

IN THE MATTER between **FORT RESOLUTION HOUSING AUTHORITY**,
Applicant, and **HELEN MCCALLUM AND LAURENCE MCCALLUM**,
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 RESOLUTION, NT**.

BETWEEN:

FORT RESOLUTION HOUSING AUTHORITY

Applicant/Landlord

- and -

HELEN MCCALLUM AND LAURENCE MCCALLUM

Respondents/Tenants

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 seven thousand eight hundred fifty eight dollars (\$7858.00).

DATED at the City of Yellowknife, in the Northwest Territories this 31st day of October,
2004.

Hal Logsdon
Rental Officer

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-and-

HELEN MCCALLUM AND LAURENCE MCCALLUM

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 5, 2004
<u>Place of the Hearing:</u>	Yellowknife, NT via teleconference
<u>Appearances at Hearing:</u>	Joyce Beaulieu, representing the applicant Helen McCallum, respondent Laurence McCallum, respondent
<u>Date of Decision:</u>	October 31, 2004

REASONS FOR DECISION

The applicant sought an order requiring the respondents, who are former tenants, to pay rent arrears. The applicant provided a copy of the tenant ledger which indicated a balance of rent owing in the amount of \$32,378.94. The ledger indicates that rent was assessed at the unsubsidized rate of \$1580 for the months of October, 2002 to February 2004. The applicant testified that the unsubsidized rent was charged because the tenants failed to report the full amount of the household income. The applicant stated that they had retained the \$450 security deposit and accrued interest for costs of repairs to the premises. None of the deposit or interest was applied to rent arrears.

The respondents testified that they had vacated the premises in July, 2003 but did not remove all of their belongings until February, 2004. A letter, dated July 4, 2003, from the applicant to the respondents, acknowledged that the respondents had vacated the premises and requested that they remove their belongings from the premises and provide Laurence's 2002 income tax return.

The respondents testified that Laurence had no income in 2002 and provided a statement of income and expenses and a summary of income for 2003. The respondents stated that they had reported Helen's 2003 income but did not provide any evidence to the rental officer. The respondents also testified that their daughter, Melanie, ceased to be an occupant on January 31, 2002 and provided a letter stating that she had lived with Shauna McCallum and Harold Browning Jr. from February 1, 2002 to April 30, 2003 before leaving the Northwest Territories in May, 2003. Income declarations for February, March and April, 2002 signed by the respondents

name Melanie as an occupant. The respondents stated that they signed the declarations on the advice of the applicant who stated that the rent would not include Melanie's income.

In my opinion, the tenancy agreement was terminated in June when the respondents vacated the premises. Although the landlord was aware that the respondents had vacated, they continued to consider the respondents as tenants because they had not removed all of their possessions. The landlord was entitled to consider the personal belongings abandoned personal property and could have removed and stored them and re-rented the premises. In my opinion no rent should have been charged after June, 2003.

In the matter of rent, there is sufficient income information to calculate the rent in accordance with the rent scale although not all of the income has been verified by the respondents. In my opinion, the application of the "economic rent" is not appropriate where income has been declared, even though it may not be deemed to accurate (See Inuvik Housing Authority vs. Stewart and Kendi, January 11, 1993 and Justice J.E. Richard's comments on the decision in Inuvik Housing Authority and Gary Harley, CV 04815). If the landlord is of the opinion that the income declared is incomplete or inaccurate, an application to a rental officer should be filed seeking remedy pursuant to section 45 of the *Residential Tenancies Act*.

While I only have the income tax information for Helen McCallum for 2002, in my opinion, it is also sufficient to use as the basis of her 2003 income. The evidence also suggests the Melanie McCallum's income should not be included in the household income after January, 2002. I find

the following monthly rents, based on the income available:

January, 2002

Monthly household income - \$3372

Monthly rent - \$631

February, 2002 to December, 2002

Monthly household income - \$2122

Monthly rent - \$403

January 2003 to June, 2003

Monthly household income - \$2476

Monthly rent - \$471

Reassessing the rents accordingly, I find rent arrears to be \$11, 525.94 calculated as follows:

Balance as at January, 2002 as per previous order	\$3680.00
January rent adjusted	599.00
Rent Feb/02 - Dec/02 @ \$403/month	4433.00
Rent Jan/03 - June/03 @ \$471/month	2826.00
Less credit - June 24/04	<u>(12.06)</u>
TOTAL	\$11,525.94

Taking into consideration the unsatisfied portion of the previous order in the amount of \$3667.94, an order shall issue requiring the respondents to pay the applicant rent arrears in the amount of \$7858.

I note that the respondents disputed the retention of the security deposit at the hearing. As the respondents have not filed an application in that regard, I shall not make any determination in that matter.

Hal Logsdon
Rental Officer