

IN THE MATTER between **FORT SMITH HOUSING AUTHORITY**, Applicant, and **RICK ARRANCE AND JOYCE MOSES**, 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, **HAL LOGSDON**, Rental Officer, regarding the rental premises at **FORT SMITH, NT**.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

- and -

RICK ARRANCE AND JOYCE MOSES

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents shall pay the applicant rent arrears in the amount of fifteen thousand three hundred fifty eight dollars and fifty cents (\$15,358.50).
2. Pursuant to section 84(2) of the *Residential Tenancies Act*, the respondents may pay the rent arrears in installments of no less than one hundred fifty dollars (\$150.00), the first payment to be paid no later than December 31, 2003 and payable thereafter no later than the last day of every month until the rent arrears are paid in full.

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

DATED at the City of Yellowknife, in the Northwest Territories this 4th day of December, 2003.

Hal Logsdon
Rental Officer

IN THE MATTER between **FORT SMITH HOUSING AUTHORITY**, Applicant, and **RICK ARRANCE AND JOYCE MOSES**, Respondents.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act");

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BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

-and-

RICK ARRANCE AND JOYCE MOSES

Respondents/Tenants

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
Rick Arrance, respondent
Joyce Moses, respondent

Date of Decision: November 28, 2003

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay the full amount of rent and failing to repair damages to the rental premises which were the result of their negligence. The applicant sought an order requiring the respondents to pay the alleged rent arrears and costs related to the repair of the alleged tenant damages.

The applicant provided a statement of the rent which indicated a balance of rent owing as at November 28, 2003 in the amount of \$15,358.50. The respondents questioned whether a recent payment of \$400 had been credited to the account and the applicant verified that the payment had been credited on November 4, 2003 by referring to the statement.

The respondents stated that they did not recall the repairs being made and disputed charges of \$17.00 made in July, 2003 for cutting the grass. They stated that they kept the yard in good condition and that the persons who cut the grass damaged numerous areas of the yard.

The repairs were made in 1998 and involved repairs to the storm door. Section 68 of the Act requires that an application be made "within six months after the breach of an obligation under the Act or the tenancy agreement or the situation referred to in the application arose." A rental officer may extend this limitation but in this case, I do not think it is appropriate to do so. The parties to the application could not provide any recollection of the incidents. In my opinion, it is not fair to extend the six month limitation this far.

In the matter of the grass cutting expenses, a work order and invoice indicate that the applicant cut the grass for the tenants incurring cost of \$17.00. In my opinion, this 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 tenants' 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 tenants. (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 and costs of repair in the amount of \$319.82 is therefore denied.

The respondent stated that he would be willing to pay the rent arrears in installments of \$150/month in addition to the rent. The applicant agreed to the scheduled repayment of the arrears.

I find the respondents breached the tenancy agreement by failing to pay the lawful rent to the landlord. I find the rent arrears to be \$15,358.50. An order shall issue requiring the respondents to pay the arrears in monthly installments of no less than \$150, the first payment being due on December 31, 2003 and thereafter payable no later than the last day of every month until the rent arrears are paid in full. The order shall also require the respondents to pay all future rent on time.

Should the respondents fail to pay the arrears in accordance with this order or fail to pay the monthly assessed rent on the days it is due, the applicant may file a future application requesting the lump sum payment of any balance of arrears and/or termination of the tenancy agreement.

Hal Logsdon
Rental Officer