

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and **MARY ADELE MANTLA AND JOE (HARRY) GON**, 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 **RAE, NT**.

BETWEEN:

**RAE-EDZO HOUSING AUTHORITY**

Applicant/Landlord

- and -

**MARY ADELE MANTLA AND JOE (HARRY) GON**

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 twelve thousand fourteen dollars and eighty seven cents (\$12,014.87).
2. Pursuant to sections 45(4)(e) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 429B, Weda Tili, Rae, NT shall be terminated on September 30, 2005 and the respondents shall vacate the premises on that date unless the complete household income is reported to the applicant in accordance with the tenancy agreement in order to properly assess rent from April, 2005 to present.

3. Pursuant to sections 82(2) and 83(2) of the *Residential Tenancies Act*, provided the respondents report the household income in accordance with this order, they may pay the rent arrears in monthly installments of no less than fifty dollars (\$50.00), payable with the monthly rent until the rent arrears are paid in full. The first payment shall be due on October, 1, 2005.
  
4. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents shall pay future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 8th day of September, 2005.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and **MARY ADELE MANTLA AND JOE (HARRY) GON**, Respondents.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act");

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BETWEEN:

**RAE-EDZO HOUSING AUTHORITY**

Applicant/Landlord

-and-

**MARY ADELE MANTLA AND JOE (HARRY) GON**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** September 1, 2005

**Place of the Hearing:** Rae, NT

**Appearances at Hearing:** Robert Richardson, representing the applicant

**Date of Decision:** September 8, 2005

**REASONS FOR DECISION**

The respondents were served with Notices of Attendance on August 18, 2005, but failed to appear at the hearing. The hearing was held in their absence.

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondents to pay the alleged rent arrears and termination of the tenancy agreement. The premises are subsidized public housing.

The applicant provided a copy of the tenant ledger in evidence which indicated a balance of rent owing in the amount of \$28,428.87. The ledger indicated that the full, unsubsidized rent had been charged for the months of April, May, June, July and August 2005. The applicant testified that the full, unsubsidized rent had been charged because only partial household income information had been reported. The applicant stated that based on the partial information alone, the rent would be assessed at \$32/month.

The applicant stated that they would be willing to permit the tenancy to continue if the respondents paid an additional \$50 along with the rent every month until the arrears were paid in full.

I find the respondents in breach of their obligation to pay rent. In my opinion, the full unsubsidized rent should not have been applied for the months of April-August, 2005. The

landlord stated that they had some household income information for this period although they suspected it was inaccurate. In *Inuvik Housing Authority v. Susie Stewart and Andrew Kendi* (File #20-1631, January 11, 1993) the landlord alleged that the tenants had provided inaccurate income information and applied the full, unsubsidized rent. The rental officer ordered termination of the tenancy agreement but also reassessed the rents for the relevant months based on the income information that was provided. In the appeal of *Inuvik Housing Authority v. Gary Harley* (CV 04815), The Honourable Mr. Justice J.E. Richard reviewed a number of rental officer decisions where the full unsubsidized rent was applied and concluded that the rental officer's decision in *Stewart and Kendi* was consistent with the decision of the Supreme Court in *Inuvik Housing Authority v. Koe et al.* (1991), 85 D.L.R. (4th) 548.

Therefore, in my opinion, the rent for the months of April to August, 2005 should be assessed on the income reported by the respondent even though it is allegedly incomplete. I find the rent arrears to be \$12,014.87 calculated as follows:

|                                  |               |
|----------------------------------|---------------|
| Balance as at April 01/05        | \$20,299.87   |
| Less rent charged (April-Aug/05) | (8445.00)     |
| Rent @ \$32 (April-Aug/05)       | <u>160.00</u> |
| Balance of rent arrears          | \$12,014.87   |

In my opinion there are sufficient grounds to terminate this tenancy agreement unless the respondents promptly and accurately report the household income for the months in which the full unsubsidized rent was applied.

An order shall issue requiring the respondents to pay the applicant rent arrears in the amount of

\$12,014.87 and terminating the tenancy agreement on September 30, 2005 unless the respondents provide the required household income information to the landlord so that rent for the months of April, 2005 to present may be assessed based on income. Provided the respondents report the household income, they may pay the rent arrears in monthly instalments of no less than \$50, payable along with the rent. The first payment shall be due on October 1, 2005. The order shall also require the respondents to pay future rent on time.

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Hal Logsdon  
Rental Officer