

IN THE MATTER between **FORT SMITH HOUSING AUTHORITY**, Applicant, and **LISA ABRAHAM**, 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 SMITH, NT**.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

- and -

LISA ABRAHAM

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of six hundred seventeen dollars (\$617.00).
2. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondent shall pay the applicant costs related to the repair of tenant damages to the premises in the amount of two thousand four hundred sixty seven dollars and forty two cents (\$2467.42).
3. Pursuant to sections 41(4)(c), 42(3)(f) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 0062, 141 Field Street, Fort Smith, NT shall be terminated on February 27, 2004 and the respondent shall vacate

the premises on that date, unless the rent arrears and costs of repair in the total amount of three thousand eighty four dollars and forty two cents (\$3084.42) is paid in full.

4. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent shall pay all future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 3rd day of December, 2003.

Hal Logsdon
Rental Officer

IN THE MATTER between **FORT SMITH HOUSING AUTHORITY**, Applicant, and **LISA ABRAHAM**, 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.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

-and-

LISA ABRAHAM

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 28, 2003

Place of the Hearing: Fort Smith, NT

Appearances at Hearing: Ruth White, representing the applicant

Date of Decision: December 3, 2003

REASONS FOR DECISION

The respondent was served with a Notice of Attendance on November 18, 2003 but failed to appear at the hearing. The hearing was held in her absence.

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay the full amount of rent and by failing to make repairs to the premises which were made necessary because of tenant damages. The applicant sought an order requiring the respondent to pay the alleged rent arrears and repair costs and to pay future rent on time. The applicant also sought the termination of the tenancy agreement at the end of February, 2004 unless the rent and repair costs were paid in full.

The applicant provided a statement of the rent account which indicated a balance of rent owing as at October 27, 2003 in the amount of \$617. The applicant testified that since that date, no payments of rent had been received. I find the statement in order and find the rent arrears to be \$617.

The applicant also provided numerous work orders and invoices pertaining to repairs of alleged tenant damages. A statement summarized costs of \$2521.28. The applicant testified that the repairs were made necessary due to the negligence of the tenant or persons permitted on the premises by the tenant. I find the statement and related documents in order except charges of \$53.86 for cutting the grass. In my opinion, lawn maintenance is the responsibility of the

landlord. Section 30 of the Act obligates a landlord to maintain "the premises, the residential complex and all services and facilities provided by the landlord" in a good state of repair. In my opinion, a private yard is part of the "rental premises" and a common yard is part of a "residential complex". In either case, I believe the obligation to maintain the yard in reasonable order is the landlord's. The tenant's failure to cut the grass can not be considered a breach of section 42 as it is not damage caused by a wilful or negligent act by the tenant. (see Carter and Randall (1983) 145 DLR (3rd) 572 (B.C. Co. Ct.)). The applicant's request for an order requiring the respondents to pay for the costs of cutting the grass is therefore denied. I find the costs related to the repair of tenant damages to be \$2467.42.

In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the rent arrears and repair costs are paid within a reasonable time. An order shall issue requiring the respondent to pay rent arrears of \$617 and repair costs of \$2467.42 and to pay future rent on time. The tenancy agreement shall be terminated on February 27, 2004 and the respondent shall vacate the rental premises on that date, unless the rent arrears and repair costs in the amount of \$3084.42 are paid in full.

Hal Logsdon
Rental Officer