

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and **GEORGINA CHOCOLATE AND NARCISSE CHOCOLATE**, 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 -

GEORGINA CHOCOLATE AND NARCISSE CHOCOLATE

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent Georgina Chocolate shall pay the applicant rent arrears in the amount of three thousand ninety nine dollars and ninety six cents (\$3099.96).
2. Pursuant to section 67(4) of the *Residential Tenancies Act*, the respondent Georgina Chocolate shall pay the applicant compensation for the use and occupation of the rental premises in the amount of fourteen thousand five hundred dollars (\$14,500).

DATED at the City of Yellowknife, in the Northwest Territories this 11th day of March, 2008.

Hal Logsdon
Rental Officer

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GEORGINA CHOCOLATE AND NARCISSE CHOCOLATE

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: February 21, 2008

Place of the Hearing: Behchoko, NT

Appearances at Hearing: John St. Louis, representing the applicant
Mike Keohane, representing the applicant
Rose Dryneck, representing the applicant

Date of Decision: March 11, 2008

REASONS FOR DECISION

The respondents were served with Notices of Attendance sent by registered mail. The respondents failed to attend the hearing and the hearing was held in their absence.

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 premises are subsidized public housing.

The applicant provided a copy of the tenant ledger in evidence which indicated a balance of rent owing in the amount of \$60,060.65. The full unsubsidized rent had been charged in every month since March, 2007. The applicant stated that they had not received any subsidy and assumed that the respondents had not reported any income to enable the calculation of a subsidized rent. A statutory declaration of Berna Willin, an Income Security Officer, dated November 16, 2007 was provided in evidence which stated that "Georgina and Narcisse Chocolate have not applied for the Public Housing Rental Subsidy Program since February 2007".

A former tenancy agreement between the parties was terminated by order of a rental officer on March 31, 2005. An order of the Supreme Court evicted the respondents on August 31, 2005 and awarded the applicant compensation for use and occupation to that date. The rent arrears and compensation to August 31, 2005 have already been determined. There is no requirement to revisit this tenancy agreement. The applicant has their relief. Therefore no rent arrears or

compensation which accrued before August 31, 2005 shall be considered.

The applicant entered into another tenancy agreement with the parties commencing on September 1, 2005 for a term ending on December 1, 2005. However, in the months of December, 2005, January, February and March, 2006 the applicant continued to assess rent based on income and collect rent. In my opinion, the tenancy was implied for those three months.

The joint tenancy between the applicant and the respondents ended on March 31, 2006. The applicant entered into a new term tenancy agreement on April 1, 2006 with Georgina Chocolate as sole tenant. Two additional term tenancy agreements between the applicant and Georgina Chocolate followed, the last one expiring on February 28, 2007.

Section 68 of the *Residential Tenancies Act* requires applications to a rental officer be made in a timely manner.

- 68.(1) An application by a landlord or a tenant to a rental officer must be made within six months after the breach of an obligation under this Act or the tenancy agreement or the situation referred to in the application arose.**
- (2) A landlord or a tenant making an application to a rental officer for an order or a decision under this Act must file the application with the rental officer and serve a copy of the application on the other party within at least 14 days after the filing of the application.**
- (3) A rental officer may extend the time for the making of an application to the rental officer, whether or not the time for making the application to a rental officer has expired, where the rental officer is of the opinion that it would not be unfair to do so.**

The joint tenancy agreement ended on March 31, 2006. The application was filed on January 17,

2008, nearly 22 months after the tenancy ended. I find no reason why the application could not have been filed within the six month period. I shall not extend the time period for filing regarding the joint tenancy agreement and shall not consider any rent arrears which accrued during the period September 1, 2005 to March 31, 2006.

The tenancy agreement between the applicant and Georgina Chocolate expired on February 28, 2007. I see no evidence that it has been renewed in writing or that another tenancy agreement was formed orally or implied. In my opinion Georgina Chocolate became an overholding tenant on February 28, 2007 and the applicant is entitled to compensation for use and occupation of the premises at the full unsubsidized rate. Therefore, the issue of whether or not the household income was or was not reported after February 28, 2007 is irrelevant.

In my opinion there is no requirement for an order terminating this tenancy agreement. If the respondent fails to give up possession, the applicant may seek an eviction order from the Supreme Court.

I find the respondent, Georgina Chocolate in breach of her obligation to pay rent. I find the rent arrears to be \$3099.96 calculated as follows:

| | |
|--|------------------|
| Rent from April 1, 2006 to February 28, 2007 | \$6708.00 |
| Payments made by respondent | <u>(3608.04)</u> |
| Rent arrears | \$3099.96 |

I also find that the applicant is entitled to compensation for use and occupation of the rental

premises from March 1, 2007 to present and find reasonable compensation to be \$14,500,

calculated as follows:

| | |
|--------------------|---------------|
| 1 month @ \$1157 | \$1157 |
| 11 months @ \$1213 | <u>13,343</u> |
| Total compensation | \$14,500 |

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$3099.96 and compensation for use and occupation of the premises in the amount of \$14,500.

Hal Logsdon
Rental Officer