

IN THE MATTER between **Joyce Cole**, Applicant, and **Chris Rockel**, 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:

JOYCE COLE

Applicant/Landlord

- and -

CHRIS ROCKEL

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a), 45(4)(c), and 62(2) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears and utilities in the total amount of \$5,130.05 (five thousand one hundred thirty dollars five cents).

DATED at the City of Yellowknife in the Northwest Territories this 16th day of February 2016.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Joyce Cole**, Applicant, and **Chris Rockel**, 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:

JOYCE COLE

Applicant/Landlord

-and-

CHRIS ROCKEL

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	February 10, 2016
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	Joyce Cole, applicant
<u>Date of Decision:</u>	February 10, 2016

REASONS FOR DECISION

An application to a rental officer made by Joyce Cole as the applicant/landlord against Chris Rockel as the respondent/tenant was filed by the Rental Office January 4, 2016. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The applicant personally served a copy of the filed application on the respondent January 5, 2016.

The applicant alleged the respondent had been repeatedly late paying the full amount of rent when due, had accumulated rental arrears, and had failed to pay utilities. An order was sought for payment of the rental arrears and utilities, termination of the tenancy agreement, and eviction. Evidence presented is listed in Appendix A attached to this order.

A hearing was scheduled for February 10, 2016, in Yellowknife, Northwest Territories. Ms. Joyce Cole appeared as applicant. Mr. Chris Rockel was served notice of attendance by registered mail deemed served January 29, 2016, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act) and by email deemed received February 8, 2016, pursuant to section 4(4) of the *Residential Tenancies Regulations* (the Regulations). Mr. Rockel did not appear at hearing, nor did anyone appear on his behalf. The hearing proceeded in his absence pursuant to section 80(2) of the Act.

Tenancy agreement

The written tenancy agreement entered into evidence established an agreement between the parties for the rental premises known as 73 Horton Crescent in Yellowknife, Northwest Territories. The tenancy commenced May 1, 2014. The monthly rent was set at \$1,600. Utilities – power, fuel, water – were the tenant’s responsibility. The fuel tank was required to be filled upon termination of the tenancy. The respondent vacated the rental premises without prior written notice on February 1, 2016. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the Act. I am satisfied the respondent effectively abandoned the rental premises on February 1, 2016.

Rental arrears

The applicant provided evidence and testified that the respondent had failed to pay the rent for the months of December and January 2016, resulting in rental arrears accumulated to the amount of \$3,200. The security deposit of \$1,600.77 was retained against the rental arrears, leaving an amount owing of \$1,599.23.

Section 52(1) of the Act requires a tenant to give a landlord at least 30 days' written notice of their intention to vacate. The respondent failed to give any notice of his intention to vacate the rental premises and as such has abandoned it as defined by section 1(3) of the Act. Pursuant to section 62 of the Act, a tenant who abandons a rental premises remains liable to the landlord for loss of future rent. By not receiving advance notice from the tenant of his intention to vacate, the landlord did not have fair opportunity to mitigate their losses by seeking and securing a replacement tenant. As such, it is reasonable to hold the respondent liable for the rent for February 2016 in the amount of \$1,600.

I am satisfied the respondent has failed to comply with his obligation to pay rent. I find the respondent has accumulated rental arrears in the total amount of \$3,199.23.

Utilities

Section 5(3) of the written tenancy agreement specifies the tenant is responsible for power, fuel, and water. The applicant provided testimony and evidence supporting the allegation that the respondent failed to pay the water bill to the City of Yellowknife. The applicant was required, as the owner of the property, to satisfy the outstanding bill and made two payments to that effect: one on December 31, 2015, in the amount of \$1,011.66 and one on February 8, 2016, (for the January 2016 water bill) in the amount of \$79.20, for a total of \$1,090.86.

Section 12 of the written tenancy agreement specifies the tenant is responsible for filling the fuel tank at the end of the tenancy. The applicant provided an invoice from Bluewave Energy dated February 1, 2016, corroborating the applicant's allegation that the fuel tank had not been filled upon the respondent abandoning the rental premises. The Bluewave Energy invoice amounted to \$839.96.

I am satisfied the respondent was responsible for the utility bills in addition to the monthly rent and that the respondent has failed to comply with his obligations in that regard. I find the respondent has accumulated utilities arrears in the total amount of \$1,930.82.

Order

An order will issue requiring the respondent to pay to the applicant rental arrears and utilities in the total amount of \$5,130.05.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Residential tenancy agreement signed March 31, 2014

Exhibit 2: Interac e-Transfer confirmations dated November 18, 2015, October 22, 2015, and September 11, 2015

Exhibit 3: Email from Chris Rockel to kingcole@theedge.ca dated March 5, 2015

Exhibit 4: City of Yellowknife transaction record #154 dated December 31, 2015

Exhibit 5: Statement of arrears as of February 10, 2016

Exhibit 6: Bluewave Energy invoice number 00506970021264 dated February 1, 2016

Exhibit 7: Photocopy of two receipts issued by the City of Yellowknife for payment of utilities dated December 31, 2015, and February 8, 2016