

IN THE MATTER between **JACQUELINE DEVELOPMENTS**, Applicant, and
ABDALLAH EL-BEKAI, 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:

JACQUELINE DEVELOPMENTS

Applicant/Landlord

- and -

ABDALLAH EL-BEKAI

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 23rd day of July,
2004.

Hal Logsdon
Rental Officer

IN THE MATTER between **JACQUELINE DEVELOPMENTS**, Applicant, and
ABDALLAH EL-BEKAI, 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:

JACQUELINE DEVELOPMENTS

Applicant/Landlord

-and-

ABDALLAH EL-BEKAI

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: July 14, 2004

Place of the Hearing: Inuvik, NT

Appearances at Hearing: Louis Bryant, representing the applicant
Abdallah El-Bekai, respondent

Date of Decision: July 14, 2004

REASONS FOR DECISION

The applicant alleged that the respondent had breached his obligation to pay 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 rent ledger which indicated a balance of rent owing as at May 17, 2004 in the amount of \$1300. The applicant testified that since that date the June and July rent of \$1300/month had come due and had been paid in full, leaving the amount owing unchanged.

The applicant also referred to a notice that had been sent by fax to the respondent, dated September 29, 2003 stating that the rent would increase to \$1300/month effective December 1, 2003. The notice is clearly noted "by facsimile only". The applicant was unable to state when the rent was increased for the premises prior to December 1, 2003.

The respondent disputed the allegation stating that he had not been paid for work he did for the landlord on other properties. He referred to a list of work done as well as an invoice for work. This is not part of the tenancy agreement and therefore not within my jurisdiction as rental officer to determine.

The respondent also testified that he did not receive the September 29, 2003 notice because his

fax machine was not working. He testified that he had spoken to the landlord by phone at a later date. Consequently, he began to pay the increased rent.

The tenancy agreement between the parties is in writing and commenced on June 1, 2003. It states that the rent for the premises is \$1000/month.

Section 47 of the *Residential Tenancies Act* sets out certain conditions for rent increases.

- 47. (1) Notwithstanding a change in landlord, no landlord shall increase the rent in respect of a rental premises until 12 months have expired from**
 - (a) the date the last increase in rent for the rental premises became effective; or**
 - (b) the date on which rent was first charged, where the rental premises have not been previously rented**
- (2) The landlord shall give the tenant notice of the rent increase in writing at least three months before the date the rent increase is to be effective.**
- (3) An increase in rent by a landlord is not effective until three months have expired from the date of the notice of the rent increase.**

Section 71 of the Residential Tenancies Act sets out how notices may be served.

- 71. (1) Subject to subsection (3), any notice, process or document to be served by or on a landlord, a tenant or the rental officer may be served by personal delivery or by registered mail to the landlord at the address given in the tenancy agreement or mailed to the tenant at the address of the rental premises and to the rental officer at the address of the office of the rental officer.**
- (2) A notice, process or document sent by registered mail shall be deemed to have been served on the 7th day after the date of mailing.**
- (3) Where a notice cannot be served personally on a tenant or a landlord who is absent or evading service, the notice may be served on the tenant or the landlord by serving it on any adult who apparently resides with the tenant or landlord.**

The September 29, 2003 notice is not effective to increase the rent. It appears the notice was not

served on the respondent because his fax machine was not in working order. Although the respondent acknowledges he was subsequently made aware of the increase there was no notice made in writing. In any case, the notice was not given three months prior to the effective date nor is there any evidence to conclude that no increase had occurred for the premises in the previous twelve month period. In my opinion, the notice is of no effect and the legal rent for the premises for the period November 1, 2003 to July 31, 2004 is \$1000/month. That being the case, the respondent has paid \$10,100 in rent during that period and the rent that has come due is only \$9000, leaving a credit balance in favour of the respondent in the amount of \$1100.

I find no rent arrears and the application is dismissed.

Hal Logsdon
Rental Officer