

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **ANDREA ZOE**, Respondent;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act") and amendments thereto;

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer,
regarding the rental premises at **YELLOWKNIFE, NT**.

BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

- and -

ANDREA ZOE

Respondent/Tenant

ORDER

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 one thousand seven hundred sixty five dollars and ninety two cents (\$1765.92).
2. Pursuant to section 67(4) of the *Residential Tenancies Act*, the respondent shall pay the applicant compensation for use and occupation of the rental premises after the termination of the tenancy agreement in the amount of six hundred thirty dollars and forty two cents (\$630.42).

DATED at the City of Yellowknife, in the Northwest Territories this 15th day of
December, 2011.

Hal Logsdon
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **ANDREA ZOE**, 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:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

-and-

ANDREA ZOE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: December 14, 2011

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Ella Newhook, representing the applicant
Andrea Zoe, respondent

Date of Decision: December 15, 2011

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and by failing to report an occupant living in the premises. The applicant served a notice of termination on the respondent on October 18, 2011 terminating the tenancy agreement on November 30, 2011. The applicant sought an order requiring the respondent to pay the alleged rent arrears and evicting the respondent. The premises are subsidized public housing.

The applicant provided a statement of the rent account in evidence which indicated a balance of rent owing in the amount of \$4525.92. The full unsubsidized rent has been charged in September, October, November and December, 2011. The applicant indicated that the assessed rents had been based on the respondent's last reported household income.

The applicant stated that the respondent's boyfriend was living in the premises but had not been reported by the respondent. The applicant stated that she had spoken to the respondent about the matter and the respondent had acknowledged that her boyfriend was occupying the premises.

The respondent stated that her employment had ended on October 26, 2011 and that she had received no income since that date. She stated that she had applied for employment insurance but had not received any payments. She presented a letter from her former employer in evidence. She stated that a copy of the letter has been provided to the landlord. The applicant stated that they had not received the letter or any income information indicating reduced income since the

income was last reported in September, 2011. The applicant stated that without income information to the contrary, they had assumed that her income was essentially the same as it had been in September, 2011.

The respondent denied that her boyfriend was occupying the premises on a continuous basis. She stated that he had a permanent address elsewhere but acknowledged that he visited frequently. She provided no other proof of residence for him such as a driver's license, tenancy agreement, tax return, etc., nor does it appear that the landlord has asked for any.

The tenant's obligation to report the persons occupying the premises and their incomes is not an unreasonable requirement. The determination of the tenant's continuing eligibility for public housing and the calculation of a subsidized rent both depend on this information. In my opinion, if the landlord has reason to believe that the tenant is not reporting an occupant and the tenant denies that the person is an occupant, it is incumbent on the tenant to provide proof that the suspected occupant resides elsewhere. In my opinion, the termination of the tenancy agreement and eviction of the tenant on these grounds alone is only justified if the landlord demands such proof and the tenant refuses or fails to provide it.

The notice of termination served on October 18, 2011 is in accordance with the Act. It states two grounds for termination; failure to pay rent and failure to list all occupants residing in the premises. The notice was therefore effective in terminating the tenancy agreement on November 30, 2011 and the respondent has been overholding since that date.

The letter provided by the respondent and her testimony that she has not received employment insurance payments or other income since the loss of her job are sufficient, in my opinion, to reassess the rent for November, 2011 to the minimum \$32. The full unsubsidized rent is, in my opinion, reasonable for October, 2011 as the respondent has not reported the reduced income for that month. Therefore I find rent arrears of \$1765.92 calculated as follows:

Balance of rent at October 31, 2011 as per statement	\$1733.92
November, 2011 rent	<u>32.00</u>
Total	\$1765.92

I also find the respondent responsible to pay the applicant \$630.42 for compensation for use and occupation from December 1 to December 14, 2011 calculated at \$45.03/day.

For the reasons outlined above, in my opinion, the termination of the tenancy and eviction of the tenant solely on the grounds that the tenant has failed to report all occupants residing in the premises is not justified. However, on the grounds of non-payment of rent, I believe termination and eviction is justified. I note that the respondent has also breached a previous order requiring her to pay future rent on time and to comply with her obligation to report the household income.

An order shall issue requiring the respondent to pay the applicant rent arrears of \$1765.92 and compensation for use and occupation of the rental premises after the tenancy agreement was terminated of \$630.42. An eviction order to be effective on January 5, 2012 shall be issued separately.

Hal Logsdon
Rental Officer