

IN THE MATTER between **Kennedy Consulting Limited**, Applicant, and **J. Marty Swagar**, 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 **town of Inuvik in the Northwest Territories**.

BETWEEN:

**KENNEDY CONSULTING LIMITED**

Applicant/Landlord

- and -

**J. MARTY SWAGAR**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$5,704.82 (five thousand seven hundred four dollars eighty-two cents).

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

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Adelle Guigon  
Deputy Rental Officer

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BETWEEN:

**KENNEDY CONSULTING LIMITED**

Applicant/Landlord

-and-

**J. MARTY SWAGAR**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>November 26, 2015</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories, by teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>Dean Kennedy, representing the applicant J. Marty Swagar, respondent</b>
<b><u>Date of Decision:</u></b>	<b>November 26, 2015</b>

### **REASONS FOR DECISION**

An application to a rental officer made by Kennedy Consulting Limited as the applicant/landlord against J. Marty Swagar as the respondent/tenant was filed by the Rental Office October 14, 2015. The application was made regarding a residential tenancy agreement for the rental premises known as 30 Dolphin Street in Inuvik, Northwest Territories. The applicant served a copy of the filed application on the respondent by email deemed received October 25, 2015, pursuant to section 4(4) of the *Residential Tenancies Regulations* (the Regulations).

The applicant alleged the respondent had accumulated rental arrears, failed to pay for utilities, and caused damages to the rental premises. An order was sought for payment of the rental arrears, compensation for the unpaid utilities, and compensation for the costs of repairs. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for November 26, 2015, by teleconference. Mr. Dean Kennedy appeared representing the applicant. Mr. John Martin Swagar appeared as respondent.

#### *Tenancy agreement*

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for the rental premises identified as 30 Dolphin Street in Inuvik, Northwest Territories. The tenancy commenced October 1, 2014, and ended April 30, 2015. The monthly rent was established at \$1,500 plus electricity. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

#### *Mutual agreed settlement*

The applicant provided into evidence ledgers setting out the rental arrears accumulated and unpaid electricity bills up to and including for May 2015. Additional submissions were made within the application regarding damages to the rental premises. Mr. Kennedy testified that the applicant would only be seeking the costs for repairs if a mutually agreeable settlement could not be arranged with Mr. Swagar. The rent and electricity for May was also requested on that condition on the grounds that proper written notice of Mr. Swagar's intention to vacate the premises was not given.

Mr. Swagar did not dispute any of the applicant's claims, acknowledging his debt. He explained that he experienced medical and personal setbacks which have prevented him from meeting his financial obligations. Mr. Swagar testified that he currently has no income. He was sincerely apologetic to Mr. Kennedy and reiterated current personal and medical circumstances were not expected or foreseen.

Mr. Kennedy expressed sympathy for Mr. Swagar's situation, but remains accountable to his business. The parties agreed to settle on an amount of \$5,704.82, which represents the rental arrears and unpaid electricity up to April 30, 2015. All parties agreed and accepted that Mr. Swagar vacated the rental premises on or before April 30, 2015, effectively ending the tenancy. In acknowledging that he has no current income, Mr. Swagar indicated he will not be able to make any payments in the foreseeable future against the arrears. He suggested the landlord could file a lien against his property in Blackfalds, Alberta.

*Order*

I am satisfied the agreed-upon amount of rental arrears and unpaid utilities up to April 30, 2015, amount to \$5,704.82 and that the settlement agreed to between the parties is reasonable. An order will issue requiring Mr. J. Marty Swagar to pay rental arrears in the amount of \$5,704.82.

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Adelle Guigon  
Deputy Rental Officer

## APPENDIX A

### Exhibits

- Exhibit 1: Respondents work contact information
- Exhibit 2: Residential tenancy agreement signed September 26, 2014
- Exhibit 3: Rent and power ledgers for: October 1, 2014, to May 17, 2015; October 1, 2014, to May 1, 2015; October 1, 2014, to April 15, 2015; October 1, 2014, to January 19, 2015
- Exhibit 4: Emails from the applicant to the respondent dated: May 17, 2015; May 4, 2015; April 18, 2015; March 23, 2015; February 17, 2015; January 18, 2015; January 8, 2015
- Exhibit 5: Northwest Territories Power Corporation bills for October 2014 to May 2015
- Exhibit 6: Email conversation between the applicant and the respondent dated July 30, 2015
- Exhibit 7: Two invoices and two work orders from Plumb Crazy Mechanical
- Exhibit 8: Email conversation between the applicant and the respondent dated October 2, 2014
- Exhibit 9: Email from Dean Kennedy to Fred Church dated March 20, 2015
- Exhibit 10: Scanned copy of cheque number 1456 from Kennedy Consulting Limited to Fred Church
- Exhibit 11: Three boarding passes for Dean Kennedy
- Exhibit 12: Residential tenancy agreement between Kennedy Consulting Limited and Nick Saturnino signed August 7, 2015
- Exhibit 13: Email from Robert Pitt to Dean Kennedy dated November 19, 2015
- Exhibit 14: Chronological Timeline of Events from July 30, 2014, to November 19, 2015