

IN THE MATTER between **S.H.**, Applicant, and **J.C. AND M.C.**, 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 **Hal Logsdon**, Rental Officer,

BETWEEN:

**S.H.**

Applicant/Landlord

-and-

**J.C. AND M.C.**

Respondents/Tenants

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>June 14, 2018</b>
<b><u>Place of the Hearing:</u></b>	<b>Sachs Harbour, NT via teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>D.K., representing the applicant</b>
<b><u>Date of Decision:</u></b>	<b>June 25, 2018</b>

**REASONS FOR DECISION**

The respondents were personally served with Notices of Attendance and the filed application but failed to appear at the hearing. The hearing was held in their absence.

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondents to pay the alleged rent arrears and terminating the tenancy agreement and evicting the respondents unless the rent arrears were paid. The premises are subsidized public housing.

The applicant provided a copy of the rent ledger in evidence which indicated a balance of rent owing as at January 1, 2018 in the amount of \$30,924. The applicant testified that the following transactions had been made, bringing the balance owing to \$36,707.48.

Balance as at Jan 01/18	\$30,924.00
Rent, Feb-June @ \$1445/month	7,225.00
Pmt., Jan 26/18	(500.00)
Pmt., June 01/18 (garnishment)	<u>(941.52)</u>
Balance	\$36,707.48

A previous order (File #15271, filed on November 16, 2016) ordered the payment of \$4619 in rent arrears and terminated the tenancy agreement on May 31, 2017 unless the rents for December, 2016 to May, 2017 were paid on time and at least \$400 was paid toward the rent arrears. The respondents were also ordered to report their household income in accordance with section 6 of the tenancy agreement. This order has been partially satisfied through several payments and one garnishment, leaving a unsatisfied balance of \$2377.48. I note that the previous order fails to take into consideration a rent payment of \$500, paid on October 12, 2016. I have accounted for this payment.

Previous order	4619.00
Unaccounted pmt (Oct 12/16)	(500.00)
Payment Nov 10/17	(300.00)
Payment Jan 26/18	(500.00)
Garnishment June 01/18	<u>(941.52)</u>
Unsatisfied balance	\$2377.48

In determining the amount of the previous order, the rental officer applied a monthly rent of \$70 for the months of July, August, September, October and November, 2016 rather than the full unsubsidized rent of \$1445 which appeared on the ledger for those months. The applicant explained at the previous hearing that the respondents had provided consent to CRA to release their income tax information, but had only recently filed their income tax returns. Therefore their income information was not yet available to the landlord. The applicant stated that in all probability, their incomes had not changed significantly since the previous assessment and would likely result in a monthly rent assessment of \$70. The rental officer calculated the rent arrears using the \$70 rent assessment for those five months, subject to possible adjustment when the income information was received.

The current ledger entered in evidence continues to apply the full unsubsidized monthly rent of \$1445 for every month from July 2016 forward. If, in fact, the respondents provided their consent and have filed, as previously indicated, the applicant should surely have received the appropriate information by now. However the applicant now submits that the respondents did not file their 2015 income taxes. If they have not filed, there should be some effort, in my opinion, to advise the respondents of other acceptable means of providing the income information. There is no evidence to suggest that there has been any follow-up with the respondents or the CRA to obtain either the tax information or it's equivalent. The applicant's testimony appears to suggest that only the CRA information is acceptable. This, in my opinion is not consistent with section 6 of the tenancy agreement.

***Tenant's Income***

*The Tenant promises to provide the subsidy agent appointed by the Landlord with an accurate report of the Tenant's income, the income of any occupant of the Premises, the size of the Tenant's family and the number of occupants residing on the Premises, whenever, and as often as, the subsidy agent requests such a report. All reporting by the Tenant must be in the form prescribed by the subsidy agent.*

In my opinion, it is reasonable to continue to apply the monthly rent assessment of \$70 from July 1, 2016 to May 31, 2017 on a provisional basis.

Between the date of the last hearing and May 31, 2018 the respondents made only one payment of \$300. They were required to pay the monthly rents for those months on time plus at least \$400 to avoid termination of the tenancy agreement. Regardless of the amount of rent

assessed for those months or the accuracy of those rent assessments, the previous order was breached and the tenancy agreement was terminated on May 31, 2017. There is no evidence that a new tenancy agreement has been executed. There is no requirement to issue an order terminating this tenancy agreement, It was terminated on May 31, 2017 by the previous order.

As the tenancy agreement was terminated by order on May 31, 2017, the respondents are not entitled to a subsidized rent after that date. They are overholding tenants from June 1, 2017 forward and a monthly charge of \$1445 should be applied as compensation for use and occupation of the premises.

I find rent arrears of \$2797.48 calculated as follows:

Balance as at November 2, 2016 (order)	\$4619.00
Unaccounted payment - October 12, 2016	(500.00)
Rent - Dec/16 - May/17 @\$70/month	420.00
Pmt - November 10, 2017	(300.00)
Pmt - January 26, 2018	(500.00)
Pmt - June 1, 2018 (garnishment)	<u>(941.52)</u>
Balance	\$2797.48

Taking into consideration, the unsatisfied balance of the previous order, an order shall issue requiring the respondents to pay rent arrears of \$420.

Rent arrears	\$2797.48
Unsatisfied balance of previous order	<u>2377.48</u>
Order	\$420.00

Applying compensation for use and occupation of the rental premises at the monthly rate of \$1445/month from the date of termination May 31, 2017 to present I find compensation due to the applicant of \$18,014.38 calculated as follows:

12months @ \$1445/month (June 1/17 to May 31/18)	\$17,340.00
14 days @ \$48.17/day (June 1-14, 2018)	<u>674.38</u>
Total	\$18,014.38

In my opinion, the eviction of the respondents is justified. The respondents have had ample opportunity to begin to bring this rent account into good standing and have failed to do so. An order shall issue evicting the respondents on August 31, 2018.

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Hal Logsdon  
Rental Officer