within the **city of Yellowknife in the Northwest Territories**.

BETWEEN:

MARIE-LOUISE LABERGE

Applicant/Tenant

- and -

NPR LIMITED PARTNERSHIP

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 30(4)(a) and 30(4)(b) of the *Residential Tenancies Act*, the landlord must comply with their obligation to maintain the rental premises in a good state of repair, and must not breach that obligation again.

2. Pursuant to sections 30(4)(d) and 34(2)(c) of the *Residential Tenancies Act*, the landlord must compensate the tenant for failing to comply with their obligations to ensure the rental premises complies with all health standards required by law and not to disturb the tenant's enjoyment of the rental premises in the amount of \$866.67 (eight hundred sixty-six dollars sixty-seven cents).

DATED at the City of Yellowknife in the Northwest Territories this 29th day of September 2015.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Marie-Louise Laberge**, Applicant, 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 **Adelle Guigon**, Deputy Rental Officer,

BETWEEN:

MARIE-LOUISE LABERGE

Applicant/Tenant

-and-

NPR LIMITED PARTNERSHIP

Respondent/Landlord

REASONS FOR DECISION

<u>Date of the Hearing:</u>	September 9, 2015
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	Marie-Louise Laberge, applicant
<u>Date of Decision:</u>	September 28, 2015

REASONS FOR DECISION

An application to a rental officer made by Marie-Louise Laberge as the applicant/tenant against NPR Limited Partnership as the respondent/landlord was filed by the Rental Office August 13, 2015. The application was made regarding a residential tenancy agreement for the rental premises known as #1, 5023 - 48 Street, in Yellowknife, Northwest Territories. The applicant personally served a copy of the filed application on the respondent August 14, 2015.

The tenant alleged the landlord had failed to effect repairs in a timely manner and had failed to eradicate cockroaches from the building, resulting in disturbing the tenant's enjoyment of the rental premises. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for September 9, 2015, in Yellowknife, Northwest Territories. Ms. Marie-Louise Laberge appeared as applicant/tenant. Ms. Aya Burshan appeared as respondent/landlord.

Tenancy agreement

Although a copy of the written tenancy agreement was not entered into evidence, there was no dispute between the parties that a tenancy agreement was in place between them. The rental premises was identified as Apartment #1 at Hudson House, located at 5023 - 48 Street in Yellowknife, Northwest Territories. The tenancy at Apartment #1 commenced February 9, 2015, at a monthly rent of \$1,300. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Main door security buzzer

The residential complex main entrance is secured with a FOB system installed earlier this spring. Entry to the building requires the user to have an FOB (a digital key) to unlock the door. Any guests to the building must dial into a keypad to call the apartment being visited, at which point the answering tenant may grant entry by releasing the locking mechanism from their apartment, or 'buzzing' the visitor in. Not long after the FOB system was installed, the entry panel for buzzing people in failed. As a consequence, the tenants in the building must leave their apartments to manually permit guests to enter.

The landlord immediately investigated the problem and determined the panel required replacement, placing an order with the manufacturer. The manufacturer has been significantly delayed in providing the necessary replacement components, an issue which is beyond the landlord's control.

The tenant's primary concern with the failure of the panel lies with emergency personnel access. She feels that her safety is compromised without the ability to permit entry to emergency personnel when required from her apartment. The landlord testified that the local RCMP and fire department both have keys or FOBs to gain access to all their buildings in the community in the case of an emergency. As such, a tenant who calls for assistance should not be required to 'buzz' the emergency personnel in. Additionally, the malfunctioning panel is not compromising the security of the building as the FOB system is still functioning.

Section 40(1) of the Act requires a landlord to install devices that make the rental premises reasonably secure from unauthorized entry. I am not satisfied that the landlord has failed to comply with this obligation as a consequence of the entry panel malfunctioning.

Maintenance of the rental premises

On June 2, 2015, the tenant reported that one of her kitchen cupboard walls under the sink had water damage and was very soft. On August 5, 2015, the tenant reported to the landlord that her kitchen sink was leaking. Additionally, a kitchen drawer required replacement and the kitchen fan was wobbling. As of this hearing date, the tenant alleged the landlord had not effected adequate repairs.

One visit by maintenance staff did not observe the kitchen sink as wet and presumed there was no leak. The tenant argued that she had just wiped down the pipe under the sink, explaining why it was dry at the time of the visit, and that the maintenance person did not investigate further than looking under the sink and touching the pipe.

Another visit by maintenance staff reported that the cupboard wall was hard and dry, but that there was evidence that it was once wet; repair was not noted as required. The tenant argued that the cupboard wall was in fact waterlogged and soft to the touch, and that the damp material was attracting cockroaches. Photographs of the damages in question were provided into evidence. The tenant suggested the water damage may be coming from a sealed-in crawl space under the stairs on the other side of the wall to her apartment and questioned why that area had not been opened up and inspected.

The landlord testified that there was a pipe under the stairs which had been blocked off some time ago and to which there was a monitoring device to detect water pressure. According to recent monitoring, the pressure did not appear to be low, indicating it was unlikely that any leaks were occurring. The landlord did acknowledge that the area had been opened during construction over the summer and that water appeared to be running from the toilet pipe found behind the crawlspace wall, but it was repaired and the leak appeared to stop. The question remained unanswered as to whether or not the condition of the wall within the sealed crawlspace was assessed for water damage which may be contributing to the water damage experienced in the cupboard wall in the tenant's apartment.

Section 30(1)(a) of the Act requires a landlord to maintain the rental premises in a good state of repair. The landlord's timely and thorough response to notices of defects within a rental premises would mitigate any substantial damage to the property and alleviate any consequential issues experienced by the tenant.

The tenant in this instance testified the leak in the kitchen sink is still present. The landlord confirmed her maintenance supervisor had intended to inspect the sink last week but was called into a meeting; he is expected to contact the tenant to make new arrangements to attend the premises. Additionally, the kitchen drawer had been rebuilt and was ready to install, and the ceiling fan was scheduled to be replaced.

I am satisfied the landlord is making the necessary efforts to effect the repairs to the kitchen drawer and ceiling fan. I am not satisfied the landlord has made the necessary efforts to address the tenant's concerns regarding the leaky sink and the water damaged cupboard wall. However, I do acknowledge the landlord's testimony respecting the maintenance manager's immediate intentions to address those concerns, including a proposal to seal the cupboard walls with water resistant paint. An order will issue requiring the landlord to comply with their obligation to maintain the rental premises in a good state of repair and not to breach that obligation again.

Cockroach infestation

This residential complex has been suffering from a cockroach infestation since 2013. An exterminator was hired to treat the infestation. Between the first complaint at that time and May 2015, the treatments were ordered only for apartments from which the landlord received complaints. Treating hallways, storage areas, the laundry room, and maintenance rooms was added later during that period. It was not until May 22, 2015, that the whole building was treated. Additionally, the exterminator recommended since commencing treatment that subsequent treatments should occur every 14 days. Until May 2015, that recommendation was not followed. Recommendations to fill holes in walls took weeks to follow through with. Treatment consisted of laying gel bait and powder in key areas in the kitchens, bathrooms, and closets. At no time did the exterminator recommend fumigating the building.

The treatments require tenant cooperation to be successful. Written notices have been sent to all tenants advising them when each treatment is scheduled and what preparations they must make to facilitate the treatment. Preparations include removing all items from the kitchen and bathroom cupboards and closets, keeping all food stored in sealed containers, and cleaning up the dead cockroaches before and between treatments.

An Environmental Health officer inspected the building on more than one occasion. He recognized the health hazard posed by cockroaches, but reported satisfaction with the landlord's efforts to eradicate the infestation and was not prepared to condemn the building as unsafe to live in.

The tenant in this application questioned why the issue had not been fully addressed already. She questioned why fumigation was not considered at the outset. She questioned why efforts to determine the cleanliness of all apartments were not made, arguing that the cleanliness of one's apartment was a contributing factor to the infestation. By not adequately addressing the infestation, the landlord has disturbed the tenant's enjoyment and possession of the rental premises. The tenant has been unable to store her possessions in the cupboards due to the treatment requirements and has been woken up by and otherwise dealing with cockroaches skittering around her apartment, thus creating a stressful living environment.

The landlord did not disagree with the tenant's questions. She testified the landlord had considered treatment options at the recommendation of the exterminator and determined the gel and powder bait treatments as the appropriate first step. As previously stated, this program satisfied the Environmental Health officer as well.

Section 30(1)(b) of the Act requires a landlord to ensure the rental premises and residential complex complies with all health standards required by law. The Environmental Health officer has concurred that cockroaches carry and distribute bacteria, creating a health hazard in residential areas. Although the landlord in this case has been making efforts to eradicate the cockroach infestation, until recently those efforts were inadequate and the infestation continues.

Section 30 does not contain an element of fault, meaning regardless of how the issue occurred the landlord has an obligation to ensure the maintenance of the building and compliance with standards are met. I am satisfied the landlord has been making repeated efforts to exterminate the infestation; I am not satisfied the efforts have been successful to date. I find the landlord has failed to comply with their obligation to ensure the rental premises complies with health standards required by law.

Section 34(1) of the Act specifies a landlord shall not disturb a tenant's possession or enjoyment of the rental premises or residential complex. By failing to provide a cockroach-free rental premises, I am satisfied the tenant's possession and enjoyment of the rental premises has been compromised and I find the landlord has failed to comply with their obligation under section 34(1) of the Act.

The tenant in this application has requested compensation in the form of ordering the landlord to fumigate the residential complex. Based on other recent applications regarding the infestation, I believe the infestation has been aggravated by one particular unit in the building. That unit has been addressed at hearing and efforts have been made to address the aggravating factor. These efforts have already resulted in a substantial reduction to the infestation as reported by the exterminator. I am satisfied that with the anticipated cooperation of all tenants that the exterminator's efforts to eradicate the cockroaches with the gel and powder baits is likely to be effective. Without the exterminator's recommendation for fumigation, nor the Environmental Health officer's assessment of the necessity for other treatments, I am not prepared to require the landlord to treat the infestation in any particular way.

In keeping with previous applications against the landlord regarding the same matter, I am satisfied compensation is due the tenant in this application for the landlord's failure to effect a timely resolution to the infestation and consequentially disturbing the tenant's enjoyment and possession of the rental premises. Previous compensation was awarded based on one month's rent for every 12 months the tenant's enjoyment/possession was disturbed. This tenant's rent is \$1,300 per month and her tenancy commenced in February 2015. An order will issue requiring the landlord to compensate the tenant in the amount of \$866.67, calculated by dividing \$1,300 by 12 months and multiplying by eight months.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Nine work orders dated between February 10 and August 24, 2015

Exhibit 2: Email conversation between Marie-Louise Laberge and Tirzah del Valle dated from August 19 to August 27, 2015

Exhibit 3: Set of six photographs

Exhibit 4: Alta Pest Control reports of treatments dated from November 18, 2014, to September 2, 2015