

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Leanne Moosenose and James Mackenzie**, Respondents;

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 **community of Whati in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

LEANNE MOOSENOSE and JAMES MACKENZIE

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 83(2) of the *Residential Tenancies Act*, the respondents must pay to the applicant rental arrears in the amount of \$11,779.00 (eleven thousand seven hundred seventy-nine dollars) in minimum monthly installments of \$354.00 (three hundred fifty-four dollars).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents must pay their rent on time in the future.

DATED at the City of Yellowknife in the Northwest Territories this 16th day of June 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Leanne Moosenose and James Mackenzie**, Respondents.

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-

LEANNE MOOSENOSE and JAMES MACKENZIE

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: May 30, 2014

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

Appearances at Hearing: Jessica Relucio, representing the applicant
Leanne Moosenose, respondent
James Mackenzie, respondent

Date of Decision: May 30, 2014

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Leanne Moosenose and James Mackenzie as the respondents/tenants was filed by the Rental Office February 27, 2014. The application was made regarding a residential tenancy agreement for the rental premises known as Unit #1116 in Whati, Northwest Territories. The applicant served a copy of the filed application on the respondents by personal service March 6, 2014.

The applicant alleged the respondents had accumulated rental arrears. Evidence submitted is listed in Appendix A attached to this order.

A hearing was originally scheduled for May 23, 2014. Notices of attendance were sent to the parties which were picked up by the applicant April 30, 2014, and signed for by registered mail by the respondents on May 8, 2014. Ms. Jessica Relucio, representing the applicant, contacted the rental officer May 21, 2014, to advise she would not be available for the hearing due to a medical family emergency. With the consent of the respondents, the hearing was postponed to May 30, 2014, and confirmation of this postponement was made by e-mail to all parties. Ms. Jessica Relucio appeared representing the applicant and Ms. Leanne Moosenose and Mr. James Mackenzie appeared as respondents.

Ms. Relucio testified the respondents had been tenants in subsidized public housing since November 21, 2011, in the rental premises known as Unit #1116 in Whati, Northwest Territories. The respondents were eligible for a rent subsidy based on their reported household income until April 30, 2013, after which their reported household income was greater than the maximum eligible for a rent subsidy. As of March 1, 2013, the respondents were charged the maximum economic rent for the rental premises.

Ms. Relucio acknowledged the respondents have been making regular payments since November 2013, consisting of payments for the monthly rent as well as payments through self-initiated payroll deductions in the amounts of \$354. On December 1, 2013, the respondents had reached a rental arrears high of \$15,502; as of May 30, 2014, the respondents had reduced their rental arrears to \$11,878, according to the applicant's lease balance statement and Ms. Relucio's testimony.

The applicant's December 12, 2013, correspondence to the respondents confirmed the results of a meeting between the parties regarding the rental arrears and income assessments. The correspondence referenced an understanding that a payment plan for an affordable amount to be paid on the tenants' arrears would be determined at the rental officer hearing. The respondents made additional payments of \$354 by regular payroll deductions starting in November 2013 in anticipation of a payment plan arrangement.

The respondents acknowledged their debt to the applicants and did not dispute the amount of \$11,878 as of May 30, 2014. They indicated at hearing they would be able to continue making additional monthly payments towards their arrears in the amount of \$354, as has already been arranged with their employer.

Tenancy agreement

The residential tenancy agreement between the parties entered into evidence is for subsidized public housing for the rental premises known as Unit #1116 in Whati, Northwest Territories. The tenancy agreement began November 21, 2011. The respondents did not dispute the tenancy agreement and I am satisfied a valid tenancy agreement is in place.

Maximum monthly rent

Schedule A of the residential tenancy agreement specifies the maximum monthly rent for the rental premises as \$1,536. The lease balance statement, which is the landlord's accounting of monthly rent and payments received, shows the rent amount charged for May 2013 to May 2014 as \$1,545 per month. The correspondence from the applicant to the respondents dated December 12, 2013, was confirmed by the respondents at hearing as accurately reflecting the discussions that were had between the parties at the December 10, 2013, meeting; this includes a notification that the respondents would be assessed the maximum economic rent of \$1,545 per month as the respondents' income exceeds the income threshold for Whati.

Section 47(2) of the Act specifies that any notice of rent increase must be given in writing by the landlord at least three months before the date the rent increase is to be effective. As there was no indication of prior notification of the increase to the maximum economic rent for the rental premises before the December 13th correspondence, charging \$1,545 per month for rent cannot be applied until April 1, 2014. Therefore, the rental arrears owing must be reduced by \$99, representing the difference between \$1,536 and \$1,545 over 11 months.

Rental arrears and payment plan

As mentioned, the lease balance statement is the landlord's accounting of monthly rent and payments received. I am satisfied this statement accurately reflects the payments made by the respondents. The total rental arrears reflected on the lease balance statement of \$11,878 must be reduced by \$99, as referenced above. I find the respondents have accumulated rental arrears as of May 30, 2014, in the amount of \$11,779.

The lease balance statement reflects regular payments since November 2013 in the amount of \$354 by employee deductions, which corroborates the respondents testimony that they have addressed and are able to make these regular payments in addition to their regular monthly rent to pay their rental arrears. The applicant was not opposed to the incorporation of a payment plan into any order for payment; they did qualify this with the recognition that the applicant could file an application to a rental officer for an order to terminate the tenancy and evict the tenant should the respondents fail to comply with their obligation to either pay the rent or make the payment plan payments. I am satisfied a conditional order for payment of rental arrears incorporating a payment plan is reasonable and viable in this instance.

An order will issue for the respondents to pay rental arrears in the amount of \$11,779 in minimum monthly installments of \$354, and for the respondents to pay their rent on time in the future.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Statement dated March 31, 2012
- Exhibit 2: Lease balance statement dated March 31, 2014
- Exhibit 3: Applicant's public unit #1116, Wha Ti correspondence to respondent dated December 12, 2013
- Exhibit 4: Applicant's outstanding rental arrears correspondence to respondent dated December 9, 2013
- Exhibit 5: Applicant's outstanding rental arrears correspondence to respondent dated June 8, 2013
- Exhibit 6: Lease balance statement for rent from April 1, 2012, to June 1, 2013
- Exhibit 7: Rent calculation forms for June to December 2013
- Exhibit 8: Applicant's correspondence to respondent dated February 21, 2012
- Exhibit 9: Residential tenancy agreement fixed term lease dated November 21, 2011
- Exhibit 10: Applicant's outstanding rental arrears - 45 days correspondence to respondents dated May 27, 2014
- Exhibit 11: Lease balance statement for rent from March 22, 2012, to June 1, 2014