

IN THE MATTER between **Fort Resolution Housing Authority**, Applicant, and
Raymond Beaulieu, 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 Fort Resolution in the Northwest
Territories.**

BETWEEN:

FORT RESOLUTION HOUSING AUTHORITY

Applicant/Landlord

- and -

RAYMOND BEAULIEU

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 \$3,555 (three thousand five hundred fifty-five dollars).
2. Pursuant to section 54(4) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Unit #703-A in Fort Resolution, Northwest Territories, is terminated effective February 2, 2014.

3. Pursuant to sections 63(4)(b) and 67(4) of the *Residential Tenancies Act*, the respondent must compensate the applicant for the use and occupation of the rental premises known as Unit #703-A in Fort Resolution, Northwest Territories, in the amount of \$75 for the month of May plus \$50.79 for each day the respondent remains in the rental premises after May 31, 2014.

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

Adelle Guigon
Deputy Rental Officer

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REASONS FOR DECISION

Date of the Hearing: May 20, 2014
Place of the Hearing: Fort Resolution, Northwest Territories, via teleconference
Appearances at Hearing: Elizabeth Ann McKay, representing the applicant
Date of Decision: May 20, 2014

REASONS FOR DECISION

The Fort Resolution Housing Authority, the applicant/landlord, made an application to a rental officer against Raymond Beaulieu, the respondent/tenant, regarding a residential tenancy agreement for the rental premises known as Unit #703-A in Fort Resolution, Northwest Territories. The application was filed by the Rental Office February 6, 2014. The applicant served a copy of the filed application on the respondent by registered mail signed for February 19, 2014.

The applicant alleged the respondent had accumulated rental arrears, that the tenancy agreement had been terminated in accordance with the Act, and the respondent remained in the rental premises as an overholding tenant. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for May 20, 2014. Ms. Elizabeth Ann McKay appeared at hearing representing the applicant. Mr. Raymond Beaulieu was served with a notice of attendance by registered mail sent April 29, 2014. It was deemed served May 6, 2014, pursuant to section 71(5) of the Act. Mr. Beaulieu did not appear at hearing; the hearing proceeded in his absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Ms. McKay testified that Mr. Beaulieu had been a tenant in subsidized public housing with the landlord since December 1, 2007. Until July 2012, Mr. Beaulieu was directly responsible for paying his rent and rental arrears were largely accumulated prior to this date; as of July 2012, Mr. Beaulieu's assessed rent was paid by income support. Mr. Beaulieu entered into two payment plans with the applicant – one in September 2009 and one in June 2011; although some efforts were made to comply with the payment plan, they were not completed and the rental arrears remained outstanding. Mr. Beaulieu was given several warnings throughout the years regarding the outstanding arrears. The last payment received directly from Mr. Beaulieu was on April 3, 2013, for \$200.

On January 2, 2014, the applicant served a notice on Mr. Beaulieu terminating his tenancy agreement effective February 2, 2014, pursuant to section 54(1)(g) of the Act for failing to pay the full amount of rent owing; this notice was served on Mr. Beaulieu by registered mail signed for January 10, 2014. Mr. Beaulieu failed to vacate the rental premises on or before February 2, 2014, as requested, and remains an overholding tenant in the rental premises to date.

Ms. McKay testified that the applicant receives copies of Mr. Beaulieu's household income reports from income support by his consent, and it is from these reports that Mr. Beaulieu's rent subsidy is calculated. Having received the reports for February, March, and April 2014, the applicant has applied subsidized rent in the amount of \$75 per month against Mr. Beaulieu's overholding rent account, which income support has paid on his behalf. Referencing the lease balance statement submitted by the applicant, Ms. McKay confirmed that Mr. Beaulieu's income has not changed since March 2013, therefore his subsidized rent has consistently been assessed at \$75 per month and income support has paid this amount each month on his behalf. As of May 20, 2014, an income report had not been received from income support for Mr. Beaulieu; the applicant has applied the economic rent of \$1,545 for the month of May, however, she is agreeable to applying the assessed subsidized rent of \$75 instead. Ms. McKay confirmed that no payment in any amount has been received from either income support or Mr. Beaulieu for the May rent.

Ms. McKay requested an order for payment of the rental arrears to January 31, 2014, confirmation of the termination of the tenancy agreement effective February 2, 2014, payment of overholding rent for May in the amount of \$75, eviction, and compensation for use and occupation for each day Mr. Beaulieu remains in the rental premises after May 31, 2014.

Tenancy agreement

Residential tenancy agreements entered into evidence by the applicant, along with supporting testimony, establish that Mr. Beaulieu has held a continuous tenancy agreement for subsidized public housing in the rental premises known as Unit #703-A in Fort Resolution, Northwest Territories, since December 1, 2007.

Rental arrears

The lease balance statement and tenant ledger cards submitted into evidence by the applicant are the landlord's accounting of assessed monthly rent and payments made between December 1, 2007, and January 1, 2014. Ms. McKay confirmed in her testimony that the rent applied for January 2014 of \$1,545 has been reversed and assessed rent of \$75 applied after having received the required household income report. She further confirmed that the \$75 assessed rent for January 2014 was paid by income support on Mr. Beaulieu's behalf. I am satisfied the lease balance statements, cards, and Ms. McKay's testimony accurately establish the rental arrears as of January 31, 2014, in the amount of \$3,555.

Termination of tenancy agreement

A copy of a notice of termination issued by the applicant against Mr. Beaulieu was submitted into evidence, along with a copy of a confirmation of service by registered mail reflecting that Mr. Beaulieu signed for the notice on January 10, 2014. The notice advised Mr. Beaulieu that his tenancy agreement was being terminated by the landlord on February 2, 2014, in accordance with section 54(1)(g) of the Act as a result of his repeated failure to pay rent.

Section 54(1)(g) of the Act specifies that a landlord may at any time give a tenant a notice of termination of at least 10 days where the tenant has repeatedly failed to pay the full amount of the rent. Section 55(3) of the Act specifies the required contents of a notice of termination by a landlord as: it must be in writing, signed by the landlord or agent, identify the rental premises, state the tenancy's termination date, and state the reason for termination of the tenancy. Section 71(1)(b) of the Act specifies registered mail as an acceptable method of service of notices. I am satisfied the requirements of each of these three sections of the Act have been satisfied.

Section 54(4) of the Act requires a landlord to file an application to a rental officer after giving a notice of termination under section 54(1) of the Act, from which a Rental Officer may make an order terminating the tenancy. Having been satisfied that Mr. Beaulieu has in fact failed to pay the full amount of his rent and carries substantial arrears, I find the landlord's notice to terminate the tenancy valid and confirm the tenancy was terminated February 2, 2014.

Overholding rent

As Mr. Beaulieu remains in possession of the rental premises, and having confirmed that his tenancy agreement was terminated February 2, 2014, I find Mr. Beaulieu is in overholding occupancy of the rental premises and is liable for overholding rent for the months of February to May 2014.

Ms. McKay has testified that the applicant did receive household income reports for Mr. Beaulieu from income support for the months of February to April, inclusive, from which the overholding rent was assessed subsidized rent in the amount of \$75 per month. Ms. McKay further testified that income support has paid the \$75 per month for February, March, and April on Mr. Beaulieu's behalf. Neither an income report nor a payment from income support has been received for the month of May 2014.

At the termination of the tenancy agreement on February 2, 2014, Mr. Beaulieu ceased to be a tenant of subsidized public housing and the applicant could have assessed overholding rent against Mr. Beaulieu for the full economic rent specified in the residential tenancy agreement of \$1,545; the applicant has graciously declined to do so as long as they continued to receive the household income reports each month. The lease balance statements and tenant ledger cards support the determination that historically Mr. Beaulieu consistently reports his income every month, and since his income has not changed since March 2013 Mr. Beaulieu's assessed rent has been \$75. To my mind it is reasonable to apply overholding rent based on an assessed subsidy of \$75 for the month of May and I find Mr. Beaulieu has overholding rental arrears in the amount of \$75.

Eviction and compensation for use and occupation

Ms. McKay has requested an order evicting Mr. Beaulieu from the rental premises. Having established that Mr. Beaulieu has repeatedly failed to honour his tenancy agreement, that his tenancy has been terminated in accordance with the Act, and that Mr. Beaulieu remains in possession of the rental premises, I find an eviction order is justified.

Mr. Beaulieu has already been assessed rent for the month of May as an overholding tenant. I find that compensation to the landlord for use and occupation of the rental premises for each day Mr. Beaulieu remains in the rental premises after May 31, 2014, is justified, and the daily rate to be applied will be calculated based on the full economic rent of \$1,545.

An order will issue terminating Mr. Beaulieu's tenancy agreement February 2, 2014, evicting Mr. Beaulieu from the rental premises June 2, 2014, and requiring Mr. Beaulieu to pay rental arrears in the amount of \$3,555, to pay overholding rent in the amount of \$75, and to pay compensation for use and occupation of the rental premises at a rate of \$50.79 for each day he remains in the rental premises after May 31, 2014. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Applicant's notice of termination - Residential Tenancy Act s. 54(1) correspondence to respondent dated January 2, 2014, and confirmation of service of registered mail on January 10, 2014
- Exhibit 2: Lease balance statement for July 1, 2012, to January 1, 2014
- Exhibit 3: Tenant ledger cards for December 2007 to March 2013
- Exhibit 4: Applicant's correspondence to respondent dated November 29, 2013
- Exhibit 5: Applicant's correspondence to respondent dated November 11, 2013
- Exhibit 6: Applicant's outstanding rental arrears correspondence to respondent dated August 3, 2012
- Exhibit 7: Applicant's correspondence to respondent dated March 14, 2012
- Exhibit 8: Applicant's correspondence to respondent dated February 29, 2012
- Exhibit 9: Applicant's correspondence to respondent dated August 17, 2011
- Exhibit 10: Respondent's acknowledgement of debt to applicant signed June 14, 2011
- Exhibit 11: Applicant's correspondence to respondent dated February 1, 2011
- Exhibit 12: Applicant's correspondence to respondent dated March 1, 2010
- Exhibit 13: Respondent's acknowledgement of debt to application signed September 30, 2009
- Exhibit 14: Applicant's correspondence to respondent dated August 7, 2009
- Exhibit 15: Applicant's correspondence to respondent dated May 26, 2009
- Exhibit 16: Applicant's correspondence to respondent dated February 27, 2009
- Exhibit 17: Applicant's correspondence to respondent dated December 1, 2008
- Exhibit 18: Applicant's correspondence to respondent dated May 30, 2008
- Exhibit 19: Applicant's correspondence to respondent dated April 7, 2008
- Exhibit 20: Applicant's correspondence to respondent dated February 29, 2008
- Exhibit 21: Residential tenancy agreement fixed term lease dated October 1, 2013
- Exhibit 22: Residential tenancy agreement fixed term lease dated July 2, 2013
- Exhibit 23: Residential tenancy agreement fixed term lease dated April 9, 2013
- Exhibit 24: Residential tenancy agreement fixed term lease dated December 31, 2012
- Exhibit 25: Residential tenancy agreement fixed term lease dated March 30, 2012
- Exhibit 26: Residential tenancy agreement fixed term lease dated September 30, 2011

- Exhibit 27: Residential tenancy agreement fixed term lease dated June 30, 2011
- Exhibit 28: Residential tenancy agreement fixed term lease dated April 1, 2011
- Exhibit 29: Residential tenancy agreement fixed term lease dated December 30, 2010
- Exhibit 30: Residential tenancy agreement fixed term lease dated October 30, 2010
- Exhibit 31: Residential tenancy agreement fixed term lease dated June 30, 2010
- Exhibit 32: Residential tenancy agreement fixed term lease dated March 31, 2010
- Exhibit 33: Residential tenancy agreement fixed term lease dated December 31, 2009
- Exhibit 34: Residential tenancy agreement fixed term lease dated December 31, 2009
- Exhibit 35: Residential tenancy agreement fixed term lease dated June 30, 2009
- Exhibit 36: Residential tenancy agreement fixed term lease dated April 1, 2009
- Exhibit 37: Residential tenancy agreement fixed term lease dated September 30, 2008
- Exhibit 38: Residential tenancy agreement fixed term lease dated June 30, 2008
- Exhibit 39: Residential tenancy agreement fixed term lease dated April 1, 2008
- Exhibit 40: Residential tenancy agreement fixed term lease dated November 30, 2007
- Exhibit 41: Monthly rent calculation forms for June 2010 to December 2011, February 2012, and July 2012 to December 2013
- Exhibit 42: Lease balance statement for July 1, 2012, to May 1, 2014