

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and  
**NORA SMITH AND DAVID GON**, 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 -

**NORA SMITH AND DAVID GON**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondents shall comply with their obligation to accurately report the household income in accordance with Article 6 of the tenancy agreement.

DATED at the City of Yellowknife, in the Northwest Territories this 18th day of August,  
2009.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and  
**NORA SMITH AND DAVID GON**, 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.

BETWEEN:

**RAE-EDZO HOUSING AUTHORITY**

Applicant/Landlord

-and-

**NORA SMITH AND DAVID GON**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:**                      **July 31, 2009**

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

**Appearances at Hearing:**                      **Robert Richardson, representing the applicant**  
   **Rose Dryneck, representing the applicant**  
   **Berna Wellin, witness for the applicant**  
   **Mary Zoe-Chocolate, witness for the applicant**  
   **Nora Smith, respondent**  
   **David Gon, respondent**

**Date of Decision:**                              **August 18, 2009**

### **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 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 \$41,449.

The tenant ledger includes entries prior to November 1, 2005 when this tenancy agreement commenced. Prior to September 30, 2005 the Rae-Edzo Housing Association had a tenancy agreement with Nora Smith as sole tenant of unit 655A. That tenancy agreement was terminated by order (file #10-8563, filed on September 7, 2005) due to the failure of the tenant to report the household income or pay rent. Apparently, Ms Smith did not vacate the premises as ordered and the Rae-Edzo Housing Authority entered into a new tenancy agreement with Nora Smith and David Gon as joint tenants commencing November 1, 2005.

The rent arrears related to the former tenancy agreement can not simply be added to the account of this tenancy agreement. The parties to these agreements are different. Therefore I shall only consider rent arrears which have accrued since the commencement of the tenancy agreement between the applicant and Nora Smith and David Gon on November 1, 2005.

From November 1, 2005 to March 31, 2006 rent assessments totalled \$2700. During that period total rent paid was \$4050. In April, 2006 and in each month thereafter, the full unsubsidized rent has been applied.

Article 6 of the tenancy agreement between the parties requires the tenant to provide certain information. Article 7 of the tenancy agreement obligates the landlord to apply a subsidy if the tenant is not in breach.

**6. Tenant's Income**

The Tenant promises to provide a subsidy agent appointed by the Landlord with an accurate report of the Tenant's income, the income of any occupant of the Premises, the size of the Tenant's family, and the number of occupants residing on the Premises, whenever, and as often as, the subsidy agent requests such a report.

**7. Rent Calculation**

The Tenant promises to pay to the Landlord the rent, in Canadian dollars each month, shown in Schedule "A". As long as the Tenant is not in breach of any of the terms or promises of this Agreement, the Tenant will be eligible for a rent subsidy. The rent subsidy will be calculated according to the GNWT Public Housing Rental Subsidy Program. The Tenant agrees that no notice of rent increase is required so long as the rent assessed in any month does not exceed the amount shown in Schedule "A".

The applicant's witness, the subsidy agent, testified that she had not received all of the information required in order to provide the subsidy. Specifically, she noted the following information as outstanding:

Signed household member statements from June, 2007 to date.

Signed statements of authorization for both tenants

Pay stubs from June, 2007 to date

Assessment notices for David Gon, 2005, 2007, 2008

Assessment notices for Nora Smith, 2006, 2007, 2008

The applicant's witness stated that she had received tax summaries prepared by the respondents' income tax preparer.

It appears that the subsidy agent may be requiring more information than is actually required by Article 6 of the tenancy agreement. An accurate report of the tenant's income can take a number of forms. An income tax summary prepared by a competent company should be considered an accurate report of income. By requiring the Canadian Revenue Agency's Notice of Assessment, the subsidy agent is requiring more than Article 6 of the tenancy agreement requires. In fact, the CRA Notice of Assessment does not imply accuracy of the income reported at all.

The testimony of the applicant's witness makes it unclear whether there was incomplete information provided or whether the information provided was not in the format required by the subsidy agent. On the balance of probabilities, I believe it was both.

Regardless of whether the tenant has failed to report the required information on the correct forms or whether the income information is determined to be incomplete, the application of the full unsubsidized rent is not reasonable. Unfortunately, there is not sufficient information to determine what the rent should be from April 1, 2006 to present. It is extraordinary that the landlord has permitted this situation to occur for over three years and equally extraordinary that

the information required by the subsidy agent is inconsistent with the provisions of the tenancy agreement.

Because I am unable to determine the rent for any months from April, 2006 to the present, I can not find any rent arrears. I find the respondents in breach of their obligation to report the household information in accordance with Article 6 of the tenancy agreement. The applicant's request for the payment of rent arrears and termination of the tenancy agreement is denied. An order shall issue requiring the respondents to comply with their obligation to report the household income information in accordance with Article 6 of the tenancy agreement.

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Hal Logsdon  
Rental Officer