

IN THE MATTER between **Fort Simpson Housing Authority**, Applicant, and **Dwight Page**, 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, **Adelle Guigon**, Deputy Rental Officer, regarding a rental premises located within the **of Village of Fort Simpson in the Northwest Territories**.

BETWEEN:

FORT SIMPSON HOUSING AUTHORITY

Applicant/Landlord

- and -

DWIGHT PAGE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, the Respondent shall pay to the Applicant compensation for use and occupation of the rental premises known as Unit 9-2SCO, 9802 - 102 Street, in Fort Simpson, Northwest Territories, for the period of July 18, 2012, and September 30, 2013, in the amount of \$23,483.90 (twenty-three thousand four hundred eighty-three dollars ninety cents) and shall pay \$53.42 (fifty-three dollars forty-two cents) per day for each day the Respondent remains in possession of the rental premises after September 30, 2013.

DATED at the City of Yellowknife in the Northwest Territories this 16th day of September 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Fort Simpson Housing Authority**, Applicant, and **Dwight Page**, Respondent.

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BETWEEN:

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REASONS FOR DECISION

Date of the Hearing: September 13, 2013

Place of the Hearing: Fort Simpson, Northwest Territories, via Teleconference

Appearances at Hearing: Kathy Konisenta, representing the Applicant

Date of Decision: September 13, 2013

REASONS FOR DECISION

Application

This Application to a Rental Officer made by Fort Simpson Housing Authority as the Applicant against Dwight Page as the Respondent regarding the rental premises known as Unit #9-2SCO, 9802 - 102 Street, in Fort Simpson, Northwest Territories, was received and filed by the Rental Office on July 26, 2013. The Applicant served a copy of the application package on the Respondent by registered mail deemed served August 20, 2013, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act).

The Applicant sought an eviction order and compensation for use and occupation of the rental premises. Evidence submitted in support of this application is listed under Appendix A: Exhibits attached to this order and reasons.

Hearing

A hearing was scheduled for September 13, 2013. The Applicant appeared at hearing. The Respondent was served notice of the hearing by personal service on August 30, 2013. The Respondent failed to appear at hearing; the hearing proceeded in the Respondent's absence pursuant to section 80(2) of the Act.

Submissions

The Applicant had obtained three previous orders from the Rental Officer against this Respondent. Rental Officer Order #10-12556 issued January 24, 2012, ordered payment of rental arrears and termination of the tenancy agreement on April 1, 2012, if the rental arrears were not paid in full. Rental Officer Order #10-12932 issued July 17, 2012, ordered payment of additional accumulated rental arrears and compensation for use and occupation of the rental premises since April 1, 2012. Rental Officer Order #10-12932B ordered eviction of the Respondent from the rental premises on July 24, 2012.

The Applicant at hearing testified that, due to an oversight within their office, they had neglected to file the eviction order with the Supreme Court within the legislated six months of issuance to obtain a writ of possession and enforce the order. Citing the tenancy as terminated April 1, 2012, in accordance with the Act, the Applicant wished to regain possession of the premises from the Respondent and additionally requested compensation for use and occupation of the premises since the last Rental Officer order.

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The Applicant further testified that the Respondent had made no payments against his rental arrears since January 31, 2011. A current tenant ledger (Customer Aged Detail report) submitted by the Applicant corroborates this statement.

Determinations

The Customer Aged Detail is the landlord's accounting of rent applied to the tenant's tenancy and payments made against the tenant's account. I am satisfied that this accounting accurately reflects the payments made by the tenant to date.

Rental Officer Order #10-12556 effectively terminated this tenancy agreement on April 1, 2012, when the Respondent failed to pay the ordered rental arrears. By that order I recognize and accept that the tenancy agreement was terminated in accordance with the Act.

Rental Officer Order #10-12932 ordered payment for use and occupation between April 1, 2012, and July 17, 2012, and specified the per diem to be charged to compensate for use and occupation of the rental premises between July 17, 2012, and August 31, 2012, at \$52.42. By that order I recognize and accept that the per diem as defined for the specified period is in compliance with section 63(4)(b) of the Act.

I am satisfied based on the Applicant's testimony that the Respondent remains in current possession of the rental premises contrary to the effective termination of his tenancy agreement on April 1, 2012. The rental arrears and compensation for use and occupation accumulated up to July 17, 2012, have been accounted for in Rental Officer Orders #10-12556 and 10-12932. I find it reasonable to charge the Respondent for the use and occupation of the rental premises since July 17, 2012. The daily per diem ordered in Rental Officer Order #10-12932 will be applied to August 31, 2012, and the monthly rent of \$1,625 will be applied for each full month the Respondent has occupied the rental premises since September 1, 2012, calculated as follows:

Period	Amount
July 18, 2012, to August 31, 2012 - \$52.42 x 45 days	\$2,358.90
September 2012 to September 2013 - \$1,625 x 13 months	\$21,125.00
Total Compensation for Use and Occupation	\$23,483.90

I find as well that the Respondent is responsible to compensate the Applicant for use and occupation of the rental premises after September 30, 2013, at a rate of \$53.42 per day for each day the Respondent remains in the premises.

Order

An order will issue requiring the Respondent to pay for use and occupation of the rental premises in the amount of \$23,483.90 and to pay additional compensation for use and occupation of the rental premises after September 30, 2013, at a rate of \$53.42 per day for each day the Respondent remains in the premises.

I am further satisfied that an eviction order is justified to be executed September 30, 2013, or as soon thereafter as is practicable, and that order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX 'A'

Exhibits

Evidence included with the application package:

Exhibit 1: Residential Tenancy Agreement dated June 9, 2011

Exhibit 2: Customer Aged Detail from May 22, 2007, to July 1, 2013

Evidence received by fax on September 11, 2013, from the Applicant:

Exhibit 3: Residential Tenancy Agreement dated March 5, 2008

Exhibit 4: Residential Tenancy Agreement dated March 23, 2009

Exhibit 5: Residential Tenancy Agreement front page dated June 9, 2011

Exhibit 6: Customer Aged Detail from May 22, 2007, to July 1, 2013 (duplicate of Exhibit 2)