

IN THE MATTER between **Lutselk'e Housing Authority**, Applicant, and **Alex Rabesca and Therese Martin**, 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 Lutselk'e in the Northwest Territories**.

BETWEEN:

**LUTSELK'E HOUSING AUTHORITY**

Applicant/Landlord

- and -

**ALEX RABESCA and THERESE MARTIN**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents must pay to the applicant rental arrears in the amount of \$1,470.00 (one thousand four hundred seventy dollars).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents must pay their rent on time in the future.

3. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Unit 248A in Lutselk'e, Northwest Territories, will terminate March 31, 2015, unless the rents for December 2014 to March 2015 are paid on time and \$200.00 (two hundred dollars) has been paid to the applicant towards the rental arrears.

DATED at the City of Yellowknife in the Northwest Territories this 15th day of December 2014.

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Adelle Guigon  
Deputy Rental Officer

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-and-

**ALEX RABESCA and THERESE MARTIN**

Respondents/Tenants

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>November 26, 2014</b>
<b><u>Place of the Hearing:</u></b>	<b>Lutselk’e, Northwest Territories, by teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>Michael Keohane, representing the applicant Melissa Catholique, representing the applicant</b>
<b><u>Date of Decision:</u></b>	<b>November 26, 2014</b>

**REASONS FOR DECISION**

An application to a rental officer made by Lutselk'e Housing Authority as the applicant/landlord against Alex Rabesca and Therese Martin as the respondents/tenants was filed by the Rental Office September 10, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit 248A in Lutselk'e, Northwest Territories. The applicant served a copy of the filed application on the respondents by registered mail signed for September 26, 2014.

The applicant alleged in the application the respondents had accumulated rental arrears and failed to comply with an order of the rental officer. They sought an order for payment of rental arrears, termination of the tenancy agreement, eviction, and compensation for use and occupation. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for November 26, 2014, in Lutselk'e, Northwest Territories. Mr. Michael Keohane and Ms. Melissa Catholique appeared representing the applicant. Mr. Alex Rabesca and Ms. Therese Martin were served notices of attendance by registered mail signed for November 10, 2014. Neither Mr. Rabesca nor Ms. Martin appeared at hearing and no one appeared on their behalf. The hearing proceeded in their absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Mr. Keohane testified that the respondents are tenants in subsidized public housing since some time prior to April 2011. He identified the respondents as being elders in the community who have an adult son and a child residing with them. The total household income as reported has been of low enough income to apply a subsidy to the respondents' rent reducing their monthly rent to \$70.

On September 24, 2012, a rental officer found the respondents had accumulated rental arrears and failed to comply with their obligation to report household income as required. Rental officer order number 10-12996 was issued requiring the respondents to pay rental arrears in the amount of \$35,194, to pay their future rent on time, and to comply with their obligation to report household income. The amount of rental arrears ordered to be paid reflected the assessment of the maximum monthly rent for the months of April to December 2011 and January to September

2012; the rental officer acknowledged in his reasons for decision the landlord's obligation to adjust the unsubsidized rents as necessary should the respondents report their household income for the outstanding periods. The respondents did in fact report the outstanding household income, resulting in a reassessment of eligible subsidies and reducing their rental arrears as of September 24, 2012, to \$11,356. A payment received from the Canada Revenue Agency of \$1,164.64 was applied against these rental arrears as well, reducing them further to \$10,191.36.

All rents from October 2012 to November 2014 have been assessed subsidies based on reported household income. Four payments have been received from the respondents since September 24, 2012, totalling \$420. The total rental arrears accumulated since September 24, 2012, are \$1,470.

Mr. Keohane expressed no desire to evict Mr. Rabesca and Ms. Martin from the rental premises, recognizing their seniority and their compliance with reporting their household income since the last rental officer order was issued. However, the respondents' continued failure to pay their \$70 per month rent when it's due cannot be condoned. He submitted that perhaps a termination order conditional on the payment of rents and rental arrears might be a motivating factor for the respondents to acknowledge their responsibilities as tenants.

#### *Tenancy agreement*

The residential tenancy agreement entered into evidence by the applicant establishes a tenancy agreement made between the parties for subsidized public housing starting April 1, 2012. I am satisfied a valid tenancy agreement for subsidized public housing is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

#### *Rental arrears and previous rental officer order*

The lease balance statement entered into evidence by the applicant represents the landlord's accounting of monthly assessed rent and payments made against the respondent's rent account. I am satisfied the lease balance statement accurately reflects the status of the respondent's rent account.

Rental officer order number 10-12996 recognizes the tenancy agreement between the parties commenced at some point as of or prior to April 2011 by making a finding of rental arrears accumulated between April 1, 2011, and September 24, 2012, in the amount of \$35,194. As previously mentioned in these reasons, the amount of rental arrears was adjusted by the applicant after the respondents reported outstanding household income and a CRA payment was received against the respondent's rent account; the adjusted rental arrears as of September 24, 2012, are now \$10,191.36, which is within the amount ordered under rental officer order number 10-12996 and payment for this amount can be enforced under that order.

Rental arrears accumulated since October 1, 2012, will be considered under the current application. Based on the lease balance statement, the current additionally accumulated rental arrears are \$1,470. I find the respondents have failed to pay the full amount of their rent on time and have rental arrears in the amount of \$1,470, and as such they have also failed to comply with an order of the rental officer.

*Termination of the tenancy agreement*

The continued accumulation of rental arrears and the respondents' failure to comply with an order of the rental officer justify termination of the tenancy agreement. I agree with the applicant in this case, however, that a more appropriate next step in resolving this account, and in considering the respondents' elder status, is to order conditional termination of the tenancy agreement. In an effort to reiterate to the respondents the importance of paying their rent and rental arrears, and the serious consequences if they continue failing to do so, a requirement to make some sort of effort towards making payments is an appropriate condition to impose.

An order will issue requiring Mr. Alex Rabesca and Ms. Therese Martin to pay rental arrears in the amount of \$1,470, to pay their rent on time in the future, and terminating their tenancy agreement on March 31, 2015, unless the rents for December 2014 to March 2015 are paid on time and \$200 is paid towards the rental arrears.

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Adelle Guigon  
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Landlord's requests dated July 31, 2014
- Exhibit 2: Residential tenancy agreement indeterminate lease dated March 27, 2012
- Exhibit 3: Residential tenancy agreement indeterminate lease dated March 20, 2013
- Exhibit 4: Residential tenancy agreement indeterminate lease dated April 1, 2014
- Exhibit 5: Account summary statement
- Exhibit 6: Lease balance statement dated July 22, 2014
- Exhibit 7: Applicant's outstanding rental arrears correspondence to respondents dated May 14, 2013,  
with attached lease balance statement
- Exhibit 8: Applicant's correspondence to respondents dated July 30, 2013
- Exhibit 9: Damage deposit refund calculation sheet
- Exhibit 10: Rental officer order number 10-12996 dated October 2, 2012
- Exhibit 11: Lease balance statement dated November 18, 2014