

## REASONS FOR THE ORDER OF THE COMMISSIONER OF TENANCIES

### INQUIRY – 15 OCTOBER 2002

This is a determination of an application dated 9 September 2002 by the Landlord, seeking compensation pursuant to sections 121 and 122 of the *Residential Tenancies Act* (NT) (“the Act”). The application is made in respect of premises being 1/37 Nation Crescent, Coconut Grove in the Northern Territory of Australia.

A Notice of Inquiry dated 23 September 2002 was posted to the parties. The inquiry was conducted on 15 October 2002 during which evidence was taken from the Landlord, (“The Landlord”). There was no appearance by the tenant (“the Tenant”).

On the basis of the documentary and oral evidence before the Inquiry, I find there is a tenancy agreement within the meaning of and subject to the provisions of the Act on the following terms:

Premises:	1/37 Nation Crescent, Coconut Grove NT 0810
Commencement Date:	15 September 2001
Period:	12 months
Rent:	\$250.00 per week
Security Deposit	\$1000.00

The Landlord claims compensation for various repairs and damage to the premises, cleaning, replacing locks, advertising and unpaid rent, made up as follows:

- Collins Blinds Receipt No. 9 \$44.40
- Repairs to a screen door and fly screens by NT Screens (Invoice No. 180702C in the amount of \$32.00 and 00090702 in the amount of \$80.00) \$112.00
- JR Lighting Invoice No. 10A64542 \$19.14
- Repairs to the reticulated sprinkler system (Darwin Mitre 10 Invoice numbers 314402 in the amount of \$14.98, number 311145 in the amount of \$26.06, number 314368 in the amount of \$247.50) \$288.54
- Mobile Electrics Invoice No. 56205 \$9.90
- Pilkington Glass Invoice No. 45661 being for reglazed shower screen panel \$250.00
- Carpet Clinic Invoice No. 14542 being for carpet cleaning \$55.00

- Right Price Invoices being for Unit Maintenance \$9.15
- Darwin Lock and Key Invoice No. 330166  
Replacing the Locks and keys \$71.50
- Regina's Cleaning Invoice No. 0728 \$450.00
- Westfarmers invoice being for rat baits and ant baits \$155.65
- Advertisements in the NT News \$352.60
- Unpaid rent to end of the tenancy agreement on 14 Sept 2002 \$4,785.70

The evidence of the Landlord during the course of the Inquiry was as follows:

- On 6 July 2002 the Landlord had spoken to the Tenant and they had arranged to meet the following day. The Tenant indicated during this conversation that he would have some money in rental payments for him and for repairs to the damage that had been caused by the Tenant's dog to the premises.
- As arranged, the Landlord attended the premises a number of times during the course of the day on 7 July 2002. The Tenant was not at the premises, although the Landlord noticed that the Tenant was in the process of moving out. The Landlord had gone back to the premises on numerous occasions trying to catch up with the Tenant however, every time he went there the Tenant was not present.
- The Tenant vacated on or about 7 July 2002. The Tenant did not notify the Landlord of his intention to move out.
- The Landlord had new Tenants move into the premises on 10 October 2002.
- The Landlord says he and his wife completed the outgoing condition report on the Friday following the Tenant's abandonment of the premises. The Landlord says that the cleaners came in to do the cleaning of the premises on the Saturday. A review of the calendar indicates this would have been Friday 12 July 2002 and Saturday 13 July 2002 respectively.
- The Landlord says he does not have a forwarding address for the Tenant but is aware that the Tenant was working at the Colonade and is now working at Nirvana Restaurant. The Landlord says that the Tenant is still working at Nirvana and was there about a week ago.
- The Landlord says he tried to contact the Tenant at least 12 times after 7 July 2002 including at the Tenant's place of work in an attempt to establish a line of communication. These attempts were unsuccessful as the Tenant would not answer his calls and has refused all contact with the Landlord. The Landlord says that he did have a mobile phone for the Tenant however this number is no longer in service.

- The Landlord says the outgoing condition report was sent to the Tenant at his last known address being the address of the premises.
- The Landlord says the Tenant has been picking up some mail however, he appears to be selective in this regard. For instance any mail from AGC the Tenant is not picking up.
- The Landlord says he sent the condition report with a Notice of Intention to Retain Security Deposit dated 24 July 2002 (“The Notice”). The Landlord attached to the Notice a Statutory Declaration as well as receipts substantiating the amounts claimed. The Landlord also says attached to the Notice was a copy of the Rental Ledger which indicates the amounts in fact paid in rent by the Tenant.
- The Landlord says he works in a remote area and has never had to issue such notices before. He issued the Notice after attending at the Residential Tenancies Unit on the Monday or Tuesday, 22 and 23 July 2002.
- He says he would have sent the Notice after being advised to by the Residential Tenancies Unit of Consumer Affairs. He realises that he did not send it within the time frame required by the Act however, he says he did not know that this had to be done and it was not until he attended on Consumer Affairs that they advised him that this was the case.
- The Landlord says it took several weeks for the cleaning and the repairs to the premises to be completed. These repairs and cleaning would have been completed on or about 22 July 2002, about the time the Notice was sent to the Tenant.
- The Landlord says that he still retains the \$1,000.00 security deposit on behalf of the Tenant.
- In support of his claims for compensation, the Landlord has submitted copies of invoices he has paid as well as his rental ledger.

## THE TENANT’S SECURITY DEPOSIT

The circumstances in which a landlord is entitled to retain a tenant’s security deposit is governed by section 112 of the Act which provides, my emphasis:

- |             |  |
|-------------|--|
| Section 112 | When Landlord may keep security deposit  |
| (1)         | Subject to this section, <b>a tenant is entitled to have his or her security deposit reimbursed at the end of the tenancy agreement.</b>   |
| (2)         | <b>The landlord must, within 7 business days after the tenant gave up vacant possession of the premises or has, in the opinion of the landlord, apparently abandoned the premises, reimburse to the tenant the amount of the security deposit, other than an amount that the landlord is entitled to retain, or to continue to hold,</b> under this section. |
| Penalty:    | 20 penalty units.  |

- (3) **At the end of the tenancy agreement the landlord is entitled to retain so much of the security deposit paid by the tenant as is necessary to –**
- (a) **make good damage (other than reasonable wear and tear)** to the premises or to ancillary property that occurred during the tenancy and that was caused by a tenant or a person for whose actions a tenant is liable under section 12;
  - (b) **replace ancillary property** lost or destroyed by the tenant or by a person for whose actions the tenant is liable under section 12;
  - (c) **clean the premises** or ancillary property left unreasonably dirty by the tenant or by a person for whose actions the tenant is liable under section 12;
  - (d) **replace locks altered**, removed or added by the tenant without the consent of the landlord;
  - (e) **pay for unpaid rent** or for unpaid charges for electricity, gas or water payable by the tenant under section 118;
  - (f) pay any amount required to be paid under section 121; or
  - (g) pay money ordered by the Commissioner or a court to be paid by a tenant but not paid.
- (4) **The landlord is not entitled to retain some or all of the amount of a security deposit for a purpose** referred to in subsection (3)(a), (b) or (c) **unless –**
- (a) a **condition report** in relation to the premises was **accepted by the tenant under Part 5**; and
  - (b) **if the tenant –**
    - (i) has given up vacant possession of the premises – a condition report has been provided to the tenant under section 110; or
    - (ii) **has**, in the opinion of the landlord, **apparently abandoned the premises – notice has been given to the tenant in accordance with section 110(3)** and, if the tenant demanded copies of the condition report within 7 days after notice was given to the tenant under that section, those copies have been given to the tenant.
- (5) Subject to section 113(2), **the landlord is not entitled to retain, or to continue to hold under subsection (6), part or all of a security deposit unless, within 7 business days after the tenant gave up vacant possession of the premises** or has, in the opinion of the landlord, apparently abandoned the premises, **the landlord has –**
- (a) **given written notice** in the prescribed form, if any, **of his or her intention to retain or continue holding so much of the security deposit as is specified in the notice for the purpose specified** in the notice;
  - (b) **attached a copy of a statutory declaration** in the prescribed form, if any, **attesting to the truth of the claim that the retention or continued holding of the security deposit is required for the purpose specified** in the notice;

- (c) **attached a copy of a statutory declaration attesting that the receipts, invoices or other documents attached to the declaration relate to –**
    - (i) **the matters in respect of which part or all of the security deposit is being withheld from the tenant; or**
    - (ii) **the amount of unpaid rent owing** under the agreement or money owing under section 121;
  - (d) **in the case of damage or unreasonably dirty premises or ancillary property – attached copies of receipts, invoices or other documents, including orders of the Commissioner or a court, specifying the amount required to make good the damage or clean the premises or ancillary property; and**
  - (e) **returned to the tenant the proportion of security not claimed by the landlord or not to be held under subsection (6).**
- (6) If, in the opinion of the landlord, **the tenant has abandoned the premises, the landlord may continue to hold on trust for the tenant as much of the security deposit as is necessary to ensure that the deposit will be available for payment to the landlord** in accordance with section 122 as compensation for –
- (a) **loss of the rent that the tenant would have been liable to pay** under the agreement **if he or she had not abandoned the premises; and**
  - (b) **loss caused to the landlord in securing new tenants** for the premises.

...

It is clear section 112(4) of the Act provides that the Landlord is not entitled to retain any part of the Tenant's security deposit to make good damage, replace ancillary property or clean the premises unless a condition report has been given to the Tenant in accordance with section 110(3). Section 110(3) of the Act requires that two copies of the condition report are to be given to the Tenant within three business days after the Landlord has formed the opinion that the Tenant has apparently abandoned the premises.

The Landlord indicated during the course of the inquiry that he did in fact send two copies of the condition report to the Tenant. However, this was not sent to the Tenant within three business days of the Tenant abandoning the premises on 7 July 2002 but was sent on the Saturday following the Tenant's abandonment on or about 12 July 2002. I find that the Landlord has not sent the outgoing condition report to the Tenant within 3 business days of his abandoning the premises as required by section 110 of the Act. Therefore in accordance with section 112(4) of the Act, the Landlord is unable to retain the security deposit for the purposes of making good damage, replacing ancillary property and cleaning the premises.

In addition, section 112(5) of the Act, amongst other things, requires that the Landlord must, within seven business days after the Tenant has abandoned the premises give written notice to the Tenant of his intention to retain the security deposit. The Landlord has purported to comply with the requirements of section 112(5) of the Act, however, the evidence of the Landlord during the course of the inquiry is that the Notice was posted on or about 22 or 23 July 2002.

Seven business days from the date of the Tenant's abandoning the premises on 7 July 2002 would have expired on or about 16 July 2002 and it was incumbent on the Landlord to give this Notice by this date.

The Landlord says he was not aware that he had to issue such Notices in accordance with the Act and only became aware of this after visiting the office of Consumer Affairs. He sent the Notice as soon as he was aware he had to. Notwithstanding the Landlord's ignorance of the law, section 112 is clear in its terms and its requirements are mandatory. These requirements must be interpreted strictly. The legislature, has seen fit to prescribe the circumstances in which landlords may retain a tenant's security deposit. The Act does not provide any ability for me to allow the retention of the Tenant's security deposit in circumstances where there has been compliance with some but not all of its requirements. I find that the Landlord has not complied with section 112(5) of the Act in that the Notice was not posted to the Tenant within seven business days of the Tenant abandoning the premises as required.

On the basis of the above, I order that the Landlord must return to the Tenant his security deposit in the amount of \$1,000.00 forthwith.

## COMPENSATION CLAIMS

Despite my finding that the Landlord is not entitled to retain the Tenant's security deposit, it is incumbent on me to consider the individual claims for compensation to determine whether the Landlord is entitled to an order for the same.

Essentially, the onus is on the Landlord to prove on the balance of probabilities that his claims are a result of the Tenant's breach of his obligations under the tenancy agreement. Generally speaking, I was impressed by the Landlord's evidence, which was frank and credible. In the absence of the Tenant who has not availed himself to the inquiry, I accept the Landlord's evidence as a reasonable indicator of the state of the premises upon the Tenant's abandonment. The Landlord's claims were approached in a very consistent and reasonable manner and I formed the view that he was not prone to exaggeration.

The Tenant's obligations with respect to cleanliness and damage is governed by section 51 of the Act, which provides, my emphasis:

### Section 51      Cleanliness and damage

- (1) It is a **term of a tenancy agreement** that a tenant –
- (a) **will not maintain the premises and ancillary property in an unreasonably dirty condition, allowing for reasonable wear and tear;**
  - (b) must **notify the landlord of any damage or apparent potential damage to the premises** or ancillary property, other than damage of a negligible kind;
  - (c) **must not intentionally or negligently cause or permit damage to the premises or ancillary property;**
  - (d) if the premises are a unit within the meaning of the *Unit Titles Act* - must not intentionally or negligently cause or permit damage to the common property within the meaning of that Act;

- (e) if the premises are a building lot with the meaning of the *Unit Titles Act* – must not intentionally or negligently cause or permit damage to the common property within the meaning of that Act.
- (2) It is a **term of a tenancy agreement that at the end of the tenancy the tenant must give the premises and ancillary property back to the landlord –**
  - (a) **in a reasonable state of repair; and**
  - (b) **in a reasonably clean condition,**  
**allowing for reasonable wear and tear.**
- (3) A tenant is not in breach of the term of the agreement specified in subsection (1) or (2) if –
  - (a) the breach is caused by the landlord’s failure to repair or maintain the premises or ancillary property; and
  - (b) the landlord had notice that the repairs or maintenance were required.
- (4) In deciding whether premises or ancillary are in reasonable condition or in a reasonably clean condition, a landlord, the Commissioner or a court must take into account –
  - (a) **the condition of the premises or ancillary property when the tenant took possession** of them as determined by a condition report, if any, accepted under Part 5 by the landlord and the tenant;
  - (b) if the tenancy agreement has terminated or **the tenant** has, in the opinion of the landlord, **apparently abandoned the premises – the condition of the premises or ancillary property as determined by a condition report**, if any, accepted under Part 12 by the landlord and the tenant; and
  - (c) the **effect of reasonable wear and tear** during the tenancy.
- (5) If a condition report was not accepted by the landlord and the tenant in relation to the premises or ancillary property under Part 5 –
  - (a) the tenant is to be taken to have complied with the term of the agreement specified in subsection (1); and
  - (b) if the tenancy agreement has terminated or the tenant has, in the opinion of the landlord, apparently abandoned the premises – the premises or ancillary property are to be taken to have been at the time when the tenant took possession of the premises under the tenancy agreement, in the condition they are at the end of the tenancy agreement.

**Colin’s Blinds in the amount of \$44.40**

The Landlord claims \$44.40 being for the replacement of gearboxes on vertical drapes present in the premises. The Landlord indicated during the course of the inquiry that these boxes were damaged due to heavy and rough usage. The Tenant used to lock his dog, a Weimerana, inside the premises. The Landlord says that the dog which was still only a pup was not exercised and had broken the blinds.

I accept the evidence of the Landlord and find that the damage to the blinds was a result of the Tenant’s dog in the premises. I am satisfied that \$44.40 is a reasonable amount and can be attributed to the Tenant’s breach of his obligations under the tenancy agreement to keep the premises in a reasonable state of repair.

I am satisfied that the damage to the blinds exceeds reasonable wear and tear and that the Tenant ought to be liable for the same. Accordingly, I order that the Tenant pay the Landlord \$44.40 being for the repair to the damage to the vertical blinds.

**NT Screens invoices in the amount of \$32.00 and \$80.00 respectively**

The Landlord claims a total of \$112.00 being for repairs to a screen door and the fly screens in the windows. The Landlord's evidence was to the effect that the Tenant's dog had chewed the screen out which damaged and stretched it out. The evidence of the Landlord is that once the fly screen is torn and stretched, it cannot be repaired and must be replaced. The Landlord indicated he also had photographs of this damage which he forgot to bring with him. A perusal of the outgoing condition report filled in by the Landlord indicates that a number of the fly screens in the premises were damaged or destroyed.

On balance, I am satisfied that the Tenant has breached his obligation to maintain the fly screen in a reasonable state of repair and that the \$112.00 claimed by the Landlord is reasonable. Accordingly, I order that the Tenant pay the Landlord compensation in the amount of \$112.00.

**JR Lighting invoice in the amount of \$19.14**

The evidence of the Landlord was that the Tenant had cracked or broken two switches in the premises. One was in the kitchen and the other in the bedroom.

I am satisfied that the damage to the light switches was a result of the Tenant's breach of his obligations to maintain the premises in a reasonable state of repair. Accordingly, I order that the Tenant pay the Landlord compensation for this amount.

**Mitre 10 invoices in the amount of \$288.54**

The Landlord claims the costs associated with replacing his reticulated watering system. The evidence of the Landlord is that he repaired the system himself and has only charged the cost of replacing the materials. The Landlord says that from the tap onwards the Tenant's dog had dug up the reticulated watering system and chewed up the 70 to 80 metres in length hose into pieces of 5cm bits. The Landlord's evidence was essentially that the sprinkler system was totally destroyed.

I am satisfied on the basis of the Landlord's evidence that the damage to the sprinkler system was a result of the Tenant's failure to control his dog. In these circumstances, the Tenant has failed to return the reticulation system in a reasonable state of repair and I am satisfied that the \$288.54 claimed is reasonable. Accordingly, I order the Tenant pay the Landlord compensation in this amount.

**Mobile Electrics invoice in the amount of \$9.90**

The Landlord claims \$9.90 being for the replacement of a rocker switch which is essentially the oven light switch. The evidence of the Landlord is that the switch was broken. It looked like it had been stabbed in with a sharp object. The Landlord essentially replaced the switch himself and has only charged the cost of the switch.

I am satisfied the damage to the switch was a result of the Tenant's breach of his obligations under the tenancy agreement and that the amount is reasonable. Accordingly, I order that the Tenant pay the Landlord compensation in this amount.

**Pilkington Glass invoice in the amount of \$250.00**

The Landlord claims \$250.00 being for reglazing a shower glass panel. The evidence of the Landlord is that the shower screen had been cracked right through. The shower screen was a glass panel which was located at the end of the bathtub. The glass was made of reinforced wire glass and comprised a panel affixed permanently to the tub so that it was immovable. The evidence from the Landlord is that it looked like someone had slipped over and fallen against the glass which has caused a crack horizontally across the panel. The panel is such that it has wire reinforcement within it. It is not the normal glass shower screen door in that it does not open and close. There is a gap where people enter and exit the bathtub and normal shower curtains are used for this entry. The Landlord says that there is no way that this shower screen would have cracked as a result of reasonable wear and tear and some sort of force would have needed to have been applied to it in order for the crack to occur.

On balance, I accept the evidence of the Landlord and I am satisfied that the crack in the shower screen is a result of the Tenant's breach of his obligations to return the premises in a reasonable state of repair. I am also satisfied that the amount claimed by the Landlord is reasonable. Accordingly, I order that the Tenant pay the Landlord compensation in this amount.

**Carpet Clinic invoice in the amount of \$55.00**

The Landlord says that it was necessary for him to get the carpet steam cleaned because there were black marks around where the Tenant's beds were located. The carpets were also extremely dirty that steam cleaning was necessary. A review of the outgoing condition report completed by the Landlord indicates that the carpet in bedroom two had large water stains and grease marks on it and the carpet in bedroom three "carpet burns".

I am satisfied, the Tenant has failed to return the carpet in a reasonably clean condition and that the state of the carpet upon his abandonment of the premises was certainly greater than reasonable wear and tear. In these circumstances, I am satisfied that \$55.00 is reasonable and I order that the Tenant pay the Landlord compensation in this amount.

**Rite Price Hardware invoice in the amount of \$9.15**

The Landlord indicated that he had to tape glass in the shower screen so that it would not fall apart whilst they were cleaning it. Accordingly, the \$9.15 was for tape duct as well as rapid mould killer. The evidence of the Landlord was that the mould killer was necessary in the bathroom and ensuite because it was filthy. The Landlord says the tiles were all mouldy, the toilet bowl was filthy the walls filthy and described it as being "putrid and worse than a public toilet". The Landlord says the Tenant did not clean at all and there was a lot of junk in the cupboards.

I am satisfied that the amounts claimed by the Landlord for the tape duct and the mould cleaner was the result of the Tenant's breach of his obligations under the tenancy agreement and I am satisfied that these amounts are reasonable. Accordingly, I order the Tenant pay the Landlord compensation in the amount of \$9.15.

#### **Claim for advertising in the amount of \$352.60**

The Landlord claims the costs associated with advertising the premises in the NT News. The evidence of the Landlord is that new tenants moved into the premises on or about 10 October 2002. The Landlord says they advertised on both Saturday and Sunday and Wednesday where possible. For the period from 17 July to 5 August 2002 the Landlord was away from Darwin and did not advertise during this time. In total the Landlord placed ads in the NT News 18 times for period from 8 July to 9 September 2002. Initially the Landlord says that they were charging the same amount of rent as that charged to the Tenant, however, they have had to drop the rent during the course of that period in an attempt to get tenants into their premises. In total, the Landlord claims an amount of \$352.60 being for the costs associated with advertising. The tenancy agreement was for a fixed term and was scheduled to end on 14 September 2002.

I am satisfied that the amount claimed by the Landlord in advertising costs is reasonable and is a consequence of the Tenant's breach of his obligations under the tenancy agreement to pay rent and by his abandonment of the premises. Accordingly, I order that the Tenant pay the Landlord compensation in this amount.

#### **Darwin Lock and Key invoice in the amount of \$71.50**

The evidence of the Landlord is that in abandoning the premises the Tenant did not return his keys. Accordingly, he had a responsibility to change all the locks for his new tenant to ensure their safety.

I am satisfied, the Tenant has not returned the keys to the premises and that the changing of the locks was a necessary consequence of the Tenant's abandonment of the premises. I also am satisfied that the amount is reasonable. Accordingly, I order that the Tenant pay the Landlord compensation in the amount of \$71.50.

#### **Regina's Cleaning Service invoice in the amount of \$450.00**

The evidence of the Landlord is that the cleaning was required. He and his wife started the cleaning of the premises on or about 12 July 2002 however there was just too much to do. The cleaners began on the premises on Saturday 13 July 2002 at 7.30am. They commented that the premises was not bad in that they had seen worse however they were still cleaning at 7.00pm that night.

The Landlord says the premises looked like it had not been cleaned since the Tenants moved into it. Every cupboard had cockroaches. The stove was "putrid" and it took two hours to clean the stove and range hood to a reasonable condition. The toilets and bathroom were mouldy and as he commented before was "worse than a public toilet".

The state of the bathroom was so disgusting that he had to grout over it because he could not get the stains out. The exterior of the house had mud marks all over it from the dog trying to jump up to get the fly screens. The premises generally was “putrid” and 50 per cent of the lights were not working. The Landlord says he has not claimed these amounts but in the whole of the premises only the fluoro lights in the kitchen was working and the hallway and the three bedrooms were left in darkness.

The evidence of the Landlord was that the townhouse was as big as a house. It was a duplex and had an extra block in height. He had designed it himself with the purpose of him living in it.

The Landlord says the cleaners spent about 12 hours cleaning. The Tenant had left things lying around the premises such as floor rugs, which were in “absolutely putrid” condition. The Landlord says it looked like the Tenant had gotten what he could out of the premises and “bolted”. A ute load of rubbish was taken to the rubbish tip in order to get rid of all the materials left out of the premises.

On balance, I accept the evidence of the Landlord. As I have indicated herein, the Landlord’s evidence struck me as being frank and credible. Accordingly, I am satisfied that the premises was left in a deplorable state and required cleaning. In the circumstances, in light of the Landlord’s evidence I am satisfied that \$450.00 was reasonable. Accordingly, I order that the Tenant pay the Landlord compensation in this amount.

#### **Westfarmers invoice in the amount of \$155.65**

The Landlord says that he had to get rat and ant baits for the premises. The premises was infested with cockroaches, dead rats outside as well as ants everywhere. The Tenant, when he abandoned the premises, had left the bin overflowing near the door. The place was “rotten with ants”. The evidence of the Landlord is that prior to the Tenant moving in the premise he did not have an ant problem however it was necessary given the state the premises was left in for them to bait the premises for ants so that they would not return. In addition there were cockroaches and rats. The Landlord says that all this vermin was due to the Tenant’s “slothfulness and laziness”. There were great trails of ants and cockroaches, which normally he would attack using Baygon, however it did not work and the baits were necessary.

In light of the evidence of the Landlord, I am satisfied that the ant baits and cockroach baits were reasonably necessary and a consequence of the Tenant’s breach of his obligation to maintain the premises in a reasonable clean condition. In the circumstances, I am satisfied that \$155.65 was reasonable and I order that the Tenant pay the Landlord this amount.

#### **Unpaid rent until 14 September 2002**

The Landlord claims unpaid rent prior to the Tenants abandonment of the premises as well as the rent that would have been payable from the date of his abandonment on 7 July 2002 up to and including 14 September 2002. The Landlord has submitted a copy of the tenancy agreement signed by the parties and I am satisfied the tenancy was for a term of 12 months commencing on 15 September 2001. I am satisfied as indicated by the Landlord’s attempts to advertise the premises as well as to decrease the amount of rent that they were going charge for the premises that the Landlord has attempted to mitigate his loss.

In my view, it is reasonable that the Tenant should be liable for the unpaid rent he was obligated to pay under the tenancy agreement up to and including 14 September 2002. In addition, I am satisfied that prior to his abandonment the Tenant was in arrears of rent. The Landlord has submitted a rental ledger dated 4 July 2002 which indicates that the last rent payment made by the Tenant was on 14 June 2002. Leaving aside the \$1000.00 paid by the Tenant in security deposit, the Tenant has paid \$8,250.00 in rent. The amount of rent payable under the tenancy agreement from its commencement on 15 September 2001 up to and including 14 September 2002 is the equivalent of 52 weeks and 1 day. This amounts to (52 x \$250 + \$250 ÷ 7 x 1 =) \$13,035.70. The Tenant has in fact paid \$8,250.00 in rent. Accordingly, the Tenant owes (\$13,035.70 - \$8,250.00 =) \$4,785.70 in unpaid rent and rent that would have been payable after his abandonment of the premises on or about 7 July 2002. Accordingly, I order that the Tenant pay the Landlord compensation in the amount of \$4,785.70

### **Summary of compensation ordered**

On the basis of the above, I am satisfied that the Tenant pay the Landlord compensation in the amount of \$6,603.58 being for:

• Replacement of gearbox on vertical drapes	\$ 44.40
• Repairs to screen door and fly screen	\$ 112.00
• Replacement of two broken light switches	\$ 19.14
• Replacement of reticulated watering system	\$ 288.54
• Replacement of rocker switch in oven	\$ 9.90
• Reglazing of shower glass panel	\$ 250.00
• Cleaning of carpets in bedrooms 2 and 3	\$ 55.00
• Cost of duct tape and mould killer for bathroom	\$ 9.15
• Advertising premises for let in NT News	\$ 352.60
• Replacement of locks in premises	\$ 71.50
• Cost of cleaning premises	\$ 450.00
• Cost of rat and ant baits for the premises	\$ 155.65
• Unpaid rent up to and including 14 September 2002	\$4785.70

## **ORDERS**

On the basis of the above, I order that:

1. The Landlord is to return the Tenant's security deposit in the amount of \$1,000.00 to the Tenant forthwith.
2. The Tenant is to pay the Landlord compensation in the amount of \$6,603.58.

Dated this        day of October 2002

Penny Turner  
Delegate of the  
Commissioner of Tenancies