

IN THE MATTER between **Brennan Steemers**, 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:

**BRENNAN STEEMERS**

Applicant/Tenant

- and -

**NPR LIMITED PARTNERSHIP**

Respondent/Landlord

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 18.1(b) of the *Residential Tenancies Act*, the landlord must return a portion of the security deposit to the tenant in the amount of \$361.66 (three hundred sixty-one dollars sixty-six cents).

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 maintain the rental premises and residential complex in a good state of repair and fit for habitation, and for disturbing the tenant's possession and enjoyment of the rental premises and residential complex, in the total amount of \$4,654.50 (four thousand six hundred fifty-four dollars fifty cents).

DATED at the City of Yellowknife in the Northwest Territories this 11th day of January 2016.

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Adelle Guigon  
Deputy Rental Officer

IN THE MATTER between **Brennan Steemers**, 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");

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BETWEEN:

**BRENNAN STEEMERS**

Applicant/Tenant

-and-

**NPR LIMITED PARTNERSHIP**

Respondent/Landlord

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>December 8, 2015</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>Brennan Steemers, applicant Sandra Aitken, representing the applicant Aya Burshan, representing the respondent</b>
<b><u>Date of Decision:</u></b>	<b>December 22, 2015</b>

**REASONS FOR DECISION**

An application to a rental officer made by Brennan Steemers as the applicant/tenant against the respondent NPR Limited Partnership as the respondent/landlord was filed by the Rental Office November 9, 2015. The application was made regarding a residential tenancy agreement between the parties for the rental premises known as G112, 900 Lanky Court, in Yellowknife, Northwest Territories. The applicant personally served a copy of the filed application against the respondent November 9, 2015.

The applicant/tenant disputed charges applied against him by the respondent/landlord for repairs and cleaning to the rental premises upon vacating, disputed the amount of security deposit accounted for by the landlord, and alleged the landlord had failed to maintain the rental premises in a good state of repair, fit for habitation, and in a safe and secure manner. Evidence presented is listed in Appendix A attached to this order.

A hearing was scheduled for December 8, 2015, in Yellowknife, Northwest Territories. Mr. Brennan Steemers and Ms. Sandra Aitken appeared for the applicant. Ms. Aya Burshan appeared for the respondent.

*Tenancy agreement*

The parties agreed and evidence was presented establishing an agreement between them for a residential tenancy at the rental premises identified as G112, 900 Lanky Court, in Yellowknife, Northwest Territories. Although Mr. Steemers had occupied the rental premises with the previous tenant, the tenancy under his own written agreement commenced January 1, 2011.

*Security deposit charges*

As indicated, Mr. Steemers was an occupant of the rental premises as a roommate with the previous tenant, Mr. Andrew Weich, until Mr. Weich moved out. A new tenancy agreement between Mr. Steemers and the landlord was entered into taking effect January 1, 2011. Mr. Weich's tenancy commenced in April 2009, at which time a \$1,500 security deposit was paid and a check-in inspection report was completed. No exit or entry inspection report was conducted when the tenancy transferred from Mr. Weich to Mr. Steemers.

When Mr. Weich's tenancy ended and Mr. Steemers' began, the \$1,500 security deposit was transferred from Mr. Weich's rent account to Mr. Steemers' rent account. Although Mr. Steemers' tenancy agreement specified his security deposit would be \$1,535, the outstanding amount of \$35 was neither requested nor paid. Upon provision by the landlord of the rent accounts for the rental premises from April 2009 to October 2015, Mr. Steemers acknowledged the amount of security deposit at \$1,500 and withdrew his dispute in this regard.

By giving proper written notice to the landlord in accordance with the *Residential Tenancies Act* (the Act), Mr. Steemers terminated his tenancy effective September 30, 2015. An exit inspection report was completed on October 1, 2015. A move-out statement was prepared by the landlord October 13, 2015 charging Mr. Steemers as follows:

Cleaning	\$240.00
Repairs	\$254.00
15% Admin Fee	\$74.10
5% GST	\$3.71
<b>Total</b>	<b>\$571.81</b>

No reference was made in the statement to the interest on the security deposit. The landlord returned \$927.19 to Mr. Steemers. Upon receipt of the statement, Mr. Steemers made email inquiries to the landlord requesting clarification of what the charges were for. The landlord's reply indicated: the cleaning was for two people to conduct three hours of work; the repairs were for five screw holes, \$100, four hook holes, \$150, and replacement of four blind slats, \$4.

### Cleaning

Mr. Steemers disputed that any remaining cleaning would take three hours to complete. He acknowledged that the window sills had not been cleaned, and that there were minor touch-up spots in the oven for which he accepts responsibility. He had several persons assisting him to clean the premises, three of whom provided written statements.

The landlord had nothing to substantiate their claim for cleaning except the exit inspection report, which reflects a numbered rating of '3' defined as "requires cleaning (charges)" for the: stove; fridge; windows; patio door; hallway walls, ceiling, and floor; three bedroom walls, ceilings, windows, closet/doors. The words "touch up" were written beside the stove, fridge, and bedroom number three's walls, ceiling, and bedroom door.

Section 45(2) of the Act requires the tenant to maintain the ordinary cleanliness of the rental premises. Without further definitive evidence from the landlord of the condition of the rental premises at the time that the exit inspection was conducted, I am satisfied that the tenant has met this obligation, excepting that for which he accepts responsibility: the stove and fridge touch ups and wiping the window sills. I am not satisfied effecting this minor cleaning would take two people three hours to complete. In my opinion, this work should take two people no more than one hour, and as such an \$80 charge to Mr. Steemers is appropriate rather than the \$240 originally applied.

Cleaning of the hallway is denied to the landlord as the mess was created by actions related to the discovery of mould, which will be addressed later in these reasons for decision.

### Repairs

The landlord further claimed in the move-out statement \$254 for repairs. The effected repairs included: \$100 for five screw holes in the living room ceiling; \$150 for four hook screw holes in the pantry; and \$4 to replace two missing blind slats. The exit inspection report identified all of these items.

The only item Mr. Steemers disputes is the number of screw holes created by him in the living room ceiling. He claims that two of the five holes were present when Mr. Weich moved into the premises, and they are identified in Mr. Weich's entry inspection report. The remaining three were made by Mr. Steemers so that he could hang his kayak, and he does accept responsibility for their repair.

The landlord could not dispute Mr. Steemers' allegation, acknowledging that no entry inspection report was completed when the tenancy transferred to Mr. Steemers. Mr. Steemers' request for a refund of \$40 for the two holes he is not responsible for is reasonable and granted.

Although Mr. Steemers did not dispute that he installed the four hooks in the pantry, he questioned his liability for the repair of the resulting holes in so far as the painting is concerned, citing being told the premises required painting anyway due to age and other necessary repairs to the premises. While I might agree that the costs associated with painting which is necessary due to normal wear and tear are not the tenant's liability, repairs of the hook holes in this instance, including patching, are the tenant's responsibility.

No photographs were entered into evidence of the interior of the premises and the landlord could not speak to the size of the hooks in question. Mr. Steemers testified that the hooks were what I associate with the type one would hang cups or mugs from. These type of hooks would create insignificant but distinctive holes in the wall. The patching of these four holes would take no more than a brief sanding down of the edges, less than a teaspoon of filler, and then a brief sanding once the filler was dry – in my estimation, no more than half an hours' work. To charge \$150 for what amounts to minor maintenance to my mind is ridiculous, and a more reasonable charge for the repair of these four small holes is \$50, which is what the landlord is granted for this repair.

The \$4 for replacement of the two blind slats was not disputed and is allowed.

#### Security deposit

The security deposit of \$1,500 was transferred to Mr. Steemers' name effective January 1, 2011. Mr. Steemers' tenancy ended September 30, 2015. The interest on Mr. Steemers' security deposit amounts to \$3.11, which is not reflected in the move-out statement.

The total charges permitted against Mr. Steemers are as follows:

Cleaning	\$80.00
Repairs	\$114.00
15% Admin Fees	\$29.10
5% GST	\$11.16
<b>Total repairs and cleaning</b>	<b>\$234.26</b>

The remaining security deposit retained by the landlord is calculated as follows:

Total security deposit	\$1,503.11
Less total repairs and cleaning	\$234.26
Less security deposit already refunded	\$927.19
<b>Remaining security deposit retained by landlord</b>	<b>\$341.66</b>

The landlord must refund to Mr. Steemers the remaining security deposit in the amount of \$341.66.

### *Mould*

In August 2015, Mr. Steemers reported to the landlord an odd smell and then the appearance of a large puddle in the premises hallway. The landlord's investigation required punching several holes in the drywall, which led to the discovery of a slow leak from a water pipe and the extensive development of smelly mould inside the walls. The resulting odour permeated the apartment and prolonged exposure caused the occupants and visitors to become nauseous.

The water leak was immediately repaired, but the mess from the torn down walls was simply moved into the storage room with the dust distributed throughout the apartment left where it lay. The mould and odour issue was not addressed despite complaints made by Mr. Steemers. The landlord did clean one portion of the carpet, but did not seal off the exposed mouldy areas. The landlord's rationale for not immediately resolving the issues was because they knew the tenant and his roommates would be moving out right away and it would be easier to effect repairs and renovations to an empty apartment.



Mr. Steemers and his two roommates provided statements regarding the condition of the premises. The odour was so extensive that Mr. Steemers and one of his roommates decided to take advantage of the opportunity they each had to temporarily reside at their partners' parents' homes. The second roommate did not have a similar option available to him and therefore had no choice but to remain in the rental premises until the end of the month.

Mr. Steemers argued that the landlord failed to maintain the rental premises in accordance with section 30 of the Act and that he should be compensated accordingly. He requested compensation in an amount equal to the rent for September 2015 of \$1,605.

The landlord argued that although Mr. Steemers did not stay in the rental premises for the last month of his tenancy, one of his roommates did and as such Mr. Steemers did still have occupancy of the premises. The landlord further argued that the presence of mould does not make a premises uninhabitable under the Public Health Act. No evidence was presented to support this claim.

The Northwest Territories Public Health Act<sup>1</sup> does not specifically refer to mould, but the Environmental Health Office<sup>2</sup>, the Canada Mortgage and Housing Corporation<sup>3</sup>, and Health Canada<sup>4</sup> do acknowledge that exposure to mould may pose a health hazard. These agencies also suggest that remediation of moderate to large areas of mould should be completed by persons using personal protective equipment against exposure to spores and that occupants should be relocated during remediation. It is further recommended that exposure to the mould spores by occupants should be reduced prior to remediation by sealing off the affected areas.

While it is clear that the landlord immediately addressed the cause of the water leak, they did not immediately address either remediation of the resulting mould or sealing off of the affected area to reduce exposure to the occupants of the premises. The premises was left in a state of disrepair and arguably compromised the health of the occupants. As such, there was a substantial reduction

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<sup>1</sup><https://www.justice.gov.nt.ca/en/files/legislation/public-health/public-health.a.pdf>

<sup>2</sup><http://www.hss.gov.nt.ca/health/environmental-health/mould>

<sup>3</sup><http://www.cmhc-schl.gc.ca/odpub/pdf/67237.pdf?fr=1451159443107>

<sup>4</sup><http://www.hc-sc.gc.ca/fnih-spnia/promotion/public-publique/home-maison/mould-moisissure-eng.php>

in the facilities provided contrary to section 30(1)(a) of the Act and by failing to effect repairs in a timely manner the landlord has disturbed the tenant's possession and enjoyment of the premises contrary to section 34(1) of the Act. By the landlord breaching their obligations under these sections of the Act, I find the tenant is entitled to compensation for loss suffered in an amount equivalent to one month's rent at \$1,605.

### *Security Systems*

Rental Officer order number 10-13894 dated March 18, 2014, resulted from a hearing held on January 29, 2014. It directed the landlord to repair or replace the buzzer entry system and the security camera system for the residential complex. The landlord was also directed to repair the door to the rental premises, and to compensate Mr. Steemers for all three of these deficiencies at a rate of 15 percent of the monthly rent for the three months he was without adequate security. Mr. Steemers confirmed that the door to the rental premises was repaired as directed, but provided photographic evidence and testimony at the hearing for the current application that neither the buzzer entry door nor the security cameras for the residential complex were repaired or replaced. He requested additional compensation in the amount of 10 percent of the rent for each month since January 2014 for continuing to be without adequate security.

The landlord suggested that the buzzer had been repaired at one point since January 2014 and had been damaged or vandalized again, and that the security cameras were replaced with hidden cameras leaving the previously damaged casings in place. However, when challenged to provide documentary evidence of both, the landlord was unable to prove either repair or replacement had ever occurred.

I find the landlord has failed to comply with paragraphs 1 and 2 of Rental Officer order number 10-13894. As previously determined in that order, the tenant's rent included the security of the building and the landlord is obligated to maintain the security features in a good state of repair in accordance with section 30(1)(a) of the Act. Because the ordered repairs were not completed as

directed, Mr. Steemers is entitled to additional compensation. In keeping with Rental Officer order number 10-13894, I am satisfied that 10 percent of the monthly rent for the two outstanding security features repairs is reasonable compensation. In light of the rent for September 2015 having been compensated previously in this order, the 10 percent compensation will be applied against the rents for February 2014 to August 2015, in the total amount of \$3,049.50 calculated as follows:

$$\text{rent of } \$1,605 \times 10\% = \$160.50 \times 19 \text{ months} = \$3,049.50$$

*Orders*

An order will issue requiring NPR Limited Partnership to refund to Mr. Brennan Steemers the security deposit amount of \$341.66; to compensate Mr. Steemers for failing to maintain the rental premises in a good state of repair and fit for habitation in the amount of \$1,605; and to compensate Mr. Steemers for failing to maintain the security features of the residential complex in a good state of repair in the amount of \$3,049.50.

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Adelle Guigon  
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Email conversation between Brennan Steemers and Debbie Angasuk dated October 14 to 28, 2015
- Exhibit 2: Move in inspection and acceptance report for Andrew Weich dated April 22, 2009
- Exhibit 3: Lease agreement made August 17, 2011, between NPR Limited Partnership and Brennan Steemers
- Exhibit 4: Rental Officer order number 10-13894 dated March 18, 2014
- Exhibit 5: Written statement made by Jenny Aitken dated November 4, 2015
- Exhibit 6: Written statement made by Edward Voll dated October 30, 2015
- Exhibit 7: Written statement made by Ria Gonsalves dated November 4, 2015
- Exhibit 8: Move out statement dated October 13, 2015
- Exhibit 9: Two photographs
- Exhibit 10: Email conversation between Brennan Steemers and Debbie Angasuk dated August 19 to 28, 2015
- Exhibit 11: Move out inspection and acceptance report for Brennan Steemers dated October 1, 2015
- Exhibit 12: Resident ledger for rent account from April 22, 2009, to February 1, 2012
- Exhibit 13: Resident ledger for rent account from February 13, 2012, to October 7, 2015