

IN THE MATTER between **Northwest Territories Housing Corporation**, Applicant, and **Johnny Kaglik**, 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 **town of Inuvik in the Northwest Territories**.

BETWEEN:

**NORTHWEST TERRITORIES HOUSING CORPORATION**

Applicant/Landlord

- and -

**JOHNNY KAGLIK**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$80.00 (eighty dollars).
2. Pursuant to sections 42(3)(e) and 45(4)(d) of the *Residential Tenancies Act*, the respondent must pay to the applicant the costs of repairs and cleaning in the amount of \$411.96 (four hundred eleven dollars ninety-six cents).

DATED at the City of Yellowknife in the Northwest Territories this 8th day of April 2016.

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Adelle Guigon  
Rental Officer

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**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>March 22, 2016</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, Northwest Territories, by teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>Kim Burns, representing the applicant Johnny Kaglik, respondent</b>
<b><u>Date of Decision:</u></b>	<b>April 6, 2016</b>

### **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 Johnny Kaglik as the respondent/tenant 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 respondent by registered mail signed for February 29, 2016.

The applicant alleged the respondent had accumulated rental arrears, caused damages to the rental premises, and failed to clean the rental premises upon vacating. An order was sought for payment of the rental arrears and costs of repairs and cleaning.

A hearing was scheduled for March 22, 2016, by teleconference. Ms. Kim Burns appeared representing the applicant. Mr. Johnny Kaglik appeared as respondent.

#### *Tenancy agreement*

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing. The tenancy originally commenced as a joint tenancy with Johnny Kaglik and his father, Alex Kaglik, on March 17, 2008. Alex Kaglik passed away in August 2015, at which point Johnny Kaglik took over the tenancy as a sole tenant. Johnny Kaglik gave proper written notice and vacated the rental premises September 30, 2015. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

#### *Rental arrears*

The parties agreed that the subsidized rent for September 2015 had not been paid, resulting in rental arrears in the amount of \$80. There being no dispute on this issue, I find the respondent liable for rental arrears in the amount of \$80.

### *Repairs and cleaning*

An exit inspection of the rental premise was conducted on October 1, 2015. The respondent was not present and had not returned the keys to the rental premises upon vacating. As a result, the locks needed to be replaced. The inspection found the rental premises had not been cleaned, garbage had been left behind, curtain rods were damaged or missing, there were gouges in several walls, and the living room window was broken. The applicant claimed the following costs:

Lock change	\$93.69
Repair/replace curtain rods	\$120.00
Remove garbage	\$100.00
Clean the premises	\$350.00
Patch walls	\$250.00
Replace living room window	\$220.00
Sub-total	\$1,133.69
10% Admin fee	\$113.37
Sub-total	\$1,247.06
5% GST*	\$62.35
<b>Total</b>	<b>\$1,309.41</b>

\*Note: The GST was erroneously calculated twice into the applicant's invoice number TD000014567. That error has been corrected in the above calculations.

The respondent did not dispute any of the charges claimed except for the living room window.

### Living room window

The inside pane to the living room window was discovered cracked when the applicant conducted the exit inspection. The window is a sealed, two-paned unit that cannot be opened.

The applicant claimed the cost for replacing the living room window believing the damage to have occurred as a result of tenant negligence, and partially relying on having no record of the tenant reporting the damage.

The respondent disputed that either he or his father caused the damage to the window. He suggested the damage was representative of stress fractures, perhaps associated with shifting of the building. The respondent believed his father had reported the damage when it occurred.

Photographs show the interior pane with arcing and random cracks which appear to be branching from an originating point at the top edge of the window. There are no impact points to suggest the window was hit by anything.

Having done some investigation into the pattern of stress fractures as opposed to impact fractures, I have learned the following:

### **Stress Fractures**

Stress fractures to multi-paned windows do not always fracture all the panes. It can depend on the cause of the fracture - whether it's the building shifting, temperature or environmental stressors, or defects in the window edging.

Stress fractures can be identified by looking for a crack starting perpendicular to the glass edge. It will usually extend about a half-inch straight away from the glass edge and then may spider in any direction.<sup>1</sup>

### **Impact Fractures**

Impact fractures also do not always fracture all the panes. Impact fractures also do not always completely puncture the glass. Both can depend on the direction the impact came from, the size of the projectile, the speed of the projectile, and the type of glass the window is made of.

Impact fractures can be identified by cracks emanating outward from a central point.<sup>2</sup>

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<sup>1</sup>[http://pressroom.pella.com/fast\\_facts/157/why-did-my-new-window-crack](http://pressroom.pella.com/fast_facts/157/why-did-my-new-window-crack)

<sup>2</sup><http://chicagowindowexpert.com/2009/06/20/diagnosing-glass-breakage/>

Based on this information and the photographs of the window in question, I am satisfied that the cause of the window breaking was a stress fracture which started at the top edge of the window. A tenant can only be held liable for damages caused by the tenant's or their guests' wilful or negligent conduct. Stress fractures are not caused by the specific action of an individual. I am not satisfied that the stress fracture was caused by the respondent or his father. The applicant's claim for costs to replace the living room window is denied.

As previously discussed, the respondent did not dispute any of the other claims for repairs and cleaning. The applicant appropriately retained a security deposit of \$643.35 against the costs of repairs and cleaning. The calculation of allowed costs are as follows:

Lock change	\$93.69
Repair/replace curtain rods	\$120.00
Remove garbage	\$100.00
Clean the premises	\$350.00
Patch walls	\$250.00
Sub-total	\$913.69
10% Admin fee	\$91.37
Sub-total	\$1005.06
5% GST*	\$50.25
Sub-total	\$1,055.31
Less security deposit	\$643.35
Total	\$411.96

#### *Order*

An order will issue requiring the respondent to pay rental arrears in the amount of \$80 and to pay for the remaining costs of repairs and cleaning in the amount of \$411.96.

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Adelle Guigon  
Rental Officer