

IN THE MATTER between **NTHC**, Applicant, and **AS**, 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**, Rental Officer,

BETWEEN:

NTHC

Applicant/Landlord

-and-

AS

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	March 7, 2018
<u>Place of the Hearing:</u>	Aklavik, Northwest Territories
<u>Appearances at Hearing:</u>	FE, representing the applicant AS, respondent DS, on behalf of the respondent
<u>Date of Decision:</u>	March 7, 2018

REASONS FOR DECISION

An application to a rental officer made by AHA on behalf of the NTHC as the applicant/landlord against AS as the respondent/tenant was filed by the Rental Office November 20, 2017. The application was made regarding a residential tenancy agreement for a rental premises located in Aklavik, Northwest Territories. The filed application was served on the respondent by registered mail signed for December 20, 2017.

The applicant alleged the respondent had repeatedly failed to pay rent and had accumulated rental arrears. An order was sought for payment of the rental arrears, payment of future rent on time, termination of the tenancy agreement, and eviction.

A hearing was scheduled for March 7, 2018, in Aklavik. The Rental Officer appeared by telephone. FE appeared representing the applicant. AS appeared as respondent with DS appearing on her behalf.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing commencing September 1, 2013. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Rental arrears

The statements of account entered into evidence represent the landlord's accounting of monthly assessed rents and payments received against the respondent's rent account. All rents have been subsidized and are currently assessed at \$790 per month.

The respondent did not dispute the accuracy of the assessed rents, but did raise valid questions as to whether or not the rent subsidies were calculated on accurate household income for the periods they cover.

The respondent has had one of her adult children residing with her as an authorized occupant since commencement of the tenancy. His income has been reported along with the respondent's as required and the subsidies have been calculated accordingly. Rent calculation forms entered into evidence suggest it was the authorized occupant's income for 2016 which resulted in the increase of the subsidized rent from \$140 per month assessed for the 2016-2017 period to \$790 per month assessed for the 2017-2018 period. The respondent acknowledged this as the case due to the authorized occupant working on the fibre optic line for most of 2016. The authorized occupant had not been working consistently throughout most of 2017, and from August to December 2017 the authorized occupant moved to Inuvik to live with his aunt. He returned to live with the respondent in January 2018. The respondent admitted she did not notify the applicant that the authorized occupant had vacated the rental premises until after he returned and she was notified of the amount of rental arrears that she had accumulated. Given the difficulties in paying the current assessed rent due to the actual current household income, the respondent would like her subsidized rent re-assessed based on the actual household income of adults occupying the premises since July 2017.

The applicant's representatives were under the impression that the applicant would not re-assess rent subsidies mid-term regardless of changes in circumstances of the household. I find this difficult to believe.

The applicant's policy directs the calculation of rent subsidies based on the total household income for the previous taxation (calendar) year, despite the tenant's and occupants' current income status. Although this calculation method clearly does not take into consideration current income realities, the calculation of subsidies and related policies are not within my jurisdiction to assess. However, I have learned through other hearings involving the same applicant that there is a process in place to allow for tenants to request that their rent subsidies be re-assessed due to substantial changes in the household income which affect the tenants' ability to pay the subsidized rent amount.

Certainly the tenant did not notify the applicant that the authorized occupant was no longer residing with her, but the point remains that the subsidized rent assessment should only be calculated based on the income of the tenant and adult persons residing with the tenant. Evidence has been presented establishing that the authorized occupant was in fact residing in Inuvik from August to December 2017, and was paying rent there. It stands to reason – despite being after the fact – that this reality should be taken into account by the applicant to substantiate recalculating the subsidized rent amount for that period.

At hearing I made a finding that the respondent had accumulated rental arrears in the amount of \$5,180, which is technically true but does not take into consideration the adjustments the tenant may be entitled to given the above mentioned circumstances. In retrospect it seems unfair to order this respondent – who is an elder on a fixed income – to pay the current assessed rent when it is clear a re-assessment of the rent subsidy for a five-month period is warranted. Understanding that there has been no substantial change to the respondent's income and that the respondent was previously assessed a subsidized rent of \$140 per month, and understanding that it was the authorized occupant's income which resulted in the current subsidized rent assessment of \$790, it seems reasonable to me to deduct the difference between the two amounts for the five-month period that the authorized occupant was not occupying the rental premises. Multiplying the difference of \$650 by five months amounts to \$3,250, which subtracted from the rent statement balance of \$5,180 results in adjusted subsidized rental arrears of \$1,930.

This adjustment is not to say that the respondent will not be re-assessed by the applicant differently. As previously mentioned, I have no jurisdiction over how the applicant calculates rent subsidies. So I must emphasize that the rental arrears I will be ordering payment for today represent rental arrears I can be certain of prior to the applicant considering the occupancy realities for the period and re-assessing accordingly. The amount of \$1,930 is the least amount of rental arrears that the respondent is liable for; it is entirely possible that the actual re-assessed rental arrears may be higher, and the respondent must be prepared for that.

The respondent is the sole tenant responsible for this tenancy. She is the only one who can be held accountable for any accumulated rental arrears or other breaches of the tenancy agreement and the Act. The responsibility lies with her to ensure the rent is getting paid in full every month. The responsibility lies with her to ensure that she is receiving the financial support required from anyone she permits to live with her.

Termination of the tenancy agreement and eviction

Given the complicating factors in this tenancy previously discussed, and considering this tenant has never been brought in front of a rental officer before, and despite the substantial amount of subsidized rental arrears accumulated, I am not satisfied termination of the tenancy agreement and eviction are justified at this time.

Orders

An order will issue requiring the respondent to pay rental arrears in the amount of \$1,930 and requiring the respondent to pay her future rent on time.

Adelle Guigon
Rental Officer