

IN THE MATTER between **Tulita Housing Association**, Applicant, and **Wilfred Lennie and Sarah Lennie**, 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 Tulita in the Northwest Territories**.

BETWEEN:

**TULITA HOUSING ASSOCIATION**

Applicant/Landlord

- and -

**WILFRED LENNIE and SARAH LENNIE**

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 \$14,915.98 (fourteen thousand nine hundred fifteen dollars ninety-eight cents).
2. Pursuant to sections 45(4)(a) and 45(4)(b) of the *Residential Tenancies Act*, the respondents must report to the applicant their total household income for the months of July 2013 to February 2014 and must not fail to report their total household income to the applicant as requested again.

3. Pursuant to sections 41(4)(c), 45(4)(e) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Unit #0052 in Tulita, Northwest Territories, will be terminated March 31, 2014, and the respondents must vacate the rental premises on or before that date, unless the rental arrears have been paid and the reports of total household income for the months of July 2013 to February 2014 have been received by the applicant on or before March 31, 2014.

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

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Adelle Guigon  
Deputy Rental Officer

IN THE MATTER between **Tulita Housing Association**, Applicant, and **Wilfred Lennie and Sarah Lennie**, 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 **Adelle Guigon**, Deputy Rental Officer.

BETWEEN:

**TULITA HOUSING ASSOCIATION**

Applicant/Landlord

-and-

**WILFRED LENNIE and SARAH LENNIE**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** February 14, 2014

**Place of the Hearing:** Tulita, Northwest Territories, via Teleconference

**Appearances at Hearing:** Helen Squirrel, representing the Applicant

**Date of Decision:** February 14, 2014

**REASONS FOR DECISION**

An application to a rental officer made by Tulita Housing Association as the applicant/landlord against Wilfred Lennie and Sarah Lennie as the respondents/tenants was filed by the Rental Office December 13, 2013. The application was made regarding a residential tenancy agreement for subsidized public housing regarding the rental premises known as Unit #0052 in Tulita, Northwest Territories. The applicant served a copy of the filed application on the respondents by personal service January 3, 2014.

The applicant alleged the respondents had accumulated rental arrears, failed to comply with their obligation to report their total household income, and failed to comply with their obligation not to run a business in the rental premises. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for February 14, 2014. The parties were served notices of attendance by registered mail sent January 24, 2014. Ms. Helen Squirrel appeared at hearing representing the applicant. Mr. Wilfred Lennie and Ms. Sarah Lennie were deemed served their notices on January 31, 2014, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act). As well, I contacted Ms. Lennie by telephone on February 11, 2014, to ensure she was aware of the scheduled hearing. Neither Mr. Lennie nor Ms. Lennie appeared at hearing, nor did anyone appear to represent them. The hearing proceeded in their absence pursuant to section 80(2) of the Act.

Ms. Squirrel testified that the respondents had been in a tenancy agreement with the applicant for subsidized public housing since April 29, 2002. During the tenancy the respondents had been brought before the rental officer three times regarding rental arrears and failure to report household income. Ms. Squirrel testified that the respondents' total household income had again not been reported for eight months to date, resulting in the application of full market rent of \$1,445 for the months of July 2013 to February 2014. Ms. Squirrel's attempts to communicate with Mr. Lennie and obtain the necessary proofs of income have been unsuccessful, and communications with Ms. Lennie confirm Mr. Lennie is being uncooperative regarding the matter even with her.

Ms. Squirrel confirmed the evidence in the lease balance statement and tenant ledger cards that payments of varying amounts have been made against the account by Mr. Lennie, although those payments have been made through the Northern Store rather than attending directly to the local housing office thereby negating the possibility of direct communication with Mr. Lennie regarding the outstanding reports of income. The most recent payment was received February 12, 2014, leaving the balance owing at \$14,915.98. Ms. Squirrel confirmed that the submission of the outstanding household income reports would give the applicant the information they need to properly re-assess the subsidized rent, which would likely reduce the rental arrears by as much as two-thirds. Until those reports are received, however, the application of the full economic rent must be applied for the months of which the total household income has not been reported as requested.

In light of the repeated refusal of Mr. Lennie to report his income as required and the resulting extensive rental arrears which have accumulated, Ms. Squirrel requested an order for payment of the rental arrears, that the respondents report their total household income for July 2013 to February 2014, and that the tenancy agreement be terminated unless the rental arrears are paid and the income is reported as requested.

*Tenancy agreement*

The residential tenancy agreements submitted into evidence by the applicant establish a continuous tenancy agreement between the parties for subsidized public housing for the rental premises known as Unit #0052 in Tulita, Northwest Territories, since April 29, 2002. The most recent residential tenancy agreement is dated April 10, 2013, for a periodic month-to-month tenancy starting the same date. I am satisfied a valid tenancy agreement is in place between the parties for subsidized public housing.

*Additional obligations - report of household income*

Section 45(1) of the Act requires a tenant to comply with any reasonable additional obligations undertaken in a written tenancy agreement. Section 6 of the residential tenancy agreement entered into by the parties specifies the requirement of the tenants to report their total household income whenever and as often as requested by the subsidy agent (the landlord's representative). The tenant ledger cards are the landlord's accounting on a month to month basis of assessed

monthly rent and payments made by the respondents; months for which the full economic rent is applied indicate months for which the total household income was not provided when requested. It is clear from the testimony of Ms. Squirrel, as well as from the tenant ledger cards, that the respondents have had repeated periods during which they have failed to report their total household income; this last eight-month period is just the most recent. Ms. Squirrel also testified to several verbal attempts on her part to communicate with Mr. Lennie, and provided into evidence two pieces of correspondence – dated October 23 and December 5, 2013 – requesting the reporting of total household income. It is apparent Mr. Lennie and Ms. Lennie were fully aware of their obligation to report their total household income. I find the respondents have failed to comply with their obligation to report their total household income by not reporting for the months of July 2013 to February 2014.

#### *Rental arrears*

The lease balance statement and tenant ledger cards are the landlord's accounting of assessed monthly rent and payments made by the respondents. I am satisfied these documents accurately reflect payments made by the respondents. These documents reflect assessed rent of \$1,445 for the months of July 2013 to February 2014 – the full economic rent being assessed due to the failure of the respondents to report their total household income for the respective months. Having determined that the respondents have in fact failed to report their total household income for the months of July 2013 to February 2014, I am satisfied the application of full economic rent for those months is appropriate. I am also satisfied, based on Ms. Squirrel's testimony to the effect, that should the respondents report their total household income for the identified period the rent for those months will be re-assessed accordingly. I find the respondents have accumulated rental arrears as of February 14, 2014, of \$14,915.98.

#### *Termination of the tenancy agreement*

Ms. Squirrel has requested a conditional termination of the tenancy agreement to take effect if the respondents fail to report their income as required and fail to pay their rental arrears in full. Under the circumstances I am inclined to agree the requested remedy is appropriate and conditional termination of the tenancy is justified.

An order will issue requiring the respondent to pay rental arrears in the amount of \$14,915.98, to report their total household income for the months of July 2013 to February 2014, to comply with their obligation to report their total household income as requested by the applicant, and terminating the tenancy agreement March 31, 2014, unless the rental arrears are paid and the total household income is reported for the months of July 2013 to February 2014 by that date.

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Adelle Guigon  
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Applicant's report income - July, 2013 - December, 2013 correspondence to respondent dated December 5, 2013
- Exhibit 2: Tenant ledger cards for April 10, 2013, to December 5, 2013
- Exhibit 3: Applicant's correspondence to NWTTC dated November 29, 2013
- Exhibit 4: Applicant's breach of tenancy lease correspondence to respondent dated October 23, 2013
- Exhibit 5: Residential tenancy agreement - indeterminate lease dated April 10, 2013
- Exhibit 6: Applicant's 50% reduction correspondence to respondents dated June 11, 2013
- Exhibit 7: Applicant's first notice correspondence to respondents dated July 5, 2012
- Exhibit 8: Applicant's payment of \$200 correspondence to respondents dated June 19, 2012
- Exhibit 9: Applicant's payment of \$200 correspondence to respondents dated March 7, 2012
- Exhibit 10: Applicant's payment of \$200 correspondence to respondents dated January 17, 2012
- Exhibit 11: Applicant's payment plans - unit #52 correspondence to respondents dated January 13, 2012
- Exhibit 12: Applicant's payment of \$200 correspondence to respondents dated November 3, 2011
- Exhibit 13: Applicant's third notice correspondence to respondents dated October 13, 2011
- Exhibit 14: Applicant's termination notice correspondence to respondents dated September 9, 2011
- Exhibit 15: Applicant's payment of \$200 correspondence to respondents dated June 15, 2011
- Exhibit 16: Applicant's payment of \$200 correspondence to respondents dated April 13, 2011
- Exhibit 17: Tenant ledger card for April 28, 2006, to November 13, 2013



- Exhibit 18: Lease balance statement for April 1, 2012, to December 5, 2013
- Exhibit 19: Rent calculation/household income forms for April 2010 to December 2013
- Exhibit 20: Applicant's note to file dated June 3, 2010
- Exhibit 21: Rental Officer order #20-11105 issued January 19, 2010
- Exhibit 22: Rental Office cover letter and order #20-10419 issued October 28, 2008
- Exhibit 23: Residential tenancy agreement - indeterminate lease dated April 24, 2006
- Exhibit 24: Residential tenancy agreement dated April 29, 2002
- Exhibit 25: Lease balance statement for April 1, 2013, to February 12, 2014
- Exhibit 26: Tenant ledger cards for April 9, 2010, to March 7, 2012