

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **MICHEAL POON**, 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:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

- and -

MICHEAL POON

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 two hundred sixty dollars (\$260.00).
2. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent shall comply with his obligation to report the household income in accordance with the tenancy agreement.
3. Pursuant to sections 41(4)(c) and 45(4)(e) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 643 Williams Avenue,

Yellowknife, NT shall be terminated on August 5, 2005 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 2nd day of August, 2005.

Hal Logsdon
Rental Officer

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BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

-and-

MICHEAL POON

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: July 7, 2005, continued on August 2, 2005

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Mary George, representing the applicant (July 7)
Jim White, representing the applicant (August 2)
Micheal Poon, respondent
Nicoli Murason, witness for the respondent (August 2)

Date of Decision: August 2, 2005

REASONS FOR DECISION

The applicant alleged that the respondent was in breach of the tenancy agreement by subletting a portion of the premises to another person and by failing to report the household income in accordance with the tenancy agreement. The applicant provided notes which indicated that three other tenants had reported that a man was living on the premises with the respondent. The respondent denied that the person, Nicoli Murason was living with him. The respondent testified that Mr. Murason was a friend who frequently came to visit and would occasionally stay a few days. He denied receiving any rent from Mr. Murason and stated that he did not live at the premises on an ongoing basis. The respondent did not dispute that he had failed to provide a statement of the household income and that some employment income had not been reported. The hearing was adjourned to August 2, 2005 to permit the respondent an opportunity to file the income declaration and provide evidence concerning Mr. Murason's residence.

At the continuation of the hearing, Mr. Murason appeared as a witness for the respondent. Mr. Murason testified that he occasionally stayed with the respondent but did not live at the premises. He stated that his permanent address was 782 Bigelow Crescent in Yellowknife.

The applicant stated that the respondent had failed to provide the necessary household income information and was now in arrears of rent in the amount of \$260. The respondent did not dispute the rent arrears and said he would provide the income information right away.

The premises are subsidized public housing and are rented on a rent-geared-to-income basis. The tenancy agreement obligates the tenant to report the household income and any changes in any resident's income, the size of the tenant's family or number of residents of the premises.

Schedule B to the tenancy agreement lists the names of people, other than the tenant, who may occupy the premises. The tenancy agreement lists only Tracey Poon. Section 45(3) of the *Residential Tenancies Act* outlines limits to the number of occupants who may reside in rental premises.

45 (3) A tenant shall not permit such number of persons to occupy the rental premises on a continuing basis that results in the contravention of health, safety or housing standards required by law or in a breach of the tenancy agreement.

There is no evidence that the respondent is receiving any compensation from Mr. Murason. The evidence provided by the landlord is hearsay and is contradicted by the direct testimony, under oath, by both the respondent and Mr. Murason. On the balance of evidence, I can not conclude that Mr. Murason occupies the premises on a continuing basis or is anything but an occasional house guest. The Schedule B of the tenancy agreement can not serve to limit short term guests. Such a provision would, in my opinion, be unreasonable and of no effect. The applicant's request for an order terminating the tenancy agreement on the grounds that the respondent is subletting the premises or permitting occupancy of Mr. Murason is denied.

Failure to report the household income is a substantial breach of the tenancy agreement.

Subsidized Public Housing rests on the principle that tenants pay in accordance with their household income. The respondent was reminded of this obligation and permitted an opportunity

to file the necessary documents prior to the continuation of the hearing. He did not do so. He also failed to pay the past two month's rent.

I find the respondent in breach of his obligation to pay rent and to report the household income in accordance with the tenancy agreement. In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the household income is declared and the rent arrears paid promptly. An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$260 and to comply with his obligation to report the household income in accordance with the tenancy agreement. The tenancy agreement shall be terminated on August 5, 2005 unless the respondent has paid the rent arrears and complied with his obligation to report the household income.

Hal Logsdon
Rental Officer