

IN THE MATTER between **N.W.T. COMMUNITY SERVICES CORPORATION**,  
Applicant, and **RAYMOND BECK**, 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 -

**RAYMOND BECK**

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 thousand ninety nine dollars and sixty cents (\$1099.60).

DATED at the City of Yellowknife, in the Northwest Territories this 4th day of April,  
2006.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **N.W.T. COMMUNITY SERVICES CORPORATION**,  
Applicant, and **RAYMOND BECK**, 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-

**RAYMOND BECK**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** March 24, 2006

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

**Appearances at Hearing:** Gail Leonardis, representing the applicant

**Date of Decision:** April 4, 2006

**REASONS FOR DECISION**

The respondent was served with a Notice of Attendance sent by registered mail. The respondent failed to appear at the hearing and the hearing was held in his absence.

The tenancy agreement between the parties was terminated on January 31, 2006 when the respondent vacated the premises. The applicant retained the security deposit, applying it to rent arrears. The applicant provided a statement in evidence indicating a balance of rent owing to the landlord after the application of the security deposit and interest in the amount of \$1999.60. The applicant sought an order requiring the respondent to pay rent arrears in that amount. The premises are subsidized public housing.

The applicant stated that the respondent had permitted another person to live in the premises in December, 2005 and January, 2006 but had failed to provide a declaration of that person's income as required by the tenancy agreement. The applicant stated that the respondent had provided a declaration of his own income and that the rent based only on his income would have been \$550.

Section 4 of the tenancy agreement between the parties obligates the tenant to report the tenant's income and the income of all residents of the premises and to report any changes in any resident's income, the size of the tenant's family or the number of residents of the premises.

Section 13 of the *Residential Tenancies Act* prohibits penalties or accelerated rent on the breach of a tenant's obligation.

- 13. No tenancy agreement shall contain any provision to the effect that a breach of the tenant's obligation under the tenancy agreement or this Act results in the whole or any part of the remaining rent becoming due and payable or results in a specific sum becoming due and payable, and a provision of this kind is of no effect.**

It is the landlord's contention that the tenant has breached section 4 of the tenancy agreement. In this circumstance the application of the full rent is tantamount to a penalty. In my opinion, the rent should have been assessed on the income information provided by the tenant and a remedy sought pursuant to section 45(4), requiring the tenant to comply with the obligation or termination of the tenancy agreement. (see Inuvik Housing Authority vs. Koe [1992] N.W.T.R. 9).

I find the respondent in breach of his obligation to pay rent. Reassessing the rent for December, 2005 and January, 2006 to \$550/month, I find the rent arrears to be \$1099.60 calculated as follows:

Rent arrears as per statement	\$1999.60
Reversal of Dec. & Jan. rent	(2000.00)
Reassessment of Dec. & Jan. rent	<u>1100.00</u>
Amount due applicant	\$1099.60

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$1099.60.

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Hal Logsdon  
Rental Officer