

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **LARRY HERON AND SUSIE KOMAK**, 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 **YELLOWKNIFE, NT**.

BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

- and -

LARRY HERON AND SUSIE KOMAK

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents shall pay the applicant rent arrears in the amount of three thousand five hundred thirty seven dollars and forty seven cents (\$3537.47).
2. Pursuant to section 84(2) of the *Residential Tenancies Act*, the respondents may pay the rent arrears in two monthly installments. The first payment of one thousand seven hundred sixty nine dollars (\$1769.00) shall be due on September 30, 2006 and the second payment of one thousand seven hundred sixty eight dollars and forty seven cents (\$1768.47) shall be due on October 31, 2006.

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3. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents shall pay future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 5th day of September, 2006.

Hal Logsdon
Rental Officer

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Applicant/Landlord

-and-

LARRY HERON AND SUSIE KOMAK

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: August 29, 2006

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Julie Forget, representing the applicant
Larry Heron, respondent

Date of Decision: August 29, 2006

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondents to pay the alleged rent arrears 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 owing in the amount of \$4726.47. The rent for August, 2006 was assessed at the full, unsubsidized amount of \$1337. The applicant provided a statement from the Department of Education, Culture and Employment stating that the respondents had failed to report income in order to calculate the rent for August, 2006.

The respondent testified that the household income had not changed from previous months, a fact that was confirmed by the Housing Subsidy Summary Reports submitted in evidence by the applicant.

Article 6 of the written tenancy agreement between the parties sets out the tenants' obligation to report income.

Tenant's Income

The Tenant promises to provide the Landlord with an accurate report of the Tenant's income and the income of all of the 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.

There is no evidence that there have been any changes to any resident's income, the size of the respondents' family or the number of residents in the premises. I can not conclude from the evidence that the respondents have failed to report the household income in accordance with the tenancy agreement. In my opinion, the application of the full, unsubsidized rent is inappropriate as the landlord had income information on which to base the rent. There is no evidence to conclude that the information is inaccurate or incomplete.

The apparent requirement imposed on the respondents by the Department of Education, Culture and Employment to report the household income monthly is not consistent with the program guidelines which require income to be reported either monthly, quarterly, semi-annually or annually depending on the continuity of the income. The income sources of this household would suggest semi-annual reviews. Section 45 of the *Residential Tenancies Act* requires that other obligations contained in the tenancy agreement or rules established by the landlord must be reasonable.

45.(1) Where in a written tenancy agreement a tenant has undertaken additional obligations, the tenant shall comply with the obligations under the tenancy agreement and with the rules of the landlord that are reasonable in all circumstances.

In my opinion imposition of monthly income reporting is inconsistent with the provisions of tenancy agreement and is not reasonable in these circumstances. In my opinion, the rent for August, 2006 should have been assessed at \$148.

I find the respondents in breach of their obligation to pay rent and find the rent arrears to be

\$3537.47 calculated as follows:

Arrears as per statement	\$4726.47
Reversal of Aug/06 rent	(1337.00)
August rent as per income	<u>148.00</u>
Rent arrears	\$3537.47

The parties agreed to continue the tenancy agreement provided the rent arrears were paid in two installments. An order shall issue requiring the respondents to pay the applicant the rent arrears in two installments. The first, in the amount of \$1769 shall be due on September 30, 2006. The final payment of \$1768.47 shall be due on October 31, 2006. The respondents are also ordered to pay the monthly rent on time.

Should the respondents fail to pay the rent arrears in accordance with this order or fail to pay the monthly rent on time, the applicant may file another application seeking the immediate payment of any balance and termination of the tenancy agreement.

Hal Logsdon
Rental Officer