

IN THE MATTER between **N.W.T. COMMUNITY SERVICES CORPORATION**,  
Applicant, and **THERESA MARTIN**, 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:

**N.W.T. COMMUNITY SERVICES CORPORATION**

Applicant/Landlord

- and -

**THERESA MARTIN**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(a) of the *Residential Tenancies Act* the respondent shall comply with her obligation to report the income of all household members to the landlord for the months January to November, 2005.

DATED at the City of Yellowknife, in the Northwest Territories this 30th day of  
November, 2005.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **N.W.T. COMMUNITY SERVICES CORPORATION**,  
Applicant, and **THERESA MARTIN**, 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:

**N.W.T. COMMUNITY SERVICES CORPORATION**

Applicant/Landlord

-and-

**THERESA MARTIN**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** November 24, 2005

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

**Appearances at Hearing:** Gail Leonardis, representing the applicant  
Theresa Martin, respondent  
Vivienne McQueen, representing the respondent

**Date of Decision:** November 24, 2005

**REASONS FOR DECISION**

The applicant alleged that the respondent had breached the tenancy agreement by failing to report the household income in accordance with the rent scale policy and failing to pay the full amount of rent owing. The applicant sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement unless the alleged arrears were paid and the income information reported. The premises are subsidized public housing.

The applicant stated that the rent scale used to determine the monthly rent was revised in January, 2005 and notices sent to all tenants in October, explaining the rent scale. The applicant stated that if a tenant failed to report the household income, the maximum rent of \$1000/month was assessed. The applicant testified that the respondent had reported her income but had failed to report the income of her son and his girlfriend who lived with the respondent in the premises. Accordingly, the maximum rent was applied although the increase was phased in and the full \$1000 was not applied until March, 2005.

The applicant provided a copy of the rent statement in evidence which indicated a balance of rent owing in the amount of \$3150. The applicant testified that the rent for the premises, based solely on the respondent's income would be \$550/month.

The respondent stated that her son had been reluctant to report his income and she was having difficulties complying with her obligation to report the entire household income. She stated that neither her son or his girlfriend were presently working or in receipt of any income. The

respondent's representative, a social worker, agreed to assist the respondent in reporting the income in accordance with the policy.

Although the rent scale used by the landlord is not the same as that used in the Public Housing program administered by the NWT Housing Corporation, the structure is similar and, in my opinion, the precedents established by the NWT Supreme Court concerning the application of the full, unsubsidized rent are applicable.

In *Inuvik Housing Authority v. Koe et al.* (1991), 85 D.L.R. (4th) 548, the tenants failed to provide the landlord with accurate household income information. The landlord applied the full unsubsidized rent as a result of the tenant's breach. The rental officer was provided with accurate income data and ordered the payment of rent arrears based on the accurate income data. The Supreme Court upheld the rental officer's decision, stating that the application of the full rent under those circumstances would constitute a penalty which is prohibited under section 13 of the Act. In *Inuvik Housing Authority v. Gary Harley* (CV 04815, December 3, 1993), the Honourable Justice J.E. Richard referring to the *Koe* decision, wrote,

“The import of the decision appears to be that the landlord, charged with the provision of subsidized public housing to persons of low income, should assess monthly rent on the basis of the tenant's income data even if subsequently provided.”

In *Inuvik Housing Authority v. Susie Stewart and Andrew Kendi* (File # 20-1631, January 11, 1993), the landlord applied the full unsubsidized rent because the tenants allegedly provided

inaccurate income information. In determining the amount of rent owing, the rental officer re-assessed the rents on the income data that was available even though it was alleged to be inaccurate. It should be noted that the rental officer also terminated the tenancy agreement. Referring to the rental officer's decision in *Stewart and Kendi*, Justice Richard remarked that the decision appeared to be consistent with the Koe decision of the Supreme Court (see *Inuvik Housing Authority v. Gary Harley* at paragraph 29).

In this matter, the respondent has failed to declare all the household income although she has declared her own. In my opinion, the rent should be assessed on the income data available. This results in a credit balance of \$1230, calculated as follows:

Rent (Jan - Nov/05 @\$550)	\$6050
Amount paid	<u>(7280)</u>
Balance	\$1230 cr.

I find the respondent in breach of her obligation to report income in accordance with the rent scale policy. I find no rent arrears. As I believe this matter can be easily resolved, an order shall issue requiring the respondent to comply with her obligation to report the full accurate household income for the months January to November, 2005. The applicant may reassess the rent for those months, as necessary, based on the reported income. Should the respondent fail to report the household income in accordance with this order, the applicant may file a future application seeking termination of the tenancy agreement.

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Hal Logsdon  
Rental Officer