

IN THE MATTER between **Fort McPherson Housing Association**, Applicant, and **Shalane Pascal and James H. Firth**, 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, **Adelle Guigon**, Deputy Rental Officer, regarding a rental premises within **the hamlet of Fort McPherson in the Northwest Territories**.

BETWEEN:

FORT MCPHERSON HOUSING ASSOCIATION

Applicant/Landlord

- and -

SHALANE PASCAL and JAMES H. FIRTH

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents must pay to the applicant rental arrears in the amount of \$3,650 (three thousand six hundred fifty dollars).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents must pay their rent on time in the future.
3. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondents must comply with their obligation to report household income to the applicant.

4. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as #0085 Edward Snowshoe Street in Fort McPherson , Northwest Territories, will be terminated February 28, 2014, and the respondents must vacate the rental premises on or before that date, unless the rental arrears are paid in full.

DATED at the City of Yellowknife in the Northwest Territories this 23rd day of January 2014.

Adelle Guigon
Deputy Rental Officer

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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.

BETWEEN:

FORT MCPHERSON HOUSING ASSOCIATION

Applicant/Landlord

-and-

SHALANE PASCAL and JAMES H. FIRTH

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: January 16, 2014

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

Appearances at Hearing: Shirley Wilson, representing the Applicant

Date of Decision: January 16, 2014

REASONS FOR DECISION

An application to a rental officer made by Fort McPherson Housing Association as the applicant/landlord against Shalane Pascal and James H. Firth as the respondents/tenants was filed by the Rental Office December 2, 2013. The application was made regarding the rental premises known as #0085 Edward Snowshoe Street in Fort McPherson, Northwest Territories. The applicant served a copy of the filed application on the respondents by registered mail signed for December 13, 2013.

The applicant alleged the respondents had accumulated rental arrears. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for January 16, 2014. Both parties were sent notices of attendance by registered mail sent December 18, 2013. Ms. Shirley Wilson appeared representing the applicant. Ms. Shalane Pascal and Mr. James H. Firth were deemed served the notices of attendance December 25, 2013, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act). Neither party appeared at hearing, nor did anyone attend to represent them. The hearing proceeded in their absence pursuant to section 80(2) of the Act.

Ms. Wilson testified that Ms. Pascal and Mr. Firth moved into the rental premises December 3, 2012, and signed a tenancy agreement for subsidized public housing effective January 1, 2013. She stated the respondents have been repeatedly late reporting their monthly household income – which the applicant has to pursue the respondents for – and repeatedly late paying their rent throughout the tenancy. The respondents owe \$3,650 in rent as of January 16, 2014. Ms. Wilson initially requested payment of rental arrears, termination of the tenancy agreement, eviction, and compensation for use and occupation of the rental premises.

When questioned by me regarding the respondents lack of historical pattern of behaviour, pointing out that neither of the respondents have previous rental orders issued against them and that the tenancy is fairly new, Ms. Wilson reiterated the frustration of having to pursue the respondents to comply with their obligation to report their household income monthly. She did concede the applicant would be satisfied with an order for payment of the rental arrears, that the respondents pay their future rent on time, and termination of the tenancy if the rental arrears are not paid in full. Ms. Wilson did request that the applicant's option to apply for an eviction order remains available to them should the respondents fail to pay their rental arrears, which it is. .../3

Tenancy agreement

The tenancy agreement for subsidized public housing between the parties submitted into evidence is dated March 1, 2013, for a fixed term from January 1 to March 31, 2013. Schedule A to the tenancy agreement identifies the rental premises as Unit 085, Lot 2, Block 26, Plan 1985, in Fort McPherson, Northwest Territories. The application to a rental officer identified the street address of the rental premises as #0085 Edward Snowshoe Street in Fort McPherson, Northwest Territories. Ms. Wilson testified that the rental premises is known as #0085 Edward Snowshoe Street in Fort McPherson. I am satisfied a valid tenancy agreement is in place between the parties for the rental premises known as #0085 Edward Snowshoe Street in Fort McPherson, Northwest Territories.

Rental arrears and reporting of household income

The tenant ledger card submitted into evidence is the landlord's accounting of assessed monthly rent and payments made by the respondents between April 4 and December 31, 2013. The tenant ledger card shows payments made by the respondents of \$120 on April 4th, \$140 on June 12th, \$700 on November 7th, and \$300 on November 8th. I am satisfied the tenant ledger card accurately reflects payments made by the respondents. Schedule A of the tenancy agreement specifies the rent is due the first of the month. I find the respondents have repeatedly failed to pay their rent on time.

Section 6 of the tenancy agreement states:

“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. All reporting by the Tenant must be in the form prescribed by the subsidy agent.”

Ms. Wilson testified that the applicant has to “...get after them every, every month to come in to do their assessment.” She testified that the respondents have never attended the office of their own volition to report their income, that they have only reported their income when pursued by the applicant. While I accept the testimony that the applicant has verbally requested each month that the respondents report their income, and do not find it unreasonable to order that the respondents comply with their obligation to report their monthly income, I have no evidence before me that the respondents were notified of the requirement to report their income on a monthly basis. Section 6 of the tenancy agreement requires the respondents to report whenever, and as often as, the subsidy agent requests such a report. It does not specify that the monthly income must be reported each month, or on any specific date at all. If the respondents have not been notified that their monthly income is expected to be reported each and every month they cannot be expected to attend the office each and every month to report their income without being requested to do so by the subsidy agent. If the subsidy agent has been verbally requesting the report of income each month – as Ms. Wilson has testified has been the case in this instance – and the respondents were reporting their income when requested then the respondents would not be in breach of their obligation to report their monthly income. However, in this instance it is the case that the respondents have not complied immediately with the subsidy agent’s request for the reporting of their monthly income, putting them in breach of their obligation to report. The failure to report monthly income is reflected as well in the tenant ledger card, which shows economic rent applied for June, July, August, and October, and a credit amount of assessed rent on September 20th and November 7th as indicators of when the household income was reported for the previous months. Economic rent has also been assessed for December, suggesting the household income for December has not been reported, however, I have no evidence or testimony as to whether or not that report has been requested yet.

Termination of the tenancy agreement

The respondents have only had occupancy of the rental premises since December 2012. Neither of these tenants have a historical record with the Rental Office, nor have previous applications been made against them by the applicant. The respondents have not been diligent in making payments for rent, however, they have shown a willingness to reduce their rental arrears with their most recent payments in November 2013. I am satisfied a conditional termination order is justified.

An order will issue requiring the respondents to pay rental arrears of \$3,650, to pay their future rent on time, to comply with their obligation to report their household income, and terminating the tenancy February 28, 2014, unless the rental arrears are paid in full. The applicant may apply for an eviction order should the respondents fail to pay their rental arrears by February 28, 2014, effecting the termination of the tenancy.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Tenant ledger card for rent from April 4 to November 8, 2013

Exhibit 2: Residential tenancy agreement - fixed term lease dated March 1, 2013

Exhibit 3: Applicant's Demand Notice correspondence to respondents dated August 13, 2013

Exhibit 4: Applicant's Termination Notice correspondence to respondents dated October 17, 2013

Exhibit 5: Tenant ledger card for rent from April 4 to December 31, 2013