

IN THE MATTER between **FORT RESOLUTION HOUSING AUTHORITY**,  
Applicant, and **TANYA MCLEOD**, 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, **HAL LOGSDON**, Rental Officer,  
regarding the rental premises at **FORT RESOLUTION, NT**.

BETWEEN:

**FORT RESOLUTION HOUSING AUTHORITY**

Applicant/Landlord

- and -

**TANYA MCLEOD**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 30(4)(a) of the *Residential Tenancies Act*, the applicant shall repair the sewage system in the rental premises so as to eliminate any leakage or unreasonable odour.
2. Pursuant to section 30(4)(d) of the *Residential Tenancies Act*, the applicant shall compensate the respondent for loss of full enjoyment of the rental premises by:
  - a) applying a rent credit to the applicant's rent account in the amount of \$64;
  - b) paying for the full cost of electricity for the rental premises until the repairs contained in this order are completed and the premises are fit for habitation;

- c) suspending the assessment of rent for the rental premises until the repairs contained in this order are completed and the premises are fit for habitation.
3. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant the balance of rent arrears, taking into consideration the abatement contained in this order in the amount of thirty two dollars (\$32.00).
4. Pursuant to section 45(4)(c) of the *Residential Tenancies Act*, the respondent shall compensate the applicant by paying the applicant costs of electricity paid on her behalf in the amount of three hundred twenty two dollars and sixty two cents (\$322.62).

DATED at the City of Yellowknife, in the Northwest Territories this 21st day of January, 2002.

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Hal Logsdon  
Rental Officer

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Applicant, and **TANYA MCLEOD**, Respondent.

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BETWEEN:

**FORT RESOLUTION HOUSING AUTHORITY**

Applicant/Landlord

-and-

**TANYA MCLEOD**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** January 17, 2002

**Place of the Hearing:** Fort Resolution, NT

**Appearances at Hearing:** Joyce Beaulieu, representing the applicant  
Tanya McLeod, respondent

**Date of Decision:** January 21, 2002

**REASONS FOR DECISION**

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and by failing to pay for the cost of electricity which was her responsibility pursuant to the written tenancy agreement between the parties. The applicant sought an order for the payment of the alleged rent arrears and electricity costs paid on behalf of the respondent and termination of the tenancy agreement. The applicant provided a copy of the tenant ledger which indicated a balance of rent owing in the amount of \$96 and a balance of electrical costs paid on behalf of the respondent in the amount of \$322.62.

The respondent testified that she had been attending school outside the community until early November, 2001. She indicated that the landlord permitted her to maintain possession of the rental premises while she was away. The respondent indicated that she returned to Fort Resolution in November, 2001 fearing that she would lose possession of the premises and her personal goods in the unit. The respondent testified that on her return, she found the premises impossible to live in due to an odour of sewage in the house. She indicated that the maintenance staff had attended to the problem on several occasions without success and that she had been staying with her mother-in-law. The respondent did not dispute the allegations pertaining to the non-payment of rent or electrical costs.

The applicant indicated that they had attended to the maintenance problem on several occasions but were now of the opinion that major work would be necessary to repair a broken sanitary pipe.

The applicant suggested that the breakage may have been related to the disconnection of electricity in April or May, 2001 or the fact that the plumbing system was not regularly used during the extended absence of the tenant.

It appears that the respondent left the premises vacant to attend school with the knowledge and permission of the landlord. It is clear that the respondent intended to maintain possession of the premises even though she did not intend to physically occupy the unit during the school year. Therefore, the tenancy agreement remained in place and the rights and obligations of both parties under the *Residential Tenancies Act* and the tenancy agreement remained in effect.

The respondent was therefore responsible to pay rent and electricity for the premises in accordance with the tenancy agreement. The tenant ledger clearly indicates she breached both of these obligations. The evidence provided by the applicant indicates that the electricity was disconnected on April 23, 2001. The applicant established the account in the applicant's name and paid for the costs of electricity from that date forward.

The respondent remained responsible for the maintenance of the premises. In my opinion there is not sufficient evidence upon which to consider the damages to be the result of negligence by the tenant. The premise is a duplex. The disruption of the tenant's domestic electricity should not affect the heating system. It may be the case, as the applicant indicated, that freezing resulted from lack of daily use, but the landlord was fully aware that the unit was vacant, and, notwithstanding the tenants obligation to not leave the unit unattended contained in the written

tenancy agreement, should have taken reasonable steps to prevent such freezing. Therefore, in my opinion, the obligation to repair this problem lies with the applicant. The failure to repair the problem since November, 2001 has resulted in the total disruption of the tenant's right to possession. Despite her efforts to occupy the premises, she finds it impossible to do so given the odour of sewage. In my opinion, there should be a full abatement of rent from November to present and the abatement should continue until the premises are repaired and fit for occupancy. Further, in my opinion, the electrical costs for the premises should be borne by the applicant until such time as the repairs are completed and the unit is fit for habitation. The payment of rent and electrical costs in accordance with the tenancy agreement should commence when the unit is repaired.

The applicant testified that they sought termination at the time of application (October 25, 2001) in part due to the uncertainty as to whether the respondent intended to return to the community. In my opinion, this tenancy agreement should be allowed to continue provided that the respondent clear the rent arrears and electrical costs in a reasonable period of time.

I find the respondent breached the tenancy agreement by failing to pay rent and by failing to pay for the costs of electricity in accordance with the written tenancy agreement between the parties. I also find that the applicant breached the tenancy agreement by failing to repair the rental premises.

In the matter of rent, the applicant shall be ordered to provide an abatement of the November

and December, 2001 rent in the amount of \$64 in the form of a rent credit to the respondent. The respondent shall be ordered to pay the balance of rent arrears in the amount of \$32. The abatement of the full monthly rent shall continue until the premises are repaired by the applicant and fit for habitation. The applicant shall also provide an additional abatement of the full electrical costs by paying for electrical costs for the premises from November, 2001 until the premises are repaired and the unit fit for habitation. The respondent shall reimburse the applicant by paying the applicant the costs of electricity paid on her behalf to November, 2001 in the amount of \$322.62.

The applicant shall be ordered to repair the sewage system to eliminate any leakage or odour.

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Hal Logsdon  
Rental Officer