

IN THE MATTER between **Irene Landry**, 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:

IRENE LANDRY

Applicant/Tenant

- and -

NPR LIMITED PARTNERSHIP

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the tenant must compensate the landlord for repairs to the rental premises in the amount of \$158.75 (one hundred fifty-eight dollars seventy-five cents).

DATED at the City of Yellowknife in the Northwest Territories this 17th day of
November 2015.

Adelle Guigon
Deputy Rental Officer

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 28, 2015
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	Irene Landry, applicant Aya Burshan, representing the respondent Colleen Wellborn, representing the respondent
<u>Date of Decision:</u>	November 16, 2015

REASONS FOR DECISION

An application to a rental officer made by Irene Landry as the applicant/tenant against Northern Property as the respondent/landlord was filed by the Rental Office September 22, 2015. The application was made regarding a residential tenancy agreement for the rental premises known as #114, 5603 - 51A Avenue, in Yellowknife, Northwest Territories. The applicant personally served a copy of the filed application on the respondent September 25, 2015.

The applicant alleged the respondent had charged her for repairs to the rental premises which the applicant disputes are her responsibility. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for October 28, 2015, in Yellowknife, Northwest Territories. Ms. Irene Landry appeared as applicant. Ms. Aya Burshan and Ms. Colleen Wellborn appeared representing the respondent.

Preliminary matters

The application to a rental officer identified the landlord as Northern Property. The parties agreed the landlord should appropriately be identified as NPR Limited Partnership. The application and style of cause going forward will identify the landlord as NPR Limited Partnership.

Tenancy agreement

It was established at hearing a tenancy agreement between the parties for the rental premises known as #114, 5603 - 51A Avenue, Sunridge Apartments, in Yellowknife, Northwest Territories, commenced December 10, 2011. That tenancy agreement ended June 1, 2015, when responsibility for the rental premises was transferred to Yellowknife Housing Authority (YHA) and the tenant entered into a new tenancy agreement with YHA. I am satisfied a valid tenancy agreement was in place between Irene Landry and NPR Limited Partnership (NPR) in accordance with the *Residential Tenancies Act* (the Act).

Repairs of damages

An entry inspection report was completed by NPR and Ms. Landry on December 10, 2011. An exit inspection report was completed by NPR and Ms. Landry on June 8, 2015. A new entry

inspection report was completed by YHA and Ms. Landry on June 11, 2015. A move out statement was prepared by NPR charging her for repairs and cleaning costs remaining after retaining the security deposit in the amount of \$2,300. A detailed statement of repairs was also provided. Photographs of the rental premises were submitted by Ms. Landry.

Of the 13 items claimed in the detailed statement of repairs, Ms. Landry disputed 7 of them. She claimed they were for damages that were not her fault or that she did not understand if she should be charged for. I will go through each item individually.

Steam cleaning

NPR claimed a charge of \$300 for steam cleaning the carpets. The NPR entry inspection report documents pre-existing burn marks on the living room and master bedroom carpets. The NPR exit inspection report identifies the living room and master bedroom carpets as code “3 - requires cleaning (charges)”, and “steam clean” is written in the living room carpet line. There is no clarification or rationale explaining why steam cleaning was required, and no indication of whether or not there were any stains or other marks. The YHA entry inspection report does not indicate any stains, marks, or dirt on the carpets either. No photographs of the carpets were entered into evidence. Ms. Landry did not keep a pet. I am not satisfied that the carpet was in any condition beyond normal wear and tear to justify the requirement to steam clean. The landlord’s claim of \$300 for steam cleaning is denied.

Front door

NPR claimed a charge of \$700 for replacement of the front apartment door and repair of the door jamb and trim (frame). Ms. Landry disputed that the door required repair and denied that the damages to the door and frame were her responsibility. The parties agreed that much of the damage was caused when the door was broken into.

Ms. Landry acknowledged the door was broken into while she was away and her son was staying at the apartment; he had parties while she was away and the door damage occurred during that time. Ms. Landry argued that the damage to the door was not done by either herself or her son, but by other persons demanding entry which was refused by her son. She also argued that while the damage to the frame warranted repair, the damage to the door did not; in her words, the door

was still working just fine and she did not believe she should be responsible for the cost of a door that did not need to be replaced. Ms. Landry also identified wearing that occurred to the door when the door chain would get caught between the door and frame. She eventually removed the chain to keep from catching it in the door.

NPR maintains that the damage to the door and frame were caused by persons permitted in the premises by Ms. Landry's son and as such are her responsibility to pay for. While the door does remain functioning, the damage is extensive enough to question the adequate security of the rental premises going forward. NPR admitted they were scheduled to replace all the apartment doors in the building, but that they are not responsible for the costs associated with replacing doors that require it due to damages beyond normal wear and tear.

The NPR entry inspection report does not identify any pre-existing issues with the front door. The NPR exit inspection report does identify that the front door was broken into. The YHA entry inspection report identifies the frame is damaged and needs replacement. The photographs clearly show the extensive damage to the door and the frame. While the flat interior and exterior surfaces of the door do not appear to show anything more than paint chips and scuff marks, the area around the door handle and deadbolt and all along the narrow seam of the door show significant splitting and wear. To my mind, not all of the damage to the door can be attributed to breaking the door in; there are wear patterns suggesting force was exerted from the inside, other than that which could be attributed to the chain getting caught in the door. The splitting of the door jamb is clearly significant, reducing the security of the apartment entrance. The damage to the door trim also appears beyond normal wear and tear. The responsibility for damage caused by the chain getting caught in the door to my mind lies with the tenant; the part that the chain is attached to usually includes a hole within which the chain is secured when it is not securing the door specifically to prevent the chain from swinging into the door. I have no evidence before me to suggest that part was not present or functional until the tenant removed it from the trim. There additionally was no satisfactory evidence before me to suggest the person or persons who broke the door in were not permitted in the building by Ms. Landry's son; Ms. Landry was not present at the time of the event to have any direct knowledge and her son was not present at hearing to give direct testimony, nor is there any evidence that a report was filed with the RCMP regarding the incident.

I am satisfied the damage to the door and frame are Ms. Landry's responsibility. NPR's claim of \$700 to repair the door and frame are allowed.

Living room screen

NPR claimed \$50 to repair the living room window screen. Ms. Landry did not dispute this charge. NPR's claim is allowed.

Missing valance

NPR claimed \$100 to replace a missing window valance. Ms. Landry did not dispute this charge. NPR's claim is allowed.

Bathroom mirror stained

NPR claimed \$150 to replace the bathroom mirror. Ms. Landry disputed this charge because she does not understand how the bathroom mirror was or could be stained. NPR could not substantiate the allegation. NPR's entry inspection report identifies burn marks on the vanity; their exit inspection report refers to "small stains" in the vanity/sink/mirror line, but does not elaborate what was stained. YHA's exit inspection report says "cracked" in the cabinets/mirrors line, but also does not elaborate what was cracked. I am not satisfied the mirror was damaged requiring replacement. NPR's claim for \$150 to replace the bathroom mirror is denied.

Missing towel rack

NPR claimed \$25 to replace a missing towel rack in the bathroom. Ms. Landry could not dispute this charge, although she indicates not being aware the towel rack was missing. NPR's entry inspection report makes no mention of the towel rack, so presumably the towel rack was properly in place upon entry. NPR's exit inspection report specifically identifies the towel rack as missing. I am satisfied a towel rack is an item normally provided in a bathroom and that the towel rack in the rental premises' bathroom was missing. NPR's claim of \$25 to replace the missing towel rack is allowed.

Hole in bathroom door

NPR claimed \$100 to repair the hole in the bathroom door. Ms. Landry did not dispute this charge. NPR's claim is allowed.

Missing knobs

NPR claimed \$10 to replace missing knobs. Ms. Landry did not dispute this charge. NPR's claim is allowed.

Missing closet door

NPR claimed \$125 to replace a missing bedroom closet door. Ms. Landry did not dispute this charge. NPR's claim is allowed.

Hole in bedroom window

NPR claimed \$400 to replace the bedroom window. Ms. Landry disputed this charge because the hole in the window was in the outside pane and was not caused by her or anyone she permitted in the premises. NPR's entry inspection report indicates the window was okay. NPR's exit inspection report indicates a "hole on outside window". YHA's entry inspection report also refers to "exterior glass hole and crack". Clearly the damage was to the outside pane of glass and could not have been caused from inside the apartment. There is no evidence to suggest who caused the damage. I am not satisfied the damage to the bedroom window is the tenant's responsibility. NPR's claim of \$400 to replace the bedroom window is denied.

Missing bedroom door

NPR claimed \$100 to replace the bedroom door. Ms. Landry did not dispute this charge. NPR's claim is allowed.

Paint and patch apartment

NPR claimed \$1,000 to paint and patch the apartment. Ms. Landry disputed this charge. No elaboration was given by NPR as to what areas were patched and painted, why the areas required patching and painting, and why the tenant should be held responsible for the costs of patching and painting. NPR's entry inspection report indicated paint chips on the window seals in the living room, otherwise the walls and ceilings were marked as okay. NPR's exit inspection report

indicated a big chip on the wall beside the stove, water damage on the kitchen ceiling, patch marks on the living room walls from NPR, the living room window sill as old and chipped, the hallway and entrance walls and doors had chips all over, a hole in the bedroom wall, and a chip under the bedroom window. YHA's exit inspection report refers to a few nicks and one patch in the hallway walls, the living room window seal is rotted, two large patches in the living room wall, one large incomplete patch in the living room ceiling, one burn in the wall by the stove, one large patch in the kitchen wall, paint chips on the edges of the kitchen cabinet doors, stain and paint peeling from the wall by the bedroom window, one large hole and crack on wall behind bedroom door, and bedroom window sill rotten.

It was established at hearing that there had been a water leak at some point which caused the damage on the ceiling and to walls which have already been patched by NPR. The tenant is clearly not responsible for costs associated with this work, or with repainting those areas.

Ms. Landry testified that the peeling paint and burn in the wall beside the stove occurred over time with her use of the range elements. It was aggravated during the boil water advisories Yellowknife experienced during the last two years. Photographs show that the stove is placed directly against an interior wall and the wall does not have any form of heat resistant protection. I am satisfied that Ms. Landry's use of the stove was normal under all circumstances, and that the failure of the landlord to adequately protect the wall resulted in the damage to that wall. This is under these circumstances normal wear and tear, and as such the repair of that portion of the wall is not the tenant's liability.

The condition of the window sills is clearly normal wear and tear for which the landlord is responsible. The cracks below the windows appear to be from structural settling and also are the landlord's responsibility.

The hole in the wall near the door of the bedroom and the small but deep gouge in the wall below the bedroom window are clearly damages beyond normal wear and tear, and there was no specific dispute in this regard. However, these items required more than patching and painting; to my mind they required repairs before they could be patched and painted. NPR's \$1,000 claim is defined as being for patching and painting, not for repairs, and there was clearly plenty of patching and painting required in the premises for which the tenant is not responsible. I am not

satisfied the tenant is liable for all the necessary patching and painting and I do not find \$1,000 a reasonable assessment for the repairs the tenant is responsible for. NPR's claim for \$1,000 for patching and painting is denied.

Cleaning

NPR claimed \$300 to clean the rental premises. Ms. Landry disputes any cleaning was necessary to justify such an amount. NPR's exit inspection report identifies the kitchen floor as being dirty. There is nothing else so identified. I find NPR's claim of \$300 to clean a dirty kitchen floor unreasonable and as such it is denied.

Admin fees and GST

The Act permits a landlord to claim losses suffered. NPR claimed a 15 percent admin fee and 5 percent GST on the costs of repairs. The admin fees are charged to cover administrative time that otherwise would not have been incurred by the landlord. Ms. Landry did not dispute either of these charges. NPR's claims for admin fees and GST are allowed.

Allowed charges

The charges I have allowed NPR to claim are as follows:

Front door	\$700.00
Living room screen	\$50.00
Missing valance	\$100.00
Missing towel rack	\$25.00
Hole in bathroom door	\$100.00
Missing knobs	\$10.00
Missing closet door	\$125.00
Missing bedroom door	\$100.00
Sub-total	\$1,210.00
15% admin fee	\$181.50
Sub-total	\$1,391.50
5% GST	\$69.58
TOTAL	\$1,461.08

Security deposit

The tenant paid a security deposit to NPR in the amount of \$1,240 against which NPR calculated interest to May 30, 2015, in the amount of \$1.95. Ms. Landry did not dispute the total amount of her security deposit of \$1,241.95. The security deposit was appropriately retained by NPR and will be applied against the allowed claim for repairs. Subtracting \$1,241.95 from \$1,461.08, I find Ms. Landry owes NPR \$219.13 for the costs of repairs to the rental premises.

Order

An order will issue requiring Ms. Irene Landry to compensate NPR Limited Partnership for the costs of repairs in the amount of \$219.13.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Move in inspection and acceptance report signed December 10, 2011

Exhibit 2: Move out inspection and acceptance report signed June 8, 2015

Exhibit 3: Tenant check-in/out unit condition report signed June 11, 2015

Exhibit 4: Move out statement dated August 20, 2015, with detailed statement of repairs

Exhibit 5: 32 photographs