

IN THE MATTER between **902754 NWT LIMITED**, Applicant, and **JULIE THRASHER**, 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 **INUVIK, NT**.

BETWEEN:

902754 NWT LIMITED

Applicant/Landlord

- and -

JULIE THRASHER

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 four thousand six hundred dollars (\$4600.00).
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 36 Kugmallit Road, Inuvik, NT shall be terminated on June 30, 2004 and the respondent shall vacate the premises on that date, unless rent arrears of no less than one thousand three hundred fifty dollars (\$1350.00) are paid to the applicant.

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

DATED at the City of Yellowknife, in the Northwest Territories this 7th day of June, 2004.

Hal Logsdon
Rental Officer

IN THE MATTER between **902754 NWT LIMITED**, Applicant, and **JULIE THRASHER**, 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:

902754 NWT LIMITED

Applicant/Landlord

-and-

JULIE THRASHER

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: May 10, 2004

Place of the Hearing: Inuvik, NT via videoconference

Appearances at Hearing: Talal Khatib, representing the applicant
Rod Anderson, witness for the applicant

Date of Decision: June 7, 2004

REASONS FOR DECISION

The respondent was served with a Notice of Attendance on May 1, 2004 but failed to appear at the hearing. The hearing was held in her absence.

The applicant alleged that the respondent breached the tenancy agreement by failing to pay rent and sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement. The application was filed on February 26, 2004 alleging that the February rent was not paid and there were arrears in the amount of \$2700. There was no evidence with the application to document how the \$2700 had accrued nor did the applicant present any additional documentation prior to the hearing.

At the hearing the applicant testified that the tenant had not paid any rent from February, 2004 to date except for \$400 which was paid on her behalf by her son in March, 2004. He stated that the rent was \$1350/month and that the rent arrears for the period February-May, 2004 was \$4950.

There is an apparent arithmetic error on the part of the applicant as four months rent at \$1350/month, less one \$400 payment would amount to arrears of \$5000.

The applicant also testified that the rent had been paid in full from January, 2002 until February, 2004 with the exception of \$1400.

The applicant also testified that a previous order requiring the respondent to pay rent arrears of

\$5270 (File #20-6752, filed on January 14, 2002) in monthly installments of \$400 had not been satisfied and sought the rescindment of the order and an order for the balance of the arrears.

Prior to determining the matter, I required the applicant to provide me with a written statement of the rent account showing all transactions from the date of the previous order. The applicant provided the information to me on June 3, 2004.

The rent statement does not coincide with the testimony given by the applicant at the hearing in several areas. The statement does not show any payment made in March, 2004 whereas the applicant testified that a payment of \$400 was made. The statement indicates accumulated arrears between January 2002 and February, 2004 of \$2800 whereas the applicant testified that all rent was paid during this period except \$1400.

The statement includes unpaid rent for January, 2002, an amount which was already included in the previous order. The statement also contains an error as the February, 2004 debit added to the previous balance does not coincide with the statement.

Sections 68(1 and 68(3) of the *Residential Tenancies Act* requires that an application be made in a timely manner but gives a rental officer the authority to extend the time if it is not unfair to do so.

68. (1) An application by a landlord or a tenant to a rental officer must be made within six months after the breach of an obligation under this Act or the tenancy agreement or the situation referred to in the application arose.

(3) A rental officer may extend the time for the making of an application to the rental officer, whether or not the time for making the application to a rental officer has expired, where the rental officer is of the opinion that it would not be unfair to do so.

The evidence suggests that there are few if any, formal rent records maintained by the landlord. The statement provided by the landlord bears little resemblance to any sort of business record and the accuracy of the document is doubtful, given the applicant's testimony. I note that the evidence pertaining to rent provided at the last hearing by the applicant was in an entirely different format. It appears that both documents were constructed only for the purpose of the hearing and are not part of the landlord's accounting system. Although it is not uncommon to extend the six month provision in matters pertaining to rent, it is because there is usually a clear and continuous record of the rent account made available to the tenant and the rental officer and it is not unfair to do so. This is hardly the case here. The evidence is both unclear and contradictory and I see no reason to extend the limitation and shall only consider rent arrears from September, 2003 to present.

Applying the rent received to the oldest debt, the previous order has been satisfied.

I find the respondent in breach of her obligation to pay rent and find rent arrears from September, 2002 to the date of the hearing to be \$4600, calculated as follows:

February, 2004 rent	\$1350
March, 2004 rent	1350
Unrecorded payment (March)	(400)
April payment	(400)
April, 2004 rent	1350

May 2004 rent	<u>1350</u>
Total	\$4600

In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the tenant begins to pay the lawful rent to the landlord. As the respondent has filed an application seeking a remedy for the alleged failure of the landlord to repair the premises, this tenancy should be permitted to continue until that matter is heard, provided that the monthly rent is paid in full.

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$4600 and terminating the tenancy agreement on June 30, 2004 unless rent of at least \$1350 is paid. The order will also require the respondent to pay all future rent on time.

Hal Logsdon
Rental Officer