

IN THE MATTER between **Fort Smith Housing Authority**, Applicant, and **Dusty Blesse**, 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, **Adelle Guigon**, Deputy Rental Officer, regarding a rental premises within **the Town of Fort Smith in the Northwest Territories**.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

- and -

DUSTY BLESSE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent must report to the applicant her total household income for the months of August 2013 to January 2014 no later than February 28, 2014, and must comply with her obligation to report her total household income as requested by the applicant.

2. Pursuant to sections 45(4)(e) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Unit #0085 at 42 Pine Crescent in Fort Smith, Northwest Territories, will be terminated on February 28, 2014, unless the respondent's total household income for the months of August 2013 to January 2014 have been received by the applicant on or before that date.

DATED at the City of Yellowknife in the Northwest Territories this 21st day of February 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Fort Smith Housing Authority**, Applicant, and **Dusty Blesse**, Respondent.

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

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BETWEEN:

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REASONS FOR DECISION

Date of the Hearing: February 13, 2014

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

Appearances at Hearing: Kevin Mageean, representing the Applicant
Dusty Blesse, representing herself as the Respondent

Date of Decision: February 13, 2014

REASONS FOR DECISION

An application to a rental officer made by Fort Smith Housing Authority as the applicant/landlord against Dusty Blesse as the respondent/tenant was filed by the Rental Office December 5, 2013. The application was made regarding a residential tenancy agreement for the rental premises known as Unit #0085 at 42 Pine Crescent in Fort Smith, Northwest Territories. The applicant served a copy of the filed application package on the respondent by registered mail signed for December 23, 2013.

The applicant alleged the respondent had failed to comply with her obligation to report her monthly household income, had failed to pay her rent on time, and had accumulated rental arrears. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for February 13, 2014. Both parties were served notices of attendance by registered mail. Mr. Kevin Mageean appeared representing the applicant; Ms. Dusty Blesse appeared representing herself as the respondent.

Mr. Mageean testified that Ms. Blesse had been a tenant in subsidized public housing since March 18, 2011, during which time she had been a very good tenant. The landlord had not received any complaints regarding Ms. Blesse and her rent has consistently been paid, if not always on time. Ms. Blesse had reported her household income as requested prior to September 2013; her failure to report her monthly income for August resulted in the assessment of full market rent of \$1,625 for the month of September. Mr. Mageean spoke with Ms. Blesse regarding the need to report her income for August in order to be able to re-assess her rent for September. Ms. Blesse did report her income for September and October, from which her rent for October and November were assessed at \$80 per month, however no further reports of income had been received by the applicant since. Ms. Blesse has been making regular monthly payments of \$80, the last of which was received January 10, 2014. As of the hearing date, the full market rent of \$1,625 had been assessed for the months of September and December 2013, and January and February 2014, resulting in rental arrears of \$6,260.

Mr. Mageean indicated at hearing that he would gladly re-assess the rent if Ms. Blesse were to report her income as required. If she does not then the applicant has no alternative except to request an order for termination of the tenancy and eviction. He reported receipt of Ms. Blesse's income for December and January immediately prior to the commencement of this hearing; her income for August and November remain outstanding.

Ms. Blesse did not dispute that she had failed to report her total household income for the months in question, indicating with respect to the August income that she had simply forgotten to submit the required documents. She asked for clarification of what needed to be reported and what form of documents would satisfy the reporting requirements. Mr. Mageean confirmed proof of income, including bank statements showing deposits, are required, and that income from GST payments and child support benefits must also be reported. Ms. Blesse indicated she would be able to get this information to Mr. Mageean right away.

Mr. Mageean indicated the applicant would be satisfied with an order that Ms. Blesse report all her income since August 2013, including any income that had inadvertently not been included in reports already received, but requested that the information be required to be submitted to the applicant no later than the end of the month and that there be conditional termination and eviction orders should Ms. Blesse fail to report her income as directed. Ms. Blesse was not opposed to this request, indicating she believed she would have no trouble providing the requested information before the end of the month.

Tenancy agreement

The residential tenancy agreement entered into evidence is for a fixed-term subsidized public housing tenancy between the parties commencing April 1, 2012, to June 30, 2013, after which it automatically reverted to a periodic month-to-month tenancy. Ms. Blesse did not dispute the validity of this tenancy agreement and I am satisfied that it is valid and current.

Additional obligations - reporting of income

Section 45(1) of the Act requires a tenant to comply with reasonable additional obligations agreed to in a written tenancy agreement. Section 6 of the residential tenancy agreement identifies the additional obligation of the tenant to report her total household income to the landlord whenever and as often as the landlord requests. Mr. Mageean testified that Ms. Blesse had failed to comply with this obligation by failing to report her total household income between August 2013 and January 2014; Ms. Blesse did not dispute this assertion. I find Ms. Blesse has failed to comply with her obligation to report her total household income as requested by the landlord.

Termination of the tenancy agreement and eviction

Mr. Mageean has testified to the fact that Ms. Blesse has historically been a very good tenant and one the applicant does not wish to dispose of. However, the applicant's policies are clear that accurate reporting of household income is a vital component to the continuation of tenancy agreements for subsidized public housing units. The risk of losing one's rental premises must be seen as a possible serious consequence of failing to comply with the requirements of the tenancy agreement. Ms. Blesse seems to understand this and has indicated her intention to provide the requested documents in a timely manner, understanding that such reporting must continue to be timely. In the circumstances of this case, I find it reasonable and justifiable to issue conditional termination and eviction orders.

An order will issue requiring Ms. Blesse to report to the applicant her total household income for the months of August 2013 to January 2014 no later than February 28, 2014, and terminating the tenancy agreement February 28, 2014, unless the total household income for the months of August 2013 to January 2014 are received by the applicant on or before that date. An order evicting Ms. Blesse from the rental premises March 1, 2014, if the termination order becomes effective will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Lease balance statement for April 1, 2012, to December 1, 2013

Exhibit 2: Residential tenancy agreement - fixed term lease dated April 30, 2012

Exhibit 3: E-mail dated October 9, 2013, from MaryRose Powder to Kevin Mageean

Exhibit 4: Applicant's registered correspondence to respondent dated October 31, 2013

Exhibit 5: Applicant's registered correspondence to respondent dated October 3, 2013

Exhibit 6: Entry inspection report dated March 18, 2011

Exhibit 7: Lease balance statement for April 1, 2012, to February 1, 2014