IN THE MATTER between **ABDULLAH EL-BEKAI**, Applicant, and **DEBORAH SMITH**, 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 **INUVIK, NT.**

BETWEEN:

ABDULLAH EL-BEKAI

Applicant/Landlord

- and -

DEBORAH SMITH

Respondent/Tenant

<u>ORDER</u>

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 four thousand eight hundred eighty eight dollars and five cents ($4888.05).

2.   Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit A, 55 Kugmalit Road, Inuvik, NT shall be terminated on February 15, 2009 and the respondent shall vacate the premises on that date, unless the rent arrears and the rent for February, 2009 in the total amount of six thousand two hundred eighty eight dollars and five cents ($6288.05) are paid in full.

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

DATED at the City of Yellowknife, in the Northwest Territories this 26th day of January, 2009.

Hal Logsdon
Rental Officer

IN THE MATTER between **ABDULLAH EL-BEKAI**, Applicant, and **DEBORAH SMITH**, 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:

ABDULLAH EL-BEKAI

Applicant/Landlord

-and-

DEBORAH SMITH

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: **January 21, 2009**

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

Appearances at Hearing: **Abdullah El-Bekai, applicant**
                                     Deborah Smith, respondent
                                     Alex Raddi, witness for the respondent

Date of Decision: **January 26, 2009**

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement between the parties.

The applicant provided a copy of the rent ledger in evidence which indicated a balance owing in the amount of $12,325.

The parties entered into a tenancy agreement commencing on February 1, 2008 for unit A, 55 Kugmalit Road. The premises are used for residential purposes. The monthly rent for the premises is $1400. The applicant stated that the required security deposit of $1400 has been paid in full.

The parties entered into another tenancy agreement commencing on June 2, 2008 for unit C which is located in the same residential complex. Unit C was rented for use as a hairdressing salon and was not used for residential purposes. The tenancy agreement for unit C was terminated on December 31, 2008. The tenancy agreement for unit A continues and the respondent is in possession of the premises.

The respondent disputed the allegations stating that she undertook significant repairs and renovations to unit C . The respondent also testified that the utilidor connection froze while the landlord was out of town, forcing her to contact a plumber and arrange for repairs. The respondent provided an invoice from the plumber indicating that the repair costs were $4045.92. The applicant acknowledged that the repairs were his responsibility and stated that the rent arrears should be reduced accordingly. The applicant also stated that he would pay for the $1100 charge on the ledger for the replacement of the floor in unit C.

The *Residential Tenancies Act* applies only to rental premises and tenancy agreements. It does not apply to premises used exclusively for commercial purposes and a rental officer has no jurisdiction to determine commercial tenancy matters. Although the applicant argued that the business was a home-based business, the evidence suggests that unit A was used exclusively for the respondent's residence and unit C was used exclusively as a place of business. Therefore, I shall only consider the matters arising out of the tenancy agreement for unit A. The rent owing for unit C, if any, and the responsibility for repairs are not within my jurisdiction to determine.

The applicant has provided a rent credit in June of $100 and another rent credit in August for $600. Both are for yard cleaning. The applicant argued that both credits applied only to the hairdressing salon while the respondent argued that the credits applied to the residence. I have allocated the credit in proportion to the rent charged. Similarly, because the landlord kept a single leger for both units and did not indicate how the various rent credits were allocated, I have

allocated payments in proportion to the rent charged.

Using the above methodology, I find rent arrears of $8933.97, calculated as follows:

Rent due (February/08 to January/09 - 12 months @ $1400)	$16,800
Rent and Credits applied - unit A	
February/08	0
March/08	(400.00)
April/08	(3100.00)
May/08	(700.00)
June/08	(823.53)
July/08	0
August/08	(420.00)
September/08	(262.50)
October/08	(770.00)
November/08	(840.00)
December/08	(350.00)
January/09	(200.00)
TOTAL	$8933.97

The repairs to the utilidor connection was the applicant's responsibility to repair and the charges invoiced to the respondent should be paid by the applicant. In my opinion, it is reasonable to provide the compensation as a credit to the rent account of $4045.92, bringing the balance of rent owing to the applicant to $4888.05.

I find the respondent in breach of her obligation to pay rent and find the rent arrears to be $4888.05. In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the rent arrears are paid in full.

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of

$4888.05 and terminating the tenancy agreement on February 15, 2009 unless the rent arrears and

the February, 2009 rent in the total amount of $6288.05 are paid in full.

Hal Logsdon
Rental Officer