

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and **WILLIAM CHARLO**, 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 **RAE, NT**.

BETWEEN:

**RAE-EDZO HOUSING AUTHORITY**

Applicant/Landlord

- and -

**WILLIAM CHARLO**

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 eight thousand eight hundred nineteen dollars and one cent (\$8,819.01).
2. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as #026, Bay Island, Rae, NT shall be terminated on April 15, 2004 and the respondent shall vacate the premises on that date, unless this order is fully satisfied.

DATED at the City of Yellowknife, in the Northwest Territories this 3rd day of March, 2004.

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Hal Logsdon  
Rental Officer

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**WILLIAM CHARLO**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** March 1, 2004

**Place of the Hearing:** Rae, NT

**Appearances at Hearing:** Mike Keohane, representing the applicant  
Rose Dryneck, witness for the applicant  
William Charlo, respondent

**Date of Decision:** March 3, 2004

**REASONS FOR DECISION**

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay the full amount of rent and sought an order requiring the respondent to pay the alleged rent arrears and termination of the tenancy agreement. The applicant provided a copy of the tenant ledger which indicated a balance of rent in the amount of \$20,120 but stated that they sought an order only for rent which had come due since April 1, 2003. The applicant calculated this amount as \$8430.01 to February 29, 2004. The applicant calculated the rent owing to February 29 in the following manner:

Rent (10 months @ \$1176/month)	\$11,760.00
Payments made from April 1/03 to present	<u>(3329.99)</u>
Balance Owing	\$8430.01

The applicant stated that the arrears shown on the ledger card as B/F were arrears from a previous tenancy agreement. He stated that following the termination of that agreement in December, 1998 the parties entered into another tenancy agreement on July 1, 2001 for the current premises.

Although the written tenancy agreement does not reflect these terms, the applicant stated that the respondent was permitted to stay in the premises without paying any rent but was required to pay for all utilities. In April, 2003 the tenant was notified that the terms of the written tenancy agreement would be enforced and that the monthly rent would be based on income and was currently assessed at \$1207. The applicant indicated that the rent geared to income commenced in May.

The respondent disputed the amount owing stating that he had made payments through his bank that did not appear on the ledger. He offered no details or evidence to indicate what payments had been made. He stated that he had three sons and a daughter living with him as well as his daughter's boyfriend and that it was difficult to pay such a high rent.

From the evidence provided, I find that the rent was not assessed in accordance with the rent scale and that the rent was not recorded properly on the ledger. The applicant has based the rent assessed from May, 2003 to February, 2004 on an income declaration dated October 13, 2003. On April 29, 2003 the landlord sent a notice to the tenant which stated "Your rent was most recently assessed at \$1027.00 monthly. There is no evidence that the October declaration served to reassess rent for previous months. Therefore I must assume that the rent was assessed at \$1027 for the months May-September, 2003 and was reassessed to \$1176 for the months October, 2003-March, 2004. As well, the household income form dated October 13, 2003 indicates only two occupants and a corresponding cost of living reduction of \$10. The tenancy agreement indicates six occupants which would result in a cost of living reduction of \$17. The difference over the period October, 2003 to March, 2004 is \$42. The tenant ledger submitted in evidence also fails to apply rent the months of December, 2003 and January, 2004. Notwithstanding the rent arrears for the previous tenancy agreement, which have already been determined, I find the rent arrears to be \$8819.01 calculated as follows:

Rent for May-Sept/03 (5 months @\$1027/month)	\$5135.00
Rent for Oct/03-March/04 (6 months @ \$1176/month)	7056.00
Rent paid as per ledger	(3329.99)
Adj. to CLA (Oct/03 -Mar/04)	<u>(42.00)</u>
Balance Owing	\$8819.01

I find the respondent has breached the tenancy agreement by failing to pay the lawful rent to the landlord. I find the rent arrears to be \$8819.01.

One can excuse the respondent for not being aware of the exact balance of rent owing. On April 29, 2003 the applicant provided a notice to the respondent seeking arrears of \$13,741. On January 14, 2004 a notice was sent to the respondent seeking arrears of \$6744. Neither figure appears anywhere on the applicant's ledger.

The tenant, however, was aware of the monthly rent, if not the exact balance owing and must have known that his monthly payments, which ranged from \$0 to \$888 were insufficient to meet his obligation to pay rent.

The tenant has sufficient resources to pay the rent arrears promptly. His monthly income make him ineligible for occupancy in public housing. On that basis alone, the applicant could have sought termination had the required notice in the eligibility criteria been given to the respondent.

I find sufficient grounds to terminate this tenancy agreement unless the rent arrears of \$8819.01 are promptly paid. In my opinion, April 15, 2004 is a reasonable deadline for payment. An order

shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$8819.01 and terminating the tenancy agreement on April 15, 2004 unless those arrears are paid in full.

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Hal Logsdon  
Rental Officer