

IN THE MATTER between **Fort McPherson Housing Association**, Applicant, and
Laura Nerysoo, 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 **Hamlet of Fort McPherson in the
Northwest Territories**.

BETWEEN:

FORT MCPHERSON HOUSING ASSOCIATION

Applicant/Landlord

- and -

LAURA NERYSOO

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$210.00 (two hundred ten dollars).
2. Pursuant to section 45(4)(d) of the *Residential Tenancies Act*, the respondent must pay to the applicant compensation for reasonable expenses associated with an action taken by the applicant for which the respondent is responsible in the amount of \$50.00 (fifty dollars).

3. Pursuant to sections 45(4)(a) and 83(2) of the *Residential Tenancies Act*, the respondent must provide to the applicant Alfred Itsi's T2222 Northern Residents Deductions forms filed for 2010 and 2011 no later than March 31, 2014.

DATED at the City of Yellowknife in the Northwest Territories this 14th day of February 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Fort McPherson Housing Association**, Applicant, and
Laura Nerysoo, Respondent.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
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BETWEEN:

FORT MCPHERSON HOUSING ASSOCIATION

Applicant/Landlord

-and-

LAURA NERYSOO

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 16, 2014

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

Appearances at Hearing: Shirley Wilson, representing the Applicant
Laura Nerysoo, representing herself as the Respondent

Date of Decision: February 13, 2014

REASONS FOR DECISION

An application to a rental officer made by Fort McPherson Housing Association as the applicant/landlord against Laura Nerysoo as the respondent/tenant was filed by the Rental Office December 2, 2013. The application was made regarding a tenancy agreement for the rental premises known as #0057 James Simon Road in Fort McPherson, Northwest Territories. The applicant served a copy of the filed application package on the respondent by registered mail signed for December 6, 2013.

The applicant alleged the respondent had failed to comply with an order of the rental officer, had accumulated rental arrears, and had incurred a charge for failing to comply with an additional obligation. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for January 16, 2014. The parties were served notices of attendance by registered mail. Ms. Shirley Wilson appeared representing the applicant; Ms. Laura Nerysoo appeared representing herself as the respondent.

Ms. Wilson alleged that Ms. Nerysoo had accumulated rental arrears since September 2013 of \$210. Ms. Nerysoo was in a tenancy agreement for subsidized public housing and tenant ledger cards submitted into evidence showed a zero balance to the account on September 27, 2013, after which assessed rent of \$70 per month was applied for October, November, and December 2013 with no payments received from Ms. Nerysoo. Ms. Nerysoo did not dispute these rental arrears.

Ms. Wilson alleged that Ms. Nerysoo had incurred a charge of \$50 for requiring the after hours services of the applicant to open her door. A work order and invoice submitted into evidence support the call out and reflect the amount charged; the tenant ledger card submitted into evidence also reflects the \$50 charge applied to Ms. Nerysoo's account. Ms. Nerysoo did not dispute either the necessity for or the amount of this charge.

Ms. Wilson alleged that Ms. Nerysoo had failed to comply with an order of the rental officer. On September 11, 2013, a rental officer issued order number 20-13553 requiring Ms. Nerysoo to provide the income tax returns and T2222 forms of Alfred Itsi for 2010 and 2011. At the time of making this application, the applicant had not received the requested forms. On January 16,

2014, at hearing, Ms. Nerysoo provided Mr. Itsi's 2010 and 2011 income tax reassessments and 2012 T1 General; these were subsequently faxed to me. Not included in this package were the T2222 forms which were also required under the rental officer order. Ms. Wilson suggested Ms. Nerysoo had failed to comply with the order by not providing the T2222 forms.

Ms. Nerysoo indicated she believed the required forms were within those she provided, not having understood the T2222 forms are a separate form from those provided. She did not seem to understand the requirement for them, arguing that Mr. Itsi had not resided with her at the rental premises since 2010, that he lived at a cabin 25 minutes' drive from the community. She did not seem sure how to get the T2222 forms, but was willing to cooperate.

Tenancy agreement

The residential tenancy agreement submitted into evidence is for a month-to-month tenancy for subsidized public housing starting April 1, 2012. Ms. Nerysoo did not dispute that a valid tenancy agreement was in place. I am satisfied this is the case.

Rental arrears

The tenant ledger card submitted into evidence is the landlord's accounting of assessed rent and payments made by the tenant between April 9 and December 31, 2013. Ms. Nerysoo did not dispute the accuracy of the tenant ledger card. I am satisfied the tenant ledger cards accurately reflect payments made by Ms. Nerysoo during the identified period. I find Ms. Nerysoo has accumulated rental arrears of \$210.

Additional obligations - call-out

It is understood between the parties that the tenant is responsible for access to their own residences and should they lose their key or otherwise 'lock' themselves out due to their own negligence any call-out to open the door for them would result in the charging of a fee. Work order #979 dated November 5, 2013, reflects such a call-out and invoice number 14-061 dated December 4, 2013, reflects the associated fee charged of \$50. Ms. Nerysoo did not dispute this call out occurred and that she was responsible for the fee. I find Ms. Nerysoo liable for the \$50 call-out charge.

Failure to comply with rental officer order and termination of the tenancy agreement

Having read rental officer order number 20-13553 and reviewed the file in order to understand Ms. Nerysoo's arguments regarding whether or not Mr. Itsi resides with her and the purpose of the T2222 form, I have learned the rental officer's intent was to have Mr. Itsi's residence confirmed as the rental officer was not able to make a definitive determination on a balance of probabilities with the evidence that was before him. The form T2222 is the Northern Residents Deductions form normally completed when filing annual income tax returns. This form requires the identification of the applicant's street address within a prescribed zone. I believe it was the rental officer's intention to have the applicant rely on this document to confirm Mr. Itsi's residence in order for the applicant to properly determine whether or not Mr. Itsi's income should be included in the calculations of subsidized rent for Ms. Nerysoo's tenancy. The rental officer therefore included in his order the requirement to submit not only Mr. Itsi's income for 2010 and 2011, but also his T2222 forms for the same years.

The application before me today is made not to address again the question of Mr. Itsi's residence with Ms. Nerysoo but to determine whether or not Ms. Nerysoo has complied with an order of the rental officer. On this point I must rule that as of January 16, 2014, having not provided Mr. Itsi's T2222 forms for 2010 and 2011, she has not complied with the order of the rental officer. However, I also note that the rental officer did not order a due date for the submission of the documents. The consequence of termination of the tenancy agreement for failing to comply with an open-ended order, in my opinion, is not an appropriate response to the offence in this instance.

Previous rental officer orders between the parties have been complied with, including those with a due date identified for compliance, suggesting a substantial likelihood that Ms. Nerysoo would have complied with rental officer order #20-13553 had there been identified a due date for the documents. It is also apparent to me that Ms. Nerysoo did not in fact understand the distinction between the income tax returns and the T2222 forms, believing these were inclusive in the documents she printed and provided on January 16, 2014. I am satisfied that Ms. Nerysoo will provide Mr. Itsi's T2222 documents once she understands which forms are being requested. For clarity here, the T2222 documents are the Canada Revenue Agency Northern Residents Deductions form number T2222 filed by Alfred Itsi for 2010 and 2011.

An order will issue for Ms. Nerysoo to pay to the applicant \$210 for rental arrears, \$50 for the call-out fees, and that Ms. Nerysoo must provide to the applicant Mr. Itsi's T2222 Northern Residents Deductions forms for 2010 and 2011 no later than March 31, 2014.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Residential tenancy agreement - indeterminate lease dated April 1, 2012
- Exhibit 2: Respondent's Canada child tax benefit (CCTB) and Northwest Territories child tax benefit (NWTCB) notice dated July 19, 2013
- Exhibit 3: Rental Officer Order No. 20-13553 dated September 11, 2013
- Exhibit 4: Applicant's request for payment of rental arrears and tenant damages dated January 16, 2014
- Exhibit 5: Tenant ledger card for rent from April 9 to December 31, 2013
- Exhibit 6: Applicant's invoice #140961 dated December 4, 2013
- Exhibit 7: Applicant's work order #979 dated November 5, 2013
- Exhibit 8: Alfred Itsi's Canada Revenue Agency 2010 reassessment dated January 16, 2012
- Exhibit 9: Alfred Itsi's Canada Revenue Agency 2011 reassessment dated January 28, 2013
- Exhibit 10: Alfred Itsi's Canada Revenue Agency information return for electronic filing dated March 6, 2013
- Exhibit 11: Alfred Itsi's Canada Revenue Agency T1 General 2012
- Exhibit 12: Canada Revenue Agency's income tax and benefit return 2012 correspondence to Alfred Itsi dated July 26, 2013