

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Iris Catholique**, 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:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

IRIS CATHOLIQUE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 84(2) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$34,316.00 (thirty-four thousand three hundred sixteen dollars) in minimum monthly installments of \$200.00 (two hundred dollars) starting in October 2014 until the rental arrears are paid in full.

2. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as Unit 46 in Lutselk'e, Northwest Territories, will terminate March 31, 2015, unless the minimum monthly payments and rent for the months of October 2014 to March 2015 have been paid on time.

DATED at the City of Yellowknife in the Northwest Territories this 25th day of September 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Iris Catholique**, 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-

IRIS CATHOLIQUE

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	September 23, 2014
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Jessica Relucio, representing the applicant Iris Catholique, respondent
<u>Date of Decision:</u>	September 23, 2014

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Iris Catholique as the respondent/tenant was filed by the Rental Office July 3, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit 46 in Lutselk'e, Northwest Territories. The applicant served a copy of the filed application on the respondent by registered mail signed for July 15, 2014.

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

A hearing was scheduled for September 23, 2014, by teleconference. Ms. Jessica Relucio appeared representing the applicant. Ms. Iris Catholique appeared as respondent.

Tenancy agreement

Ms. Relucio testified that Ms. Catholique has been a tenant in subsidized public housing since October 2003. The initial lease agreement was between the applicant and Ms. Catholique and Mr. Kevin Farr as joint tenants. All three parties signed that lease agreement October 10, 2003. The subsequent tenancy agreement was effective August 2008; although it names both Iris Catholique and Kevin Farr as joint tenants on the face of the document, Mr. Farr did not in fact sign it; nor did the landlord's agent. In February 2013, Ms. Catholique also provided the applicant with a statutory declaration confirming that she and Mr. Farr separated in December 2005.

Section 9(4) of the *Residential Tenancies Act* (the Act) specifies that a tenancy agreement is deemed to be in writing where it has been signed by one party, given to the other party, and the tenant is permitted to take occupancy of the rental premises. The August 2008 tenancy agreement was signed by Ms. Catholique, given to the landlord, and Ms. Catholique was permitted to retain possession of the rental premises. The failure to include Mr. Farr's signature on the document prior to returning the document to the landlord considered in conjunction with Ms. Catholique's statutory declaration that Mr. Farr had not resided with her since December 2005 convinces me that Mr. Farr was not a party to the August 2008 tenancy agreement.

To my mind, section 9(4) of the Act has been satisfied and a valid written tenancy agreement exists commencing August 1, 2008, between the NWT Housing Corporation and Iris Catholique. The August 2008 tenancy agreement effectively ended the October 2003 tenancy agreement on July 31, 2008.

Ms. Relucio originally argued that because the August 2008 tenancy agreement was not signed by the landlord that it was of no effect and the October 2003 tenancy agreement therefore remained in effect. With this in mind, she requested an order to terminate the tenancy so as to remove Mr. Farr from the tenancy agreement. Even had Ms. Relucio been correct in her interpretation that the October 2003 tenancy agreement remained in effect, I could not consider an order terminating the tenancy agreement at this hearing because Mr. Farr was not notified either of the filed application to a rental officer or of this hearing and therefore was not given the opportunity to speak to the matter. This of course becomes a mute point after having determined the October 2003 tenancy agreement ended in 2008.

Rental arrears

Ms. Relucio testified that Ms. Catholique had rental arrears in the amount of \$70,640.20, which was evidenced by a statement of account and lease balance statement. These two documents represent the landlord's accounting of monthly assessed rent and payments received since October 13, 2003 – when the original joint tenancy began. Ms. Catholique did not dispute the accuracy of the calculations represented in the statement of account and lease balance statement. Ms. Relucio confirmed the monthly rents reflected in these documents are subsidized rents based on reported household income in accordance with the tenancy agreements for subsidized public housing.

Section 68(1) of the Act specifies an application to a rental officer must be made within six months after the breach of an obligation arose. Ms. Relucio testified, with the statement of account and lease balance statement as corroboration, that no payments have been received from the tenant for rent since the start of the tenancy. Ms. Catholique did not dispute this. Why an application to a rental officer was not made years prior to now was not discussed at hearing. Section 68(3) of the Act does allow a rental officer to extend the time for the making of an application where the rental officer is of the opinion that it would not be unfair to do so. Having determined that the October 2003 tenancy agreement ended July 31, 2008, it is my opinion that it would be unfair to consider rental arrears accumulated under that tenancy agreement six years after they arose.

The value of the rental arrears accumulated between October 13, 2003, and July 31, 2008, will be deducted from the total rental arrears claimed as follows:

Assessed rent for October 2003	\$490.20
Assessed rent for November 2003 to December 2004 at \$800 per month	\$11,200.00
Assessed rent for January to December 2005 at \$715 per month	\$8,580.00
Assessed rent for January to December 2006 at \$572 per month	\$6,864.00
Assessed rent for January to December 2007 at \$753 per month	\$9,036.00
Assessed rent for January to July 2008 at \$22 per month	\$154.00
<i>Sub-total of assessed rent for October 2003 to July 2008</i>	<u>\$36,324.20</u>
Accumulated rental arrears claimed as of September 2014 as per lease balance statement	\$70,640.20
Less sub-total of assessed rent for October 2003 to July 2008	\$36,324.20
Total accumulated rental arrears for August 2008 to September 2014	<u>\$34,316.00</u>

I find Ms. Catholique liable for rental arrears accumulated in the amount of \$34,316. Ms. Catholique testified that she would be able to commit to a monthly payment plan of \$200 towards her rental arrears in addition to her monthly assessed rent. She also indicated a desire to resolve her rental arrears as soon as possible and intended to put additional funds as they became available towards them. Ms. Relucio confirmed Ms. Catholique has been in regular discussions with her and the applicant was not opposed to the incorporation of a payment plan into an order for payment of rental arrears.

Termination of the tenancy agreement

Ms. Relucio testified the applicant's intention going forward would be to enter into a new tenancy agreement with Ms. Catholique clearly identifying her as the sole tenant for the rental premises, and further delineating recent changes to the subsidized public housing policies. However, in this case the lack of any rent payments being made by the tenant throughout the tenancy and the significant accumulation of rental arrears justifies the implementation of an order conditionally terminating the tenancy agreement. It was agreed at hearing that unless the minimum monthly payments and monthly rent for October 2014 to March 2015 are paid on time, termination of the tenancy agreement on March 31, 2015, would be appropriate.

An order will issue requiring Ms. Iris Catholique to pay rental arrears in the amount of \$34,316 in minimum monthly installments of \$200 starting in October 2014, and terminating the tenancy agreement March 31, 2015, unless the minimum monthly payments and monthly rent for October 2014 to March 2015 are paid on time.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Statement of account as of March 31, 2012
- Exhibit 2: Lease balance statement for April 1, 2012, to July 2, 2014
- Exhibit 3: Email from Jessica Relucio to Iris Catholique dated July 2, 2014
- Exhibit 4: Applicant's correspondence to respondent dated July 2, 2014
- Exhibit 5: Lease balance statement dated May 16, 2014
- Exhibit 6: Applicant's correspondence to respondent dated May 26, 2014
- Exhibit 7: Applicant's payment change correspondence to respondent dated February 6, 2014
- Exhibit 8: Applicant's payment change correspondence to respondent dated February 6, 2014
- Exhibit 9: Applicant's outstanding rental arrears correspondence to respondent dated May 26, 2014
- Exhibit 10: Applicant's payment change correspondence to respondent dated May 26, 2014
- Exhibit 11: Lease balance statement dated March 31, 2014
- Exhibit 12: Lease signed October 10, 2003, between applicant and Iris Catholique and Kevin Farr
- Exhibit 13: Residential tenancy agreement
- Exhibit 14: Statutory declaration of Iris Catholique declared February 13, 2013, that she separated from Kevin Farr in December 2005
- Exhibit 15: Email conversation between Iris Catholique and Agatha Laboucan dated January 20 and 22, 2009
- Exhibit 16: Respondent's correspondence to applicant dated November 15, 2008
- Exhibit 17: Applicant's notice of termination - Residential Tenancies Act s. 54(1) correspondence to respondent and Kevin Farr dated January 9, 2009
- Exhibit 18: Lease balance statement dated September 19, 2014
- Exhibit 19: Email conversation between Jessica Relucio and Iris Catholique dated September 16, 18, and 19, 2014
- Exhibit 20: Program denial report dated May 7, 2013
- Exhibit 21: Income tax return information for Iris Catholique dated March 15, 2012, for the 2009 tax year