

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **SARAH PAPATSIE**, 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 -

SARAH PAPATSIE

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 one hundred seventy four dollars (\$174.00).
2. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent shall comply with her obligation to pay for electricity during the term of the tenancy agreement.
3. Pursuant to sections 45(4)(e), 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 782 Bigelow Crescent, Yellowknife, NT shall be terminated on October 11, 2005 and the respondent shall vacate

the premises on that date, unless the respondent provides the applicant with a report of the household income which includes the verified income of Nicoli Murason, pays the rent arrears of one hundred seventy four dollars (\$174.00) and pays the arrears on her electrical account.

DATED at the City of Yellowknife, in the Northwest Territories this 23rd day of September, 2005.

Hal Logsdon
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **SARAH PAPATSIE**, 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:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

-and-

SARAH PAPATSIE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: September 15, 2005

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Jim White, representing the applicant
Sarah Papatsie, respondent
Nicoli Murason, witness for the respondent

Date of Decision: September 23, 2005

REASONS FOR DECISION

The respondent's name was incorrectly spelled on the application. The order shall reflect the correct spelling of her name as it appears on the tenancy agreement.

The applicant alleged that the respondent breached the tenancy agreement by failing to pay rent, failing to pay for electricity in accordance with the tenancy agreement and failing to report the income of a resident of the premises. The applicant sought an order requiring the respondent to pay the alleged rent arrears and electrical costs and terminating the tenancy agreement. The premises are subsidized public housing.

The applicant provided a statement of the rent account which indicated a balance of rent in the amount of \$174. The applicant also provided a statement of the electrical account with the supplier which indicated that the account was in arrears. The written tenancy agreement between the parties requires the tenant to pay for electricity during the term of the agreement. The applicant testified that Nicoli Murason was an unauthorized resident of the rental premises whose income was not being reported by the respondent. The applicant stated that in the proceedings of a previous matter before the rental officer, Nicoli Murason testified that his permanent address was 782 Bigelow Crescent. A copy of the Order and Reasons for Decision were presented in evidence.

The respondent did not dispute the rent and electrical arrears and stated that they would be paid

promptly. She testified that she and Nicoli Murason used to live together in another location but had been separated until recently. She stated that he did come to her premises to visit his son but did not stay there on a continuing basis until the present week. She stated that they had been trying to reconcile their relationship and only as of the Tuesday before the hearing had been living together in her premises. She stated that she intended to report his income now.

In a previous matter (Yellowknife Housing Authority and Michael Poon, File #10-8528, filed on August 3, 2005) the applicant alleged that Mr. Murason was an resident of Mr. Poon's premises. Mr. Murason appeared as a witness for Mr. Poon and denied living with Mr. Poon on a continuing basis. Mr. Murason stated that he lived at 782 Bigelow Crescent and that he "moved there last month" and "put a phone in there too (and stated the telephone number)". Mr. Murason now appears as a witness for the respondent and states that 782 Bigelow Crescent was only his mailing address at that time and that he "rented a hotel" during his time off from his out-of-town job. He supported the testimony of the respondent that he was only now a continuing resident of the rental premises with the respondent.

Sections 5 and 6 of the tenancy agreement obligate the tenant to report changes in the household size and provide income information to the landlord for all occupants of the premises.

- 5. All people other than the Tenant who may occupy the premises shall be listed on Schedule "B"**
- 6. The Tenant promises to provide the Landlord with an accurate report of the Tenant's income and the income of all residents of the premises and shall notify the Landlord of any changes in any resident's income, in the size of the Tenant's family, or number of residents of the premises.**

Mr. Murason is not a tenant. Schedule "B" of the tenancy agreement does not name Mr. Murason as a resident. The last household income form, dated May 20, 2005 does not report any income earned by Mr. Murason. Now that Mr. Murason is a resident, the respondent is obligated to report to the landlord in accordance with sections 5 and 6 of the tenancy agreement.

If one accepts the respondent's testimony that Mr. Murason has only very recently become a resident then it is difficult to find a substantial breach of the tenancy agreement. On the other hand, if one accepts that Mr. Murason has been a resident for some time, the breach is serious and in my opinion, is sufficient grounds in itself for termination of the tenancy agreement.

Mr. Murason's testimony is not credible. He has given several versions of where he resided prior to September, 2005. In my opinion, it is likely that Mr. Murason stayed with various people during his time off work, including the respondent and Mr. Poon. The respondent admits that Mr. Murason stayed with her on occasion but stated, "I wasn't sure if I should let him stay or not." In my mind, this is understandable in light of the couple's desire to reconcile and the respondent's apprehensions. Mr. Murason may have had a frequent physical presence at the premises but in the mind of the respondent, he was a guest and not a resident until very recently.

From the wording in section 6 of the tenancy agreement it is clear that only the income information of the tenant and residents of the premises is required to be reported by the tenant. There is no statutory definition of resident in the *Residential Tenancies Act*. Generally however, resident implies something more than mere physical presence. A resident must also have an

intent to stay. It is understandable, given the relationship of the respondent and Mr. Murason, why the respondent did not consider him a resident until recently.

The applicant argued that they had reason to believe that Mr. Murason had been staying with the respondent for some time but offered no evidence to support that belief. It should be noted that the applicant previously expressed their belief that Mr. Murason was staying with Mr. Poon. The applicant argued that the onus should fall on the tenant to prove the landlord's allegations false by providing information which would establish Mr. Murason's residence elsewhere. I disagree.

I find the respondent in breach of her obligation to pay rent and electricity. I find the rent arrears to be \$174. In my opinion the tenancy agreement should continue provided the respondent promptly reports the information required under section 6 of the tenancy agreement which must now include income information for Mr. Murason for the month of September, 2005 and pays the rent arrears and outstanding electrical charges.

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount \$174 and terminating the tenancy agreement on October 11, 2005 unless the respondent provides the applicant with a report of the household income which includes the verified income of Nicoli Murason, pays the rent arrears of \$174 and pays the arrears on her electrical account.

Hal Logsdon
Rental Officer