

IN THE MATTER between **Northwest Territories Housing Corporation**, Applicant,
and **Bernadette Capot-Blanc and Robert Jacobson**, Respondents;

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:

NORTHWEST TERRITORIES HOUSING CORPORATION

Applicant/Landlord

- and -

BERNADETTE CAPOT-BLANC and ROBERT JACOBSON

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondents must pay to the applicant expenses directly associated with repairs to the rental premises in the amount of \$269.68 (two hundred sixty-nine dollars sixty-eight cents).

DATED at the City of Yellowknife in the Northwest Territories this 29th day of January
2016.

Adelle Guigon
Deputy Rental Officer

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and **Bernadette Capot-Blanc and Robert Jacobson**, Respondents.

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	January 26, 2016
<u>Place of the Hearing:</u>	Inuvik, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Kim Burns, representing the applicant
<u>Date of Decision:</u>	January 26, 2016

REASONS FOR DECISION

An application to a rental officer made by Inuvik Housing Authority on behalf of the Northwest Territories Housing Corporation as the applicant/landlord against Bernadette Capot-Blanc and Robert Jacobson as the respondents/tenants was filed by the Rental Office November 20, 2015. The application was made regarding a subsidized public housing residential tenancy agreement for a rental premises located in Inuvik, Northwest Territories. The applicant personally served a copy of the filed application on the respondents December 11, 2015.

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

A hearing was scheduled for January 26, 2016, in Inuvik, Northwest Territories. The rental officer appeared by teleconference. Ms. Kim Burns appeared representing the applicant. Ms. Bernadette Capot-Blanc and Mr. Robert Jacobson were served with notices of attendance by registered mail signed for December 24, 2015. Neither Ms. Capot-Blanc nor Mr. Jacobson appeared, nor did anyone appear on their behalf. The hearing proceeded in their absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The residential tenancy agreement entered into evidence by the applicant establishes a fixed-term tenancy agreement between the parties for subsidized public housing from February 1, 2015, to April 30, 2015. The check-in inspection report indicates the respondents took occupancy of the rental premises on October 17, 2013. Ms. Burns confirmed the respondents had entered into numerous written tenancy agreements since taking occupancy. The rental premises was identified in both the check-in inspection report and the most recent tenancy agreement as NV5307, 60 Bompas Street, in Inuvik, Northwest Territories. I am satisfied a valid tenancy agreement was in place between the parties for subsidized public housing in accordance with the Act.

Termination of the tenancy agreement

In the applicant's submissions, Ms. Burns indicated the respondents had been given written notice on April 20, 2015, to terminate their tenancy agreement effective May 21, 2015. The respondents did vacate the rental premises as requested on May 21, 2015, as evidenced by the check-out inspection report signed by Ms. Capot-Blanc. The reasons given for terminating the tenancy agreement were due to an alcohol-related fire which occurred in the premises April 18, 2015. Section 54(1)(f) of the Act was referenced, citing the safety of the other tenants of the residential complex as having been seriously impaired by the occurrence.

Section 54(1)(f) of the Act does permit a landlord to give a tenant at least 10 days written notice to terminate the tenancy where "the safety of the landlord or other tenants of the residential complex has been seriously impaired by an act or omission of the tenant or a person permitted in or on the rental premises or residential complex by the tenant". The written notice given on April 20, 2015, specifies the alcohol-related fire was determined to have been caused when Mr. Jacobson fell asleep while cooking on the stove. The tenants were given 30 days notice that the tenancy would be terminated effective May 21, 2015. I am satisfied that the circumstances of the fire occurring did seriously impair the safety of the other tenants of the residential complex and as such I find termination of the tenancy agreement has been made in accordance with section 54(1)(f) of the Act effective May 21, 2015.

Rental arrears

The lease balance statements entered into evidence represent the landlord's accounting of monthly assessed rents and payments made against the respondents' rent account. Because the fixed-term tenancy agreement ended April 30, 2015, the applicant believed the respondents' occupancy of the premises from May 1st to 21st constituted overholding occupancy during which time the respondents were no longer eligible for a rent subsidy. As such, the applicant charged the respondents a prorated rent for that period in the amount of \$1,100 which was based on the maximum monthly rent of \$1,625. The subsidized rents for March and April were calculated to \$80 each. The respondents had paid the rents for March and April, and paid \$80 in advance for the May rent. The rental arrears claimed by the applicant totalled \$1,020.

Section 49(1) of the Act specifies that a fixed-term tenancy agreement is deemed renewed as a monthly tenancy agreement on the last day of the fixed-term with the same rights and obligations as existed under the fixed-term tenancy agreement. Section 49(2)(b) specifies that section 49(1) does not apply where tenancy agreements have been terminated in accordance with the Act. The tenancy agreement in this instance was not terminated until May 21, 2015. The tenancy agreement had not been terminated as of April 30th, when the fixed-term period ended, and as such it automatically renewed as a monthly tenancy as of May 1st. I find the respondents were therefore entitled to subsidized rent for the month of May in accordance with their tenancy agreement.

Although the respondents had not reported their income from which the rent subsidy for May would have been calculated, it was believed and accepted this may have been because the respondents believed the application of the maximum monthly rent for May was appropriate and they were not required to report their income. Ms. Burns agreed that it would not be unreasonable to apply a subsidized rent amount of \$80 for the month of May in light of the reported income and assessed subsidy for the two previous months being consistent. Prorating the subsidized rent over 21 days of occupancy in May results in a subsidized rent amount of \$54.19. This alters the amount of rental arrears to a credit in the respondents' benefit of \$25.81.

Repairs

Upon vacating the rental premises on May 21, 2015, an exit inspection was completed with Ms. Cabot-Blanc. The respondents smoked cigarettes in the premises throughout the tenancy. Several cigarette burns were noted throughout the living room carpet necessitating replacement of the carpet. The walls and ceiling were also noted to be stained with and smelled of cigarette smoke. The entry inspection report confirms the carpets were newly installed when the respondents moved in and Ms. Burns confirmed the rental premises had been painted throughout immediately prior to the respondents' occupancy.

The rental premises is an apartment rented by the applicant from a local market housing company for the purposes of providing subsidized public housing. The local market housing company effected the necessary carpet replacement and painting of the walls and ceiling, and charged the applicant the associated costs. They charged the applicant the full cost of \$457.30 for the carpet replacement and a three-year prorated cost of \$1,543.08 for the painting.

I am satisfied that the claimed damages to the carpet, walls, and ceilings resulted from actions taken by the respondents and/or their guests, and that the respondents should be held liable for the associated costs of repairs. However, there is the matter of expected useful life of the items in question to consider. The average useful life of residential premises carpeting is accepted at 10 years, and the average useful life of residential premises interior painting is 5 years. The respondents occupied the premises for 1.6 years, a period the applicant benefited from use of the items in question. The damages incurred by the respondents' actions have deprived the applicant from the remaining period of useful life for each item, resulting in loss suffered by the applicant. The respondents are liable for the repairs costs for the percentage of useful life the applicant lost.

In the case of the painting, the applicant's costs were prorated at a rounded off period of three-years, which I am satisfied is reasonable. The painting costs claimed of \$1,543.08 are allowed.

In the case of the carpet replacement, the owner of the building charged the applicant the full cost of the carpet replacement at \$457.30. The used period of 1.6 years represents 16 percent of the useful life of the carpet, leaving the respondents liable for 84 percent of the cost of replacing the carpet. Eighty-four percent of \$457.30 is \$384.13. The carpet replacement costs of \$384.13 are allowed.

Additionally, the applicant applies an admin fee of 10% against costs they incur for repairs of damages beyond normal wear and tear, as well as GST. The admin fee is imposed to cover the costs associated with processing and administration required over and above the applicant's normal daily activities. I am satisfied the admin fee represents losses suffered as a result of the respondents' actions and will allow the application of the admin fee against the costs of repairs, as well as the GST.

The total security deposit of \$1,626.36 was retained by the applicant against the costs of repairs. The above identified rent credit of \$25.81 will also be applied against the costs of repairs. Since the filing of this application, the respondents have made three additional payments against their account totalling \$304.08; these payments will be applied against the costs of repairs. The final tally of costs for which the respondents remain liable is as follows:

Carpet replacement	\$384.13
Painting walls and ceilings	\$1,543.08
Sub-total of repairs	\$1,927.21
10% admin fee	\$192.72
Sub-total	\$2,119.93
5% GST	\$106.00
Sub-Total	\$2,225.93
Less the rent credit	(\$25.81)
Less the security deposit credit	(\$1,626.36)
Less additional payments made to date	(\$304.08)
Total remaining payable by respondents	\$269.68

Order

An order will issue requiring Ms. Bernadette Capot-Blanc and Mr. Robert Jacobson to pay the remaining costs for repairs to the rental premises in the amount of \$269.68.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Lease balance statement printed November 9, 2015
- Exhibit 2: Correspondence from the applicant dated November 9, 2015
- Exhibit 3: Applicant's credit note number 991 dated November 6, 2015
- Exhibit 4: Damage deposit refund statement
- Exhibit 5: Applicant's invoice number 14411 dated June 9, 2015
- Exhibit 6: Applicant's work order number TD043087 dated June 9, 2015
- Exhibit 7: Agreement to pay - promissory note dated July 15, 2015
- Exhibit 8: Residential tenancy agreement dated March 19, 2014
- Exhibit 9: Inspection report dated October 17, 2013
- Exhibit 10: Inspection report dated May 21, 2015
- Exhibit 11: DVD containing 75 digital photographs
- Exhibit 12: Lease balance statement printed January 25, 2016
- Exhibit 13: Applicant's termination notice correspondence to respondents dated April 20, 2015