

IN THE MATTER between **Behchoko Ko Gha K'aodee**, Applicant, and **Belinda Yakeinna**, 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 Behchoko in the Northwest Territories**.

BETWEEN:

BEHCHOKO KO GHA K'AODEE

Applicant/Landlord

- and -

BELINDA YAKEINNA

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 \$1,601.00 (one thousand six hundred one dollars).
2. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondent must compensate the applicant for the costs of repairing damages to the rental premises in the amount of \$7,525.00 (seven thousand five hundred twenty-five dollars).
3. Pursuant to sections 41(4)(c), 42(3)(f), and 43(3)(d) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Unit 602-3 Nihl Eko Tili in Behchoko, Northwest Territories, will terminate October 31, 2014, and the respondent must vacate the rental premises on or before that date.

4. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, the respondent must compensate the application for the use and occupation of the rental premises at a rate of \$50.79 for each day the respondent remains in the rental premises after October 31, 2014.

DATED at the City of Yellowknife in the Northwest Territories this 10th day of October 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");

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BETWEEN:

BEHCHOKO KO GHA K'AODEE

Applicant/Landlord

-and-

BELINDA YAKEINNA

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 7, 2014
<u>Place of the Hearing:</u>	Behchoko, Northwest Territories
<u>Appearances at Hearing:</u>	Michael Keohane, representing the applicant Therese Migwi, representing the applicant Robert McCallum, witness for the applicant
<u>Date of Decision:</u>	October 7, 2014

REASONS FOR DECISION

An application to a rental officer made by Behchoko Ko Gha K'aodee (BKGK) as the applicant/landlord against Belinda Yakeinna and Frank Base Jr. as the respondents was filed by the Rental Office July 7, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit 602-3 Nihtl Eko Tili in Behchoko, Northwest Territories. The applicant personally served a copy of the filed application on the respondents July 17, 2014.

The applicant alleged in the application the respondents had accumulated rental arrears, caused damages to the rental premises, and had repeatedly disturbed the quiet enjoyment of the residential complex by others. The applicant sought an order for payment of rental arrears, compensation for the costs of repairing damages, termination of the tenancy agreement, eviction, and compensation for use and occupation post-termination. Exhibits submitted are listed in Appendix A attached to this order.

A hearing was scheduled for October 7, 2014, in Behchoko. Mr. Michael Keohane and Ms. Therese Migwi appeared representing the applicant; Mr. Robert McCallum attended as a witness for the applicant. Ms. Belinda Yakeinna and Mr. Frank Base Jr. were sent notices of attendance by registered mail which they signed for on September 26, 2014. Neither Ms. Yakeinna nor Mr. Base appeared at hearing, nor did anyone appear on their behalf. The hearing proceeded in their absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Tenancy agreement

The respondents had been joint tenants in subsidized public housing in Behchoko since November 2009. Their initial rental premises was at Unit 611B, followed by Unit 3-4plx starting March 31, 2011. On October 29, 2012, BKGK and Ms. Yakeinna entered into a new tenancy agreement for Unit 602-3 Nihtl Eko Tili for a fixed-term from October 1, 2012, to March 31, 2013. Ms. Migwi advised that Mr. Base's name was not included in this tenancy agreement as he was incarcerated at the time but that he has continued to reside with Ms. Yakeinna when he is not incarcerated. Ms. Migwi acknowledged Ms. Yakeinna as the tenant solely responsible for the current written tenancy agreement. The respondent in this matter going forward will refer to Ms. Belinda Yakeinna only.

Rental arrears

The respondent began accumulating rental arrears within months of occupying Unit 602-3 Nihti Eko Tili. The lease ledger submitted as evidence by the applicant reflects a repeated pattern of late submission of household income verification forms from which the applicant calculates subsidized monthly rent and a noted failure of the respondent to pay rent on time. The applicant's representatives confirmed receipt of household income verification forms to date and that the calculation of monthly rent reflected on the lease ledger represents subsidized monthly rent based on household income as calculated upon receipt of the income verification forms. The last payment received from the respondent was for \$200 on September 26, 2014; although the respondent has made some effort in the last four months to make payments towards her rental arrears, no payments were received between May 2013 and March 2014 or in April and May 2014.

I am satisfied the lease ledger submitted by the applicant accurately represents monthly subsidized rents and payments received against the respondent's rent account. I find Ms. Yakeinna has failed to comply with her obligation to pay her rent when it is due and has accumulated rental arrears in the amount of \$1,601.

Damages to the rental premises

The applicant submitted into evidence a condition rating report for the rental premises completed May 20, 2014, along with a set of 29 colour photographs taken during the inspection. The claims for damages were reviewed in detail at hearing, cross-referencing the photographs and hearing Mr. McCallum's testimony. Mr. McCallum personally conducted the inspection on May 20, 2014, and has direct knowledge of the condition of the premises and the related claims for damages. The applicant and Mr. McCallum confirmed the amounts claimed for the repairs were conservative estimates based on in-house costs.

The entry inspection report included in the application package was for Unit 611B under a previous tenancy agreement noted above. The applicant was unable to confirm whether or not an entry inspection report was completed for the current rental premises, Unit 602-3 Nihti Eko Tili. Mr. McCallum was able to confirm he had direct knowledge that the rental premises was newly renovated when the respondent moved in. Mr. Keohane advised he could provide a document detailing the work that was completed in the renovation and the value of that work should it be required. I am satisfied based on Mr. McCallum's testimony that the rental premises was in a

newly renovated condition when the respondent took possession in October 2012, meaning there were no holes or damages to the walls, ceiling, floor, doors, cabinets, etcetera, and that the premises had been freshly painted and was ready for occupancy.

Mr. McCallum's testimony, the condition rating report, and the photographs provided into evidence reflect a rental premises with substantial damages. Of all of them, the only claim I did not allow was for a missing closet rod from the main entry as this could conceivably not have been replaced when the respondent took possession of the rental premises. The applicant originally claimed only 50% of the costs to repaint the premises; in accepting that the premises was last painted in 2012 and the premises now needs to be completely repainted due to the respondent's negligence in caring for the premises, to my mind it is not unreasonable to grant 75% of the costs to repaint the premises. The repairs for which costs are granted are as follows:

Replacement of exterior door and frame	\$800.00
Repair of main entry interior door frame	\$125.00
Replacement of outlet covers throughout the premises	\$90.00
Removal/covering of writing on fridge and walls throughout the premises	\$160.00
Repairs of damages to walls throughout the premises	\$1,180.00
Replacement of eight broken window glass	\$1,650.00
Replacement of two damaged thermostats	\$85.00
Replacement of two bedroom doors and frames	\$500.00
Replacement of bathroom door and frame	\$250.00
Replacement of bathroom paper and towel racks	\$55.00
Replacement of utility room door and frame	\$250.00
Replacement of storage room door and frame	\$175.00
Replacement of radiators throughout the premises	\$700.00
75% of painting throughout the premises	\$1,350.00
Replacement of smoke detector	\$30.00
Replacement of exterior light fixture	\$125.00
Total Repair Costs	\$7,525.00

At hearing I identified the total granted costs for repairs at \$7,565; this amount was erroneous as I neglected to deduct \$40 for the missing closet rod which was denied. The correct amount of compensation for the cost of repairs of damages to the rental premises I find the respondent liable for is \$7,525.

Disturbances

The applicant provided documented evidence of complaints of partying and disturbances taking place at the respondent's rental premises, specifically between December 2013 and May 2014. The documents included emails from local RCMP officers verifying receipt of and response to complaints of disturbances at the respondent's premises, and acknowledging the issue has evolved to being a significant problem for them. The applicant confirmed in testimony they had received numerous other undocumented complaints and they were aware the rental premises was known locally as the 'party house'. Attempts at communicating with the respondent regarding the disturbances and the resulting damages have been unsuccessful and unanswered. I am satisfied the testimony and documentary evidence establishes an unreasonable and unresolved level of disturbances occurring at the rental premises and I find the respondent in breach of her obligation to not disturb the landlord's or other tenants' possession or enjoyment of the rental premises or residential complex.

Termination of the tenancy agreement and eviction

The applicant has requested an order to terminate the tenancy agreement, to evict the tenant, and for compensation for each day the respondent remains in the rental premises after the termination date. Having found Ms. Yakeinna in breach of her obligation to pay rent, her obligation to repair damages, and her obligation not to disturb the quiet enjoyment of the residential complex for others, and as a result of Ms. Yakeinna's failure to make any serious efforts to resolve any of these issues or communicate effectively with the applicant, I find justification for termination of the tenancy agreement, eviction, and an order for compensation for use and occupation.

An order will issue requiring Ms. Belinda Yakeinna to pay rental arrears in the amount of \$1,601; to compensate the applicant for the costs of repairing damages in the amount of \$7,525; terminating the tenancy agreement on October 31, 2014; evicting the respondent from the rental premises November 1, 2014; and requiring Ms. Yakeinna to compensate the applicant for use and occupation of the rental premises at a rate of \$50.79 for each day she remains in the rental premises after October 31, 2014. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Residential tenancy agreement fixed term lease dated October 29, 2012, between Behchoko Ko Gha K'aodee and Belinda Lee Yakeinna
- Exhibit 2: Applicant's repayment agreement between the Behchoko Ko Gha Kaodee and Frank Base Jr. correspondence to Frank Base Jr. dated November 7, 2012
- Exhibit 3: Applicant's residential tenancy agreement correspondence to Belinda Yakeinna dated April 9, 2013
- Exhibit 4: Ledger cards for December 1, 2011, to July 1, 2014
- Exhibit 5: Lease ledger dated June 28, 2014
- Exhibit 6: Tenant ledger card for Belinda Yakeinna and Frank Base Jr. at Unit #3-4plx from March 31, 2011, to March 1, 2012
- Exhibit 7: Condition rating report dated May 20, 2014
- Exhibit 8: Set of 29 colour photographs of rental premises
- Exhibit 9: Tenant check-in/out condition report for rental unit 611B entry inspection completed November 27, 2009
- Exhibit 10: Tenant ledger card for security deposit
- Exhibit 11: Noise and disturbance complaint correspondence to applicant dated March 14, 2011
- Exhibit 12: Email conversation between RCMP Sgt. Kevin Platford and Debbie Penttila dated March 24, 2014
- Exhibit 13: Behchoko Housing Authority information exchange form dated December 5, 2013
- Exhibit 14: Email from RCMP Cst. Duncan Marsh to Debbie Penttila dated December 9, 2013
- Exhibit 15: Email between Michael Keohane and Debbie Penttila dated May 13, 2014
- Exhibit 16: Lease ledger dated October 7, 2014