

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and **ADELINE VITAL**, 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 **RAE-EDZO, NT**.

BETWEEN:

RAE-EDZO HOUSING AUTHORITY

Applicant/Landlord

- and -

ADELINE VITAL

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(e) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 421, Weda Tili, Rae-Edzo, NT shall be terminated on February 15, 2006 and the respondent shall vacate the rental premises on that date, unless the respondent reports the complete household income to the applicant in accordance with the tenancy agreement.
2. Pursuant to section 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 421, Weda Tili, Rae-Edzo, NT shall be terminated on February 28, 2006 and the respondent shall vacate the rental

premises on that date, unless the respondent pays the applicant no less than nine hundred forty seven dollars (\$947.00).

DATED at the City of Yellowknife, in the Northwest Territories this 27th day of January, 2006.

Hal Logsdon
Rental Officer

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and **ADELINE VITAL**, 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:

RAE-EDZO HOUSING AUTHORITY

Applicant/Landlord

-and-

ADELINE VITAL

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 24, 2006

Place of the Hearing: Rae-Edzo, NT

Appearances at Hearing: Robert Richardson, representing the applicant
Adeline Vital, respondent

Date of Decision: January 27, 2006

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and failing to repair a broken window in the premises. A previous order (File #10-8103, filed on November 16, 2004) was issued requiring the respondent to pay rent arrears in monthly installments of \$180 and to pay future rent on time. The applicant alleged that the respondent had breached that order and sought the full payment of the outstanding rent and repair costs and termination of the tenancy agreement. The applicant also alleged that the respondent had not reported the entire household income by failing to report the employment income of her spouse.

The applicant provided a copy of the tenant ledger which indicated a balance of rent owing in the amount of \$38,665.43. Included in that amount were charges of \$421.43 to repair a broken window. The ledger indicates that no payments of rent had been received from the respondent since September, 2005. The ledger also contains four rent adjustment entries for September, 2005. Some of these adjustments reflect changes to the monthly rent assessments prior to the issuance of the previous order and therefore change the amount that was found owing by the rental officer on November 9, 2004.

The respondent stated that she had taken leave without pay from her job in July, 2005 and had received Employment Insurance payments until January, 2006. She testified that she had reported this change of income to the landlord but her rent had not been adjusted. She stated that her husband was employed and had refused to provide any income information to the landlord. In the

matter of the broken window, the respondent testified that her son, who does not live with her, had broken the window when she would not permit him on the premises. She stated that she had reported the incident to the police.

In the matter of the broken window, Section 42 of the *Residential Tenancies Act* sets out a tenant's obligation to repair damages.

42.(1) A tenant shall repair damage to the rental premises and the residential complex caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant.

The evidence suggests that the window was not broken by the respondent or any person permitted on the premises by the respondent. The request for an order for the repair costs is denied.

The respondent was making regular payments of rent and arrears until September, 2005. After that date she stopped paying rent altogether. Because of the numerous retroactive rent adjustments it is difficult to determine how closely the previous order was followed however, at June 30, 2005, the respondent was \$947 behind in her ordered payments of current rent plus \$180. While she paid an additional \$3000 between July 1, 2005 and the present, that amount would not have been sufficient to catch up with her ordered payments given that she had Employment Insurance income and her spouse had some employment income during that period.

The evidence suggests that the respondent had filed revised household income information with the applicant in July, 2005 but the applicant continued to assess the rent based on the previous income declaration. The applicant stated that they did so because they were aware that the respondent's spouse was working but his income was not included in the respondent's declaration. In my opinion, this is incorrect. If a Subsidized Public Housing landlord has income information declared by the tenant, that income information should be used to assess the rent, even when the information is inaccurate or incomplete. In such a case the landlord's remedy is to seek an order requiring the tenant to comply with the obligation to report income or termination of the tenancy agreement, or both (pursuant to section 45 of the Act).

No income information was available to the rental officer at the hearing for the period July 1, 2005 to present although the evidence suggests that a declaration was provided to the applicant. Consequently, I am unable to determine the current rent owing or the extent to which the previous order was breached by the respondent.

I am however, satisfied that the respondent had fallen behind in her payments by \$947 as at June, 2005 and that she is at least that far behind today. By her own admission, the respondent has failed to report all of the household income. Given that the respondent has been making regular payments until recently, in my opinion, she should be provided with an opportunity to remedy the current situation by promptly reporting all of the household income and by paying the applicant at least \$947 of the outstanding arrears. In my opinion there are sufficient grounds to terminate the tenancy agreement unless the income is promptly reported and the respondent again begins

making regular payments in accordance with the previous order.

An order shall issue terminating the tenancy agreement between the parties on February 15, 2006 unless the household income is reported to the applicant in accordance with the tenancy agreement. The respondent shall also pay the applicant no less than \$947 before February 28, 2006. The tenancy agreement shall be terminated on that date unless the payment is made to the applicant.

The previous order remains in effect and the tenant shall resume and continue to pay the assessed rent plus \$180 each month.

Hal Logsdon
Rental Officer