

IN THE MATTER between **Rhonda Schnee**, Applicant, and **Ahmed El Sais**,
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 town of Inuvik in the Northwest Territories**.

BETWEEN:

RHONDA SCHNEE

Applicant/Tenant

- and -

AHMED EL SAIS

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 30(4)(a) of the *Residential Tenancies Act*, the respondent must comply with his obligation to continuously maintain the entire length of the access road to the Balsom Trailer Court in Inuvik, Northwest Territories, in a good state of repair.

DATED at the City of Yellowknife in the Northwest Territories this 6th day of May 2014.

Adelle Guigon
Deputy Rental Officer

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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:

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	April 22, 2014
<u>Place of the Hearing:</u>	Inuvik, Northwest Territories
<u>Appearances at Hearing:</u>	Rhonda Schnee, applicant Ahmed El Sais, respondent
<u>Date of Decision:</u>	April 22, 2014

REASONS FOR DECISION

An application to a rental officer made by Rhonda Schnee as the applicant/tenant against Ahmed El Sais as the respondent/landlord was filed by the Rental Office March 20, 2014. The application was made regarding a residential tenancy agreement for the rental premises known as 6 Balsom in Inuvik, Northwest Territories. The applicant served a copy of the filed application on the respondent by personal service April 6, 2014.

The applicant alleged the respondent had failed to comply with his obligation to maintain access road to the residential complex in a good state of repair.

A hearing was scheduled for April 22, 2014. Ms. Rhonda Schnee appeared at hearing representing herself as the applicant. Mr. Ahmed El Sais appeared at hearing representing himself as the respondent.

Ms. Schnee testified that is in verbal residential tenancy agreement with Mr. El Sais for the land upon which the mobile home she owns sits and has been a tenant at this residence for more than 15 years, which is longer than Mr. El Sais has owned the trailer park. She alleged that over the last few years Mr. El Sais has only maintained the front part of the access road to the trailer park throughout the year, which is the part of the road visible to the public. Ms. Schnee testified that the back part of the road – where her trailer is located – was a narrow road and during the last winter Mr. El Sais only cleared the snow on the back road three times, and only just up to her own driveway; the remainder of the access road was left uncleared. Although the properties along the remainder of the access road are not currently lived in, access to them is required for service vehicles and other vehicles to execute turns to exit the trailer park. By not clearing the snow in this section the road was in a poor condition and vehicles attempting to turn around would usually get stuck, and occasionally would hit Ms. Schnee's trailer as a result of the force required to move their vehicles. Ms. Schnee also testified that during the spring, summer, and fall seasons the access road is littered with pot holes which risk damaging vehicles attempting to access to residences.

Mr. El Sais argued that he complied with his obligation to clear the access road of snow by doing so three times over the course of this last winter, and justified not going further than Ms. Schnee's trailer due to the remaining properties not being occupied. He argued that the service vehicles that need access to the trailers along the back access road are supposed to back into or out of the access road, not turn around at the end of it. Mr. El Sais also argued that the community had only one large snow storm, which occurred just after he had cleared the snow in December 2013; the snow which had accumulated over the season was not significant and had been packed down to just a few centimetres thick. Ms. Schnee countered that the packing of the snow only occurred where vehicles had driven, and did not account for the condition of the part of the road where the service vehicles would turn around. She also countered that the service vehicles are generally large vehicles (i.e. garbage trucks, fuel delivery trucks, etcetera) which are not conducive to driving in reverse in such a narrow space and that it was unreasonable to expect them to be able to. Ms. Schnee testified that this last winter the garbage delivery driver had actually threatened not to enter the back access road and that the residents in that section would have to bring their garbage bins to the front for pick up if the section of the road where the trucks turn around was not cleared.

Ms. Schnee provided photographs on her cell phone and digital camera of the area for viewing at the hearing, which established a visual reference against which to consider the testimony given. Some of the photographs were taken in the winter prior to the last snow removal, which occurred in April 2014, and some of the photographs were taken after. Both parties agreed they accurately represented the back access road. Ms. Schnee agreed to provide copies of these photographs for inclusion in the application file (NB: the photographs were not received by the time of writing these reasons).

In consideration of the evidence before me, I am satisfied that the access road to the back part of the trailer park has not been maintained as completely as it should be. It is not unreasonable to me to expect the access road to be cleared and maintained all the way to the end of the road to accommodate facilitation of services to the residences that are occupied and to reduce the risk of harm to the property of the tenants. Although the photographs were not clear as to the existence of potholes in the road, Mr. El Sais's obligation as the landlord to maintain the access road is evident and an order will issue requiring Mr. El Sais to comply with this obligation.

Adelle Guigon
Deputy Rental Officer