

IN THE MATTER between **Northwest Territories Housing Corporation**, Applicant,
and **Avakana (Bruce) Nokadlak and Danielle Elanik**, 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 -

AVAKANA (BRUCE) NOKADLAK and DANIELLE ELANIK

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 42(3)(e) and 45(4)(d) of the *Residential Tenancies Act*, the respondents must pay to the applicant costs for repairs and cleaning in the total amount of \$640.11 (six hundred forty dollars eleven cents).

DATED at the City of Yellowknife in the Northwest Territories this 30th day of March
2016.

Adelle Guigon
Deputy Rental Officer

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	March 22, 2016
<u>Place of the Hearing:</u>	Inuvik, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Kim Burns, representing the applicant Diane Day, representing the applicant Bruce Nokadlak, respondent Danielle Elanik, respondent
<u>Date of Decision:</u>	March 29, 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 Avakana (Bruce) Nokadlak and Danielle Elanik as the respondents/tenants was filed by the Rental Office January 27, 2016. The application was made regarding a subsidized public housing residential tenancy agreement for a rental premises located in Inuvik, Northwest Territories. The applicant served a copy of the filed application on the respondents by registered mail signed for February 19, 2016.

The applicant alleged the respondents had caused damages to the rental premises and left the rental premises in an unclean condition. An order was sought for payment of costs associated with repairing and cleaning the rental premises. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for March 22, 2016, by teleconference. Ms. Kim Burns and Ms. Diane Day appeared representing the applicant. Mr. Bruce Nokadlak and Ms. Danielle Elanik appeared as respondents.

Tenancy agreement

A tenancy agreement between the parties had been previously established at a hearing before a rental officer in regards to file number 20-14884. It was confirmed at that hearing the tenancy had been terminated June 30, 2015, and order was issued to evict the respondents from the rental premises on November 5, 2015. The respondents subsequently vacated the rental premises on November 23, 2015.

Repairs and cleaning

An exit inspection was conducted with Mr. Nokadlak present and a written report was made of the condition of the premises. Photographs were also taken during the inspection.

The landlord's original claim included items which were later withdrawn. Only those items still being claimed will be considered in this order and reasons.

The issues of which there was no dispute between the parties were:

- that the premises needed to be cleaned,
- that garbage needed to be removed from the premises,
- that the living room walls had screws, nails, and adhesive products which needed to be removed and patched,
- that the storage room door needed repair,
- that two gouges or deep scratches in the second bedroom walls needed to be repaired, and
- that the smoke detector mounting bracket needed repair.

The respondents disputed the following claims:

- that the removal of two small picture hooks from the bathroom wall warranted any charges for tenant damages,
- that the plastic fluorescent light fixture cover was damaged by the respondents,
- that the hours claimed to complete the undisputed repairs and cleaning are reasonable, and
- that the hourly rate claimed for labour is reasonable.

Bathroom picture hooks

The landlord claimed a charge for labour of \$10 to remove two small picture hooks from the bathroom wall. A tenant is entitled to 'live' in the rental premises, to make it a 'home', which includes making the premises comfortable. The only restrictions to this lie in the extent of alterations undertaken. A tenant is liable for any damages occurring from the wilful or negligent conduct of the tenant or persons permitted on the premises by the tenant. The tenant is not liable for normal or ordinary wear and tear. The holes resulting from the use of small picture hooks is a normal or ordinary use for which the tenant would not be held liable for repair. Pulling these two nails from the walls would have taken either party a matter of seconds. In my opinion the landlord's claim of \$10 for the labour to remove the picture hooks is petty and as such is denied.

Kitchen light fixture

There is no dispute from the respondents that the plastic light fixture cover was damaged. The respondents testified that the plastic light fixture was cracked in the corner when they moved in and repeatedly fell from its holding causing additional cracking. They reported the problem to the landlord, although the landlord does not have a record of the complaint. Rather than risking harm to themselves or their children by the cover continually falling from its holding, the respondents stored it on top of the refrigerator. This is where it was located by the landlord's representatives upon conducting the exit inspection. A photograph was provided showing the cover sitting on top of the refrigerator, but there are no photographs showing the damage.

The landlord's representatives did not realize the extent of the damage until they attended the premises to re-install the cover. The cover could not be re-installed and had to be replaced. The landlord's claim of \$60 (\$35 for labour; \$25 for materials) reflects the extra time it took the maintenance personnel to retrieve the new material.

There being no substantive evidence supporting the likelihood that the damage to the fixture cover was caused by the tenants, I am not satisfied they should be held liable for the costs to replace it. The landlord's claim of \$60 is denied.

Work hours claimed

Excepting the hours claimed for garbage removal, I am satisfied the hours claimed to complete the remaining repairs are reasonable. The landlord claimed approximately 2.5 hours for two workers to complete the following tasks:

- repair the living room walls
- repair the storage room door
- replace a bedroom receptacle plate
- repair the second bedroom walls
- repair the smoke detector mounting bracket

With respect to the garbage removal, the parties agreed at hearing that transportation and disposal time to the local dump for four trips can reasonably be estimated to have taken approximately one hour.

Based on the amount of garbage requiring disposal, as evidenced in the photographs, I am not satisfied the landlord's claim of 4.5 hours for two people to remove the items from the property to the vehicle for transportation is reasonable. Due to the amount and size of some of the items, I am of the opinion it would have reasonably taken two persons approximately 3.5 hours to remove the property, not including the hour to transport and dispose of it. As such, the landlord is granted a total of 4.5 hours labour for the removal, transportation, and disposal of garbage from the rental premises.

Hourly rate

The landlord claims an hourly rate for labour of \$70. This amount is based on two workers and covers the costs not only of their salaries, but also related employer overhead costs. In my experience, \$70 per hour for two workers is the standard rate applied by the Northwest Territories Housing Corporation and its agents and, in my opinion, is not unreasonable. The landlord's hourly rate of \$70 per hour is allowed.

Cleaning

The cleaning of the rental premises was contracted out to Red Devil Industries. Their final invoice for cleaning was issued in the amount of \$1,200 plus GST. The respondents did not dispute this claim. In light of the extensive amount of cleaning which was necessary, as evidenced by the photographs, I am satisfied the claim for cleaning is reasonable and will allow it.

Allowed costs

The costs of repairs and cleaning which are allowed are as follows:

Repairing the living room walls:	Labour	\$70.00
	Materials	\$20.00
Repairing the storage room door:	Labour	\$35.00
	Materials	\$10.00
Replacing second bedroom receptacle plate:	Labour	\$5.00
	Materials	\$5.00
Repairing the second bedroom walls:	Labour	\$70.00
	Materials	\$15.00
Repairing the smoke detector mounting bracket:		
	Labour and Materials	\$52.87
Garbage removal:	Labour	\$315.00
	Vehicle costs	\$25.00
	Tipping fees	\$140.00
Cleaning costs		\$1,200.00
	Sub-total	\$1,962.87
10% Admin Fee		\$196.29
	Sub-total	\$2,159.16
5% GST		\$107.96
	Total	\$2,267.12

The applicant appropriately withheld the security deposit of \$1,627.01 against the repairs and cleaning costs. Subtracting this amount from the above total results in a remaining amount of \$640.11 payable by the respondents to the applicant.

Order

An order will issue requiring the respondents to pay to the applicant the remaining costs of repairs and cleaning in the amount of \$640.11.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Lease balance statement printed January 5, 2016
- Exhibit 2: Damage deposit refund statement
- Exhibit 3: Damage deposit and interest calculations
- Exhibit 4: Inuvik Housing Authority invoice number TD000014645 with attachments
- Exhibit 5: Red Devil Industries quote number 0007
- Exhibit 6: Residential tenancy agreement dated June 4, 2015
- Exhibit 7: Inuvik Housing Authority inspection report tenant in dated January 16, 2013
- Exhibit 8: Inuvik Housing Authority inspection report tenant out dated November 23, 2015
- Exhibit 9: DVD with 193 digital photographs
- Exhibit 10: Inuvik Housing Authority correspondence to respondent dated March 11, 2016
- Exhibit 11: Inuvik Housing Authority credit note CN000001011
- Exhibit 12: Red Devil Industries invoice number 0015
- Exhibit 13: Northwest Territories Housing Corporation purchase order number 5195
- Exhibit 14: Inuvik Housing Authority cheque number 7678
- Exhibit 15: Lease balance statement printed March 11, 2016
- Exhibit 16: Inuvik Housing Authority invoice number TD000014545
- Exhibit 17: Inuvik Housing Authority receipt confirmation number UC000006201
- Exhibit 18: Summons to Danielle Elanik to attend court on April 5, 2016
- Exhibit 19: Email from Kim Burns to the Rental Office and 'Aviugan E.' dated March 20, 2016
- Exhibit 20: Email from Kim Burns to 'Aviugan E.', 'd.elanik@hotmail.com', and the Rental Office dated March 21, 2016
- Exhibit 21: Inuvik Housing Authority receipt confirmation number UC000006201 with handwritten notation
- Exhibit 22: Lease balance statement printed March 21, 2016