

IN THE MATTER between **401708 ALBERTA INC. O/A RANGE LAKE MANORS**,
Applicant, and **FLORENCE BROWN**, 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 **YELLOWKNIFE, NT**.

BETWEEN:

401708 ALBERTA INC. O/A RANGE LAKE MANORS

Applicant/Landlord

- and -

FLORENCE BROWN

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 for the month of March, 2004 in the amount of nine hundred ninety five dollars (\$995.00).
2. Pursuant to section 14(6)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant a portion of the required security deposit in the amount of three hundred thirty one dollars and sixty seven cents (\$331.67).

DATED at the City of Yellowknife, in the Northwest Territories this 24th day of March,
2004.

Hal Logsdon
Rental Officer

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401708 ALBERTA INC. O/A RANGE LAKE MANORS

Applicant/Landlord

-and-

FLORENCE BROWN

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: March 23, 2004

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Marion Peddle, representing the applicant
Florence Brown, respondent

Date of Decision: March 24, 2004

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent for the month of March, 2004 and by failing to provide a portion of the required security deposit. The applicant sought an order requiring the respondent to pay the alleged rent arrears and deposit and terminating the tenancy agreement on March 31, 2004 unless the amounts were paid.

The tenancy agreement between the parties commenced on December 1, 2003. Prior to December 1, 2003 the respondent resided in the premises with another person under another tenancy agreement. The former agreement named the respondent and the other person as joint tenants although the respondent did not sign the agreement. The landlord served notice at the end of September, 2003 that the rent would be increased to \$995 from \$970 effective January 1, 2004. The former agreement was terminated by notice and the applicant and respondent agreed to enter onto a new tenancy agreement for the same premises.

The respondent provided copies of the current and former tenancy agreements in evidence. The current tenancy agreement obligated the tenant to pay monthly rent in advance of \$970. The respondent's copy of the agreement consisted of three pages and did not include any provision for a security deposit. The applicant provided a copy of the agreement in evidence which contained four pages and required a security deposit equivalent to one month's rent. It is obvious from the numbering of the clauses that there is a page missing from the evidence provided by the respondent.

The landlord demanded the rent increase to \$995 in the month of January, 2004 and the respondent paid the increased amount in January and February. In my opinion, the notice served in September, 2003 to the respondent as a joint tenant of the former agreement is sufficient to increase the rent for the new agreement in January, 2004. Section 9(4) of the *Residential Tenancies Act* deems the agreement to be in writing and a joint agreement even though not signed by both tenants.

“A tenancy agreement shall be deemed to be in writing where it has been signed by one party or his or her agent, given to the other party or his or her agent and the landlord permits the tenant to take occupancy of the rental premises.”

Section 47(5) permits a rent increase where there has been a change of tenant.

“Where a landlord has given a tenant notice of a rent increase and the tenant terminates the tenancy agreement, the landlord shall
(a) give a new tenant a copy of the notice before the parties agree to a tenancy agreement; and
(b) rent the rental premises at the rent stated in the notice.”

The applicant stated that there had been numerous misunderstandings between the local property manager and herself and that on speaking to the head property manager in Edmonton, he advised her to deal directly with him. She testified that she had sent the March rent to the head property manager in Edmonton on March 19, 2004. The representative of the landlord had no record of payment for the March rent and the respondent presented no other evidence that it had been paid. I must assume that the March rent is outstanding at the date of the hearing, although it is likely in transit to the landlord. I find the respondent in breach of her obligation to pay rent and find the amount of arrears to be \$995.

In the matter of the security deposit, the applicant provided a letter to the respondent dated November 4, 2003 outlining their agreement to have the security deposit paid in three monthly installments of \$331.67 commencing on March 1, 2004. The applicant sought an order for the payment of \$331.67 prior to the end of March, 2004. The respondent stated that she had not received the letter and had not paid the security deposit because the landlord had not outlined the installment amounts. Section 14(2) of the Act permits a tenant to pay a required security deposit in installments.

**“Where a tenant is liable for a security deposit for a tenancy other than a weekly tenancy, the tenant may pay
(a) 50% of the security deposit at the commencement of the tenancy; and
(b) the remaining 50% of the security deposit within three months of the commencement of the tenancy.”**

As the tenancy agreement between the parties does not specify any schedule for payment, Section 14(2) of the Act applies. I therefore find the tenant in breach of her obligation to pay the required security deposit. The applicant’s request for \$331.67 does not contradict the Act and I find an order requiring the respondent to pay that amount of the deposit reasonable.

Given the likelihood that the March rent is in transit, in my opinion, there are not sufficient grounds to terminate this tenancy agreement for non-payment of rent. The Act does not permit the making of an order terminating a tenancy agreement for non-payment of a security deposit except pursuant to section 54(4). As the landlord’s notice was not made in reference to the outstanding security deposit no termination order can issue.

An order shall issue requiring the respondent to pay the applicant the March rent of \$995 and a

portion of the outstanding security deposit in the amount of \$331.67.

Hal Logsdon
Rental Officer