

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and **PRISCILLA LAMOUELLE AND DAVID DRYBONES**, 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 -

PRISCILLA LAMOUELLE AND DAVID DRYBONES

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 84(3) and 41(4)(a) of the *Residential Tenancies Act*, the previous order (File #10-8106, filed on November 16, 2004) is rescinded and the respondents shall pay the applicant rent arrears in lump sum in the amount of forty one thousand two hundred twenty six dollars (\$41,226.00).
2. Pursuant to section 41(4)(c) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 434B, Weda Tili, Rae, NT shall be terminated on September 30, 2005 and the respondents shall vacate the premises on that date.

DATED at the City of Yellowknife, in the Northwest Territories this 7th day of September, 2005.

Hal Logsdon
Rental Officer

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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-

PRISCILLA LAMOUELLE AND DAVID DRYBONES

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
Priscilla Lamouelle, respondent
Arlene Hache, representing the respondents (by phone)

Date of Decision: September 7, 2005

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent in accordance with a previous order. The applicant sought an order rescinding the previous order and requiring the respondents to pay the alleged rent arrears in lump sum 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 \$41,226. 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 the respondents failed to provide any income information for these months on which to base the rent.

A previous order (File #10-8106, filed on November 16, 2004) required the respondents to pay rent arrears of \$34,233 in monthly payments of at least \$100 along with the assessed rent until the arrears were paid in full.

The respondent's representative stated that the respondent did not think the rent had been calculated correctly and requested that an audit of the rent account be undertaken prior to any determination of the rent owing. She also stated that the respondents planned on vacating the premises in order to attend school and asked that any termination order be effective 30 days from the date of the hearing to permit the respondents time to relocate.

I note that at the previous hearing in November, 2004 the respondents acknowledged the balance of rent arrears of \$34,233 as accurate and consented to an order being made for that amount. At that time the rent was based on income earned by David Drybones. The assessment was done in accordance with the rent scale. Since that time, the rent was adjusted only once, in April, 2005, to the full unsubsidized value of \$1689. The landlord is entitled to charge this amount if the tenant fails to provide any income information on which to calculate the rent. This appears to be the case and there was no income information provided by the respondents at the hearing that would permit me or the landlord to adjust the rent in accordance with the rent scale. I see no reason to examine the assessments prior to making a determination of rent, however, I note that the landlord is obliged to adjust the rent from April to present if the respondents report the household income.

I find the respondents in breach of their obligation to pay rent and in breach of the previous order requiring them to pay the rent arrears in installments. I find the rent arrears to be \$41,226. An order shall issue rescinding the previous order, requiring the respondents to pay the rent arrears of \$41,226 in lump sum, and terminating the tenancy agreement on September 30, 2005.

Hal Logsdon
Rental Officer