

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and  
**BARRY FRANKLIN AND DOREEN WEDAWIN**, 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 **BEHCHOKO, NT**.

BETWEEN:

**RAE-EDZO HOUSING AUTHORITY**

Applicant/Landlord

- and -

**BARRY FRANKLIN AND DOREEN WEDAWIN**

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 thirty five thousand one hundred twenty eight dollars (\$35,128.00).
2. Pursuant to section 41(4)(c) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 703, Behchoko, NT shall be terminated on August 15, 2008 and the respondents shall vacate the premises on that date.

DATED at the City of Yellowknife, in the Northwest Territories this 15th day of July,  
2008.

Hal Logsdon  
Rental Officer

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-and-

**BARRY FRANKLIN AND DOREEN WEDAWIN**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** July 10, 2008

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

**Appearances at Hearing:** John St. Louis, representing the applicant  
Barry Franklin, respondent

**Date of Decision:** July 15, 2008

### **REASONS FOR DECISION**

The application was filed with the names of the respondents spelled incorrectly. The applicant provided the correctly spelled names of the respondents prior to the hearing and requested that the application be amended. This order shall reflect the correct spelling of the names of the respondents.

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 between the parties.

The applicant provided a copy of the tenant ledger which indicated a balance of rent owing in the amount of \$85,467.

This tenancy agreement was terminated by order of a rental officer on June 30, 2004 when the respondents failed to make the ordered payment of rent arrears. The respondents failed to vacate the premises and the applicant obtained an eviction order from the NWT Supreme Court on October 8, 2004. That order also provided the applicant compensation for use and occupation of the premises from September 1, 2004 to the date the landlord was put in possession at the rate of \$683/month.

The applicant stated that the landlord did not enforce the eviction order because the respondents

agreed to a payroll deduction to pay the outstanding arrears. The parties entered into a new written tenancy agreement commencing April 1, 2006.

From April 1, 2006 to present the full unsubsidized rent has been applied. The applicant stated that the respondents had failed to provide any income information to the subsidy agent on which to base a rent geared to income. A statutory declaration by the subsidy agent was entered in evidence stating that the respondents had not made any application to the Public Housing Rental Subsidy Program since its inception in April, 2006.

The tenancy agreement between the parties sets the full unsubsidized monthly rent for the premises at \$1665/month. The ledger indicates assessments of \$1746 and \$1671 in the fiscal years 2006/2007 and 2007/2008. The applicant noted that the rent is recalculated each year but could not provide any evidence of notice as required by article 7 of the tenancy agreement.

I shall only consider the tenancy agreement that commenced on April 1, 2006. The previous tenancy agreement was terminated well over six months ago and the applicant has already been provided a monetary remedy to March 31, 2006 by the Court. I need only to consider the present tenancy agreement which commenced on April 1, 2006.

The respondent did not dispute the rent arrears which have accrued since April 1, 2006. The respondent acknowledged his failure to report the household income and stated that he was told the maximum rent would apply because the household income was too high to be eligible for a subsidy.

The applicant noted that he had been paying \$2000/month recently in an effort to pay the rent arrears.

The tenant ledger evidence suggests that between the issuance of the eviction order (October, 2004) and the commencement of the present tenancy agreement (April, 2006) the respondents reduced the balance of rent owing by nearly \$7500. Presumably, the landlord decided to not enforce the eviction order due to the payments that were being made by the respondents.

However the respondents ceased paying rent in July 2006, three months after the commencement of the present tenancy agreement, and did not make any payments until January, 2008. The present application was filed on March 14, 2008.

Article 6 of the tenancy agreement obligates the tenant to provide the landlord or his subsidy agent with income information.

#### **6. Tenant's Income**

The Tenant promises to provide the Landlord or his subsidy agent, with an accurate report of the Tenant's income, the income of any resident, the size of the Tenant's family, or number of residents on the premises.

Regardless of the amount of the household income, the tenant is still obligated to report the information to the landlord or the subsidy agent. Just because the household income would result in the application of the full unsubsidized rent does not relieve the tenant from the obligation to report. There are income eligibility requirements in subsidized public housing and the landlord is entitled to know the household income in order to determine if the tenant remains eligible for

continued occupancy.

I find the respondents in breach of their obligation to pay rent and, considering only the current tenancy agreement and the rent owing from April 1, 2006, I find the rent arrears to be \$35,128 calculated as follows:

Rent (28 months @ \$1665)	\$46,620
Amount paid since April 1/06	<u>(11,492)</u>
Amount owing applicant	\$35,128

I also find the respondents in breach of their obligation to report the household income in accordance with the tenancy agreement. In my opinion, there are sufficient grounds to terminate the tenancy agreement. The arrears are considerable and the respondents appear to pay rent only when the threat of eviction is imminent.

An order shall issue requiring the respondents to pay the applicant rent arrears in the amount of \$35,128 and terminating the tenancy agreement on August 15, 2008.

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Hal Logsdon  
Rental Officer