

IN THE MATTER between **NPR Limited Partnership**, Applicant, and **Elizabeth Monroe and Darin Woodbury**, 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 **city of Yellowknife in the Northwest Territories**.

BETWEEN:

NPR LIMITED PARTNERSHIP

Applicant/Landlord

- and -

ELIZABETH MONROE and DARIN WOODBURY

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. The application is denied.

DATED at the City of Yellowknife in the Northwest Territories this 24th day of March 2016.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NPR Limited Partnership**, Applicant, and **Elizabeth Monroe and Darin Woodbury**, 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,

BETWEEN:

NPR LIMITED PARTNERSHIP

Applicant/Landlord

-and-

ELIZABETH MONROE and DARIN WOODBURY

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	March 17, 2016
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	Metslal Mesgun, representing the applicant Elizabeth Monroe, respondent Darin Woodbury, respondent
<u>Date of Decision:</u>	March 17, 2016

REASONS FOR DECISION

An application to a rental officer made by NPR Limited Partnership as the applicant/landlord against Elizabeth Monroe and Darin Woodbury as the respondents/tenants was filed by the Rental Office January 18, 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 respondents January 22, 2016.

The applicant alleged the respondents had failed to maintain the rental premises in a state of ordinary cleanliness and requested an order to terminate the tenancy agreement and evict the tenants. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for March 17, 2016, in Yellowknife, Northwest Territories. Ms. Metslal Mesgun appeared representing the applicant. Ms. Elizabeth Monroe and Mr. Darin Woodbury appeared as respondents.

Tenancy agreement

The parties agreed and evidence was presented establishing a tenancy agreement between them commencing October 1, 2014. I am satisfied a valid residential tenancy agreement is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Ordinary cleanliness

The landlord's representative testified that since the filing of the application inspections of the rental premises have satisfied the landlord that the claimed cleanliness issues have been resolved and withdrew the application for termination of the tenancy agreement and eviction of the tenants. The landlord now only seeks an order for the tenants to comply with their obligation to maintain the ordinary cleanliness of the rental premises.

The incident that initiated this application occurred on December 1, 2015, when a maintenance worker entered the premises to do some work. The maintenance worker suffered from asthma. The respondents have pet cats and had yet to change the kitty litter. The resulting odour of cat faeces and urine triggered the maintenance worker's asthma, after which the maintenance worker refused to return to the rental premises. Other workers were sent to complete the unfinished work.

The applicant provided photographs of the rental premises dated November 30, 2015, which show the work being done. There were also several fuzzy, dark photographs of the kitty litter boxes in the storage room and two cluttered rooms.

The respondents testified that maintenance work was being done in their apartment between September and December 2015. The respondents had moved their personal property out of the way of the maintenance workers to accommodate the work that needed to be done. The storage of the property throughout the rest of the apartment resulted in a cluttered appearance, but did not keep the respondents from cleaning the premises. The ongoing disruption caused undue stress to the cats (as well as the respondents), which commonly results in an increased use of kitty litter facilities and can increase the odour of cat faeces and urine. The respondents testified that they do regularly clean out the kitty litter boxes, and were in fact scheduled to clean out the boxes the afternoon of December 1st. They testified that once the kitty litter boxes are cleaned out the odours quickly dissipate; the respondents use fans to expedite this.

When December came around and the maintenance work in the rental premises was still not complete, the respondents grew tired of living in a cluttered environment and returned their property to its original, organized place. Photographs were provided dated February 23, 2016, showing the current condition of the premises. The applicant's representative did not dispute the current condition of the rental premises as being in a state of ordinary cleanliness.

The respondents testified that they had been in regular communication with the landlord's employees regarding the necessary maintenance work being done to the rental premises. At no time did they receive either verbal or written notices regarding the ordinary cleanliness of the rental premises. The first they heard of the issue was when they were served with the filed application to a rental officer. Upon receipt of the application they attempted to make inquiries with the landlord to understand what the issue was. The landlord's representatives told the respondents the matter would be discussed at the hearing before the rental officer and refused to have any conversations on the matter until then.

The applicant's representative confirmed that the landlord was in no position to discuss the application with the respondents until the hearing before the rental officer and had directed the respondents to consult the Rental Office regarding the hearing procedure. She further indicated that it was her understanding that verbal warnings had been given to the tenants prior to the December 1st incident, as well as of the December 1st incident. The respondents denied ever receiving any warnings. The applicant's representative could not directly testify to when the respondents would have been given the verbal warnings or by whom. No written notices were given to the respondents on the matter.

While I can appreciate the odour a stressed cat can create and the effect that odour can have on a person with allergies or asthma, the respondents made a valid point in noting that the landlord knew they have cats and efforts could have been made by the landlord to ensure their maintenance workers understood they were going into a premises where cats were resident.

I am satisfied the rental premises was in a state of flux due to the ongoing and lengthy period of maintenance work, which created a disorganized or cluttered environment. I am not satisfied the cluttered environment was being kept in a less-than-ordinary state of cleanliness under the circumstances. I am not satisfied the respondents received any complaints or warnings from the landlord regarding the ordinary state of cleanliness of the rental premises. The respondents acknowledged the kitty litter did need to be cleaned out on December 1st, but also testified that it was cleaned out later that day. There is no evidence substantiating that failing to clean the kitty litter was an ongoing and repetitive issue. It appears to have been a one-time complaint with a reasonable explanation. I am not satisfied the respondents have failed to comply with their obligation to maintain the rental premises in a state of ordinary cleanliness. The landlord's application is denied.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: All-West Glass invoice number YK0033560 dated November 17, 2015

Exhibit 2: Affidavit of Shawn Burt dated December 3, 2015

Exhibit 3: Email from Kimberly Kendall to Aya Burshan dated December 1, 2015

Exhibit 4: Set of 13 photographs submitted by the applicant

Exhibit 5: Tenancy agreement commencing October 1, 2014

Exhibit 6: Resident ledger dated March 17, 2016

Exhibit 7: Tenancy agreement commencing December 1, 2015

Exhibit 8: Set of 19 photographs submitted by the respondent