

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Billy Nelson**, 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 hamlet of Fort Liard in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

BILLY NELSON

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 \$11,818.00 (eleven thousand eight hundred eighteen dollars).
2. Pursuant to section 41(4)(c) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Lot 224, Plan 1910, in Fort Liard, Northwest Territories is terminated effective June 13, 2014, and the respondent must vacate the rental premise on or before that date.

DATED at the City of Yellowknife in the Northwest Territories this 26th day of May 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Billy Nelson**, 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:

NWT HOUSING CORPORATION

Applicant/Landlord

-and-

BILLY NELSON

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: May 20, 2014

Place of the Hearing: Yellowknife, Northwest Territories, by teleconference

Appearances at Hearing: Ioan Astle, representing the applicant
Jerry Vanhantsaeme, representing the applicant
Todd Moran, representing the applicant

Date of Decision: May 20, 2014

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Billy Nelson as the respondent/tenant was filed by the Rental Office February 4, 2014. The application was made regarding a residential tenancy agreement for the rental premises known as Lot 224, Plan 1910, in Fort Liard, Northwest Territories. The applicant served a copy of the filed application on the respondent by registered mail signed for February 25, 2014.

The applicant alleged the respondent had accumulated rental arrears, and they sought an order for payment of the rental arrears and termination of the tenancy agreement. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for May 20, 2014. Ms. Ioan Astle, Mr. Jerry Vanhantsaeme, and Mr. Todd Moran appeared at hearing representing the applicant. Mr. Billy Nelson was served with a notice of attendance by registered mail signed for May 8, 2014. Mr. Nelson did not appear at hearing, nor did anyone appear on his behalf. The hearing proceeded in his absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

The representatives for the applicant testified that Mr. Nelson had been in a Supported Lease Program residential tenancy agreement for subsidized public housing with the landlord since May 1, 2003, for the rental premises known as Lot 224, Plan 1910, in Fort Liard, Northwest Territories. They confirmed Mr. Nelson has occupied the same rental premises throughout the tenancy. Since taking possession of the rental premises, Mr. Nelson has made one payment on April 14, 2010, in the amount of \$1,480 for rent.

Mr. Nelson's subsidized rent was calculated based on reported household income throughout the tenancy. Between January 2005 to March 2012 Mr. Nelson's income was low enough that he was not charged any rent for the period. Prior to and since that period, Mr. Nelson was charged the subsidized rent, which has now accumulated to the amount of \$13,014 as of May 20, 2014.

The applicant acknowledged the written tenancy agreement included in the application package was not a signed copy, however they indicated they would attempt to locate and provide the original lease agreement signed by Mr. Nelson. The applicant argued that Rental Officer order #10-11621 dated August 31, 2010, acknowledged Mr. Nelson's tenancy agreement was in place at that time and at least since January 2005, and by issuing an order for payment of rental arrears of \$1,196 – the rental arrears accumulated according to the applicant's internal ledger since May

2003 – the Rental Officer implied acknowledgement that the tenancy agreement started in May 2003. Rental Officer order #10-11621 for payment of the rental arrears of \$1,196 remains outstanding and this amount is included in the total alleged rental arrears of \$13,014.

Mr. Nelson was notified by the applicant of his outstanding rental arrears on several occasions. Although Mr. Nelson has spoken with the applicant regarding other matters which remain unresolved (and which are not before this tribunal), he has not approached the applicant to resolve the matter of his rental arrears. Due to the substantial amount of rent owing and Mr. Nelson's failure to attempt to resolve the arrears, the applicant reiterated their request for an order that Mr. Nelson pay the rental arrears and terminating the tenancy agreement. The applicant acknowledged they failed to specify on the application to a rental officer a request for an eviction order and did not pursue one at hearing.

Tenancy agreement

The residential lease agreement submitted into evidence was an unsigned copy of an agreement under the Supported Lease Program. The applicant testified under oath that Mr. Nelson had been in a residential tenancy agreement with the applicant in subsidized public housing under the Supported Lease Program since May 2003; Rental Officer order #10-11621 supports the applicant's submission regarding the length of occupancy. The applicant was also able to provide a copy of the lease agreement signed by Mr. Nelson April 3, 2003, post-hearing which confirms the tenancy began May 1, 2003. Testimony confirmed Mr. Nelson has occupied the same rental premises throughout the tenancy as he currently occupies, that being the rental premises known as Lot 224, Plan 1910, in Fort Liard, Northwest Territories. I am satisfied a valid residential tenancy agreement for subsidized public housing is in place and has been continuous since May 2003.

Rental arrears

The internal ledger and lease balance statements are the landlord's accounting of assessed rent and payments made between May 1, 2003, and March 1, 2015; it includes the application of projected assessed rent for June 2014 to March 2015, which portion will not be included in my determination. I am satisfied the calculation of the assessed rent as reflected in the landlord's accountings is accurate for the period between May 1, 2003, and May 1, 2014. I am also satisfied the payments made by the tenant are accurately reflected in the landlord's accounting. I find the total amount of rental arrears owing as of May 20, 2014, is \$13,014. .../4

Rental Officer order #10-11621 requires the respondent to pay rental arrears in the amount of \$1,196, representing rental arrears accumulated to August 31, 2010; this amount remains outstanding and is included in the current rental arrears total of \$13,014. Order #10-11621 remains valid and enforceable, therefore the amount of \$1,196 will be deducted from the rental arrears determined today to result in a total amount of rental arrears ordered to be paid of \$11,818.

Termination of tenancy agreement

Mr. Nelson's failure to pay any amount of rent since the single payment in April 2010, and his failure to communicate with the landlord to address the matter, have resulted in substantial rental arrears for any rental premises, whether subsidized or not. The applicant has kept Mr. Nelson aware of the amount of his rental arrears on a regular basis. I am satisfied termination of the tenancy is justified in this case.

An order will issue for Mr. Nelson to pay rental arrears in the amount of \$11,818 and terminating the tenancy agreement on June 13, 2014.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Residential lease agreement (supported lease program - SLP)
- Exhibit 2: Internal ledger to NWTTC for rent from May 1, 2003, to January 1, 2014
- Exhibit 3: Applicant's payment change correspondence to respondent dated November 13, 2013
- Exhibit 4: Applicant's payment change correspondence to respondent dated October 17, 2013
- Exhibit 5: Applicant's payment change correspondence to respondent dated January 28, 2014/September 1, 2012
- Exhibit 6: Lease balance statement for rent from April 1, 2014, to March 1, 2015
- Exhibit 7: Lease balance statement for rent from April 13, 2013, to March 1, 2014
- Exhibit 8: E-mail conversation between Betty Hardisty and Jennifer Vachon dated May 13, 2014
- Exhibit 9: Applicant's supported lease program correspondence to respondent dated January 27, 2014/March 11, 2014
- Exhibit 10: Lease agreement made April 3, 2003