

IN THE MATTER between **NWT HOUSING CORPORATION**, Applicant, and
TRAVIS NITSIZA AND APRIL SIMPSON, Respondents;

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 **WHATI, NT**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

TRAVIS NITSIZA AND APRIL SIMPSON

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 84(3) and 41(4)(a) of the *Residential Tenancies Act*, the previous order (file #10-12238, filed on September 21, 2011) is rescinded and the respondents are ordered to pay the applicant rent arrears in the amount of seven thousand eight hundred ninety dollars (\$7890.00).
2. Pursuant to section 41(4)(c) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 813, Whati, NT shall be terminated on October 31, 2013 and the respondents shall vacate the premises on that date.

DATED at the City of Yellowknife, in the Northwest Territories this 27th day of
September, 2013.

Hal Logsdon
Rental Officer

IN THE MATTER between **NWT HOUSING CORPORATION**, Applicant, and
TRAVIS NITSIZA AND APRIL SIMPSON, 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:

NWT HOUSING CORPORATION

Applicant/Landlord

-and-

TRAVIS NITSIZA AND APRIL SIMPSON

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: September 24, 2013

Place of the Hearing: Yellowknife, NT via teleconference

Appearances at Hearing: Jessica Relucio, representing the applicant
April Simpson, respondent

Date of Decision: September 27, 2013

REASONS FOR DECISION

The applicant alleged that the respondents had breached a previous order by failing to pay rent arrears in accordance with the order and had breached the tenancy agreement by failing to repair damages to the rental premises. The applicant also stated that the respondents no longer qualified for the program because their income was too low. The applicant sought an order requiring the respondents to pay the alleged rent arrears and to pay the estimated costs of repair. The premises are subsidized public housing.

A previous order (file #10-12238, filed on September 21, 2011) required the respondents to pay rent arrears of \$11,787 in monthly installments of \$150 until the rent arrears were paid in full. The applicant provided a statement of the rent account in evidence which indicated a balance of rent owing as at July 20, 2013 of \$7890. The applicant stated that no rent had been assessed or payments made since that date. Although the reduction of the balance owing seems to suggest that the arrears were paid in accordance with the previous order, the statement indicates that a retroactive adjustment of rent assessments reduced the previously ordered balance of \$11,787 to \$9690. The actual amount paid by the respondents since the last order is shown to be \$1800.

The respondent did not dispute that the order had been breached.

The applicant filed a number of photographs the day before the hearing and served them on the respondent along with the following estimate of repair:

- Broken Window (Living Room) (est. \$500.00)
- Crayon marking throughout the house, including installing light fixture, removing ply wood board on the window (est. \$7,000).

The photographs indicate other tenant damages such as damage to the entry door and a blocked air vent which do not appear to be part of the estimate. Section 42 of the *Residential Tenancies Act* obligates a tenant to repair damages to the rental premises and sets out remedies for landlords.

- 42. (1) A tenant shall repair damage to the rental premises and the residential complex caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant.**
- (2) Ordinary wear and tear of rental premises does not constitute damage to the premises.**
- (3) Where, on the application of a landlord, a rental officer determines that a tenant has breached the obligation imposed by this section, the rental officer may make an order**
- (a) requiring the tenant to comply with the tenant's obligation;**
 - (b) prohibiting the tenant from doing any further damage;**
 - (c) requiring the tenant to compensate the landlord for loss suffered as a direct result of the breach;**
 - (d) authorizing any repair or other action that is to be taken by the landlord to remedy the effects of the tenant's breach;**
 - (e) requiring the tenant to pay any reasonable expenses directly associated with the repair or action; or**
 - (f) terminating the tenancy on the date specified in the order and ordering the tenant to vacate the rental premises on that date.**

In my opinion, it is not reasonable to authorize the landlord to repair damages and order the tenant to pay repair costs without providing the tenant an opportunity to undertake the repairs.

There is no evidence that applicant has previously put the tenant on notice that they must repair certain damages. The respondent stated that they have requested that the window be repaired, with no results. As well, the estimate provided is, in my opinion, lacking sufficient detail to

consider. The request for relief is denied but the applicant is granted leave to make a future application regarding the repairs.

The applicant was unable to provide any evidence of a clear minimum income eligibility criteria. A "Program Denial Report" provided in evidence by the applicant indicates ineligibility for the program but there was no evidence of a specific income criteria or any policy statement regarding on-going eligibility. I do not find sufficient evidence to terminate the tenancy agreement on the basis of on-going eligibility.

I find that the respondents breached the previous order and have made little effort to pay the rent arrears, even though the applicant has not been charging them any monthly rent. I find the rent arrears to be \$7890. The respondents should have paid \$3450 of the previously ordered arrears but have paid only \$1800. In my opinion, there are sufficient grounds to terminate the tenancy agreement.

An order shall issue rescinding the previous order and ordering the respondents to pay the applicant rent arrears in the amount of \$7890. The order shall also terminate the tenancy agreement on October 31, 2013. An eviction order to be effective on November 1, 2013 shall be issued separately.

Hal Logsdon
Rental Officer