

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and  
**SALLY SMITH AND JEFFREY FOOTBALL**, 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 -

**SALLY SMITH AND JEFFREY FOOTBALL**

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 twenty two thousand two hundred ninety four dollars (\$22,294.00).
2. Pursuant to section 41(4)(c) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 416, Behchoko, NT shall be terminated on September 18, 2009 and the respondents shall vacate the premises on that date.

DATED at the City of Yellowknife, in the Northwest Territories this 20th day of August,  
2009.

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Hal Logsdon  
Rental Officer

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-and-

**SALLY SMITH AND JEFFREY FOOTBALL**

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**

**Date of Decision:**                              **August 20, 2009**

### **REASONS FOR DECISION**

The respondents were served with Notices of Attendance sent by registered mail and confirmed delivered. The respondents failed to appear at 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. The premises are subsidized public housing.

The parties entered into a monthly tenancy agreement commencing on April 1, 2007. There is no evidence that this tenancy agreement was terminated in accordance with the *Residential Tenancies Act* either by the respondents' notice, by mutual agreement or by order.

On July 30, 2009 the applicant and Sally Smith as sole tenant executed three tenancy agreements, all for retroactive terms. The first was a monthly tenancy agreement commencing on April 1, 2008. The second was a term agreement commencing on April 1, 2009 and ending on May 31, 2009. The third was a term agreement commencing on June 1, 2009 and ending on July 31, 2009. In my opinion, all of these tenancy agreements are void. Firstly, there can not be two tenancy agreements for the same rental premises. There was already a monthly tenancy agreement in place with the respondents as joint tenants. In order to enter into a tenancy agreement with another party for the premises, the monthly tenancy agreement must be terminated. Secondly, one

can not enter into a tenancy agreement for a term which has already expired.

On May 27, 2009 the respondent Sally Smith swore a statutory declaration that she was not a common-law spouse to Jeffrey Football and had not been since May 7, 2009. On July 30, 2009 Jeffrey Football swore a statutory declaration that he was not the common law spouse of Sally Smith and had not been since May, 2009. In my opinion, these documents do not serve to terminate the joint tenancy agreement nor do they validate the July 30, 2009 tenancy agreements executed by the applicant and Sally Smith.

For the above noted reasons, in my opinion, the monthly tenancy agreement between the applicant and respondents which commenced in April, 2007 is still in effect.

The tenant ledger, provided in evidence by the applicant, indicates a balance of rent owing in the amount of \$23,844. The applicant's witness, the subsidy agent, testified that all of the rents assessed were calculated on the respondents' household income except for May, June and July, 2009. She stated that no income information was received on which to calculate rents for May and June, 2009 and that incomplete information was received for July, 2009. In my opinion, the application of the full unsubsidized rent is reasonable for May and June, 2009 but is not reasonable for July, 2009. I can not determine from the information provided what the rent for July 2009 should be.

I find the respondents in breach of their obligation to pay rent and find rent arrears of \$22,294

calculated as follows:

Rent assessed, April/07 to June/09	\$22,690
Rent paid, April/07 to June/09	<u>(396)</u>
Total	\$22,294

In my opinion, there are sufficient grounds to terminate the tenancy agreement. There has been no rent paid since September, 2008 and only \$396 paid since the tenancy agreement commenced.

An order shall issue requiring the respondents to pay the applicant rent arrears in the amount of \$22,294 and terminating the tenancy agreement on September 18, 2009.

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Hal Logsdon  
Rental Officer