

IN THE MATTER between **Lutsel K'e Housing Authority**, Applicant, and **Marcel Basil**, 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 community of Lutselk'e in the Northwest Territories**.

BETWEEN:

LUTSEL K'E HOUSING AUTHORITY

Applicant/Landlord

- and -

MARCEL BASIL

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a), 83(2), and 84(2) of the *Residential Tenancies Act*, rental officer order number 10-12990 is hereby rescinded and replaced with an order that the respondent must pay to the applicant rental arrears in the amount of \$8,084.00 (eight thousand eighty-four dollars). The rental arrears are to be paid in minimum monthly installments of \$50.00 (fifty dollars) to be paid each month in addition to the assessed monthly rent until the rental arrears are paid in full.
2. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent must submit all outstanding monthly income reports as requested by the applicant.

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

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Lutsel K'e Housing Authority**, Applicant, and **Marcel Basil**, 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.

BETWEEN:

LUTSEL K'E HOUSING AUTHORITY

Applicant/Landlord

-and-

MARCEL BASIL

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	February 25, 2014
<u>Place of the Hearing:</u>	Lutselk'e, Northwest Territories, via teleconference
<u>Appearances at Hearing:</u>	Michael Keohane, representing the applicant Marcel Basil, respondent
<u>Date of Decision:</u>	February 25, 2014

REASONS FOR DECISION

An application to a rental officer made by Lutsel K'e Housing Authority as the applicant/landlord against Marcel Basil as the respondent/tenant was filed by the Rental Office December 17, 2013. The application was made regarding a residential tenancy agreement for the rental premises known as Unit 228A, SK-018, in Lutselk'e, Northwest Territories. The applicant served a copy of the filed application package on the respondent by personal service January 3, 2014.

The applicant alleged the respondent had accumulated rental arrears and had failed to comply with a rental officer order. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for February 25, 2014. Notices of attendance were sent to the applicant by registered mail signed for January 27, 2014, and personally served on the respondent February 7, 2014. Mr. Michael Keohane appeared representing the applicant; Mr. Marcel Basil appeared representing himself as the respondent.

Mr. Keohane was affirmed; Mr. Basil refused to affirm. Mr. Basil further indicated he only happened to be in the building at the time of the hearing by coincidence and believed the hearing was actually scheduled for February 28, 2014. He had intended to present evidence and arguments regarding the condition of the rental premises at that time and was not prepared to do so at this time. I informed Mr. Basil the hearing today would only speak to the rental arrears and would not be discussing the condition of the rental premises as no application or information had been received regarding any complaints Mr. Basil might have in that regard; Mr. Basil would have to make application and submit evidence in support of his claims in order to proceed with a hearing regarding the condition of the rental premises. Mr. Basil agreed he could proceed today regarding the rental arrears, but still refused to affirm. I told Mr. Basil we could proceed without his affirmation but that I could not put as much weight to any testimony he might make. He reiterated he did not wish to affirm on the grounds that he had no evidence to provide which would benefit his position on the matter of the rental arrears. The hearing proceeded without Mr. Basil's affirmation.

Mr. Keohane testified that Mr. Basil is a tenant in subsidized public housing with the applicant. Rental officer order number 10-12990 dated October 3, 2012, ordered the payment of rental arrears of \$27,385, that future rent be paid on time, and that household income be reported as

required by the residential tenancy agreement. The amount of rental arrears of \$27,385, which had been reported as accumulated as of September 24, 2012, included the assessment of economic rent for some months. After the issuance of the rental officer order, Mr. Basil reported his income for the months of August 2011 to September 2012 which resulted in a re-assessment of his rent for that period such that the subsidy given reduced his rental arrears as of September 24, 2012 to \$4,494. Mr. Basil had made payments totalling \$350 as of November 21, 2013, reducing the previously ordered rental arrears to \$4,144. Mr. Keohane argued that Mr. Basil has failed to comply with rental officer order number 10-12990 by not paying the rental arrears.

Mr. Keohane further testified that since the last rental officer hearing, Mr. Basil had accumulated additional rental arrears between October 1, 2012, and February 25, 2014, in the amount of \$3,940. The total combined rental arrears as of February 25, 2014, are \$8,084. In light of the previous rental officer order being for an amount significantly higher than the total accumulated rental arrears sit at, Mr. Keohane proposed that rental officer order number 10-12990 could be rescinded and replaced with an order that would encompass the total accumulated rental arrears of \$8,084.

Mr. Keohane advised the payments that have been received have not come directly from Mr. Basil; rather they have been paid by Income Support. Mr. Basil has been notified in writing of his rental arrears and asked for payments to be made, to which Mr. Basil has not responded or made any efforts to resolve the matter.

The applicant and Income Support have entered into a mutual disclosure agreement whereby income reported by mutual clients is shared in order to facilitate the application of subsidies for rent. Mr. Basil did not report his income for the months of July and August 2013 to either Income Support or the applicant, resulting in the application of full economic rent of \$1,445 for each of those months. While it is possible that Mr. Basil was employed during those months, without reporting his income it is impossible for the applicant to calculate any subsidies Mr. Basil might be eligible for.

With respect to reporting his income, Mr. Basil indicated he is often out of the community for months at a time and his failure to report his income stems from his absence. It was clarified at hearing that this could be resolved by providing his annual income tax assessments, from which Mr. Keohane indicated Mr. Basil's rent subsidy could be assessed. Mr. Basil also advised his monthly income – which is supplemented by Income Support – has been just enough to pay for

his grocery and utilities bills, however he could afford to put \$50 per month towards his rental arrears. Mr. Keohane was receptive to this option, recognizing Mr. Basil's limited income. Mr. Keohane agreed that if Mr. Basil were to bring in his annual tax assessments, report his income every month, and make additional monthly payments towards his rental arrears the applicant would not seek to terminate the tenancy agreement at this time. The applicant's primary concern is for Mr. Basil to comply with his obligations as a tenant of subsidized public housing. Mr. Basil was agreeable to this plan.

Tenancy agreement

The residential tenancy agreement entered into evidence by the applicant is made between the parties for subsidized public housing on a month-to-month basis starting April 1, 2012. The reasons for decision of rental officer order number 10-12990 confirm the tenancy agreement between the parties has been in place since at least August 2011. Mr. Basil did not dispute the tenancy agreement. I am satisfied a valid tenancy agreement is in place and has been so since at least August 2011.

Rental arrears and reporting of household income

Section 6 of the residential tenancy agreement requires the tenant to report their household income whenever and as often as requested by the applicant's subsidy agent. The ledger cards, lease ledger, and lease balance statements submitted as evidence by the applicant reflect the applicant's accounting of assessed monthly rent, applied subsidies, and payments made against the account. Mr. Basil did not dispute these documents and the reflected accounting. I am satisfied they reflect accurate accounting, calculation of assessed rent, and payments made.

The lease ledger clearly reflects the subsidies applied for each month from August 2011 to November 2013 and the lease balance statement (Exhibit 9) reflects the subsidized rent applied for each month from August 2012 to February 1, 2014. In these records the only months that subsidies have not been applied are for July and August 2013 and February 2014. This lease balance statement reflects total rental arrears of \$9,459. At hearing, Mr. Keohane testified that since the submission of the lease balance statement the applicant had received a subsidy of \$1,375 from Income Support for the February 2014 rent, indicating Mr. Basil's household income had been reported to them. The household income reports for July and August 2013 remain outstanding. The adjusted total rental arrears balance owing as of February 25, 2014, is \$8,084.

Mr. Basil did not dispute the amount of rental arrears reported as outstanding by the applicant. Mr. Basil indicated he would be able to comply with a payment plan of \$50 per month to apply towards his rental arrears. Mr. Keohane agreed with this offer. I am satisfied a payment plan would be appropriate in this instance.

Mr. Keohane's suggestion to rescind rental officer order number 10-12990 and replace it with an order for the combined rental arrears owing has merit and I am satisfied it would be appropriate to do so under these circumstances. I find Mr. Basil has failed to comply with his obligation to report his household income as required and has accumulated rental arrears of \$8,084.

An order will issue rescinding rental officer order number 10-12990 and replacing it with an order that Mr. Basil pay rental arrears in the amount of \$8,084 in minimum monthly installments of \$50 in addition to his regularly assessed rent, and that he submit all outstanding household income report as required by the landlord.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Applicant's summary of requests dated December 16, 2013
- Exhibit 2: Residential tenancy agreement - indeterminate lease dated March 20, 2013
- Exhibit 3: Residential tenancy agreement - indeterminate lease dated March 22, 2012
- Exhibit 4: Ledger cards for rent from October 2012 to December 2013
- Exhibit 5: Rental Officer order number 10-12990 issued October 3, 2012
- Exhibit 6: Applicant's order of the rental officer #10-12990 correspondence to respondent dated February 5, 2013
- Exhibit 7: Applicant's unit #228A rental arrears \$33,144.00 as at August 19, 2013 correspondence to respondent dated August 19, 2013
- Exhibit 8: Lease balance statement for rent from April 1, 2012 to August 1, 2013
- Exhibit 9: Lease balance statement for rent from April 1, 2012, to February 1, 2014
- Exhibit 10: Lease ledger for rent from May 1, 2012, to February 13, 2014