

IN THE MATTER between **THA**, Applicant, and **PJ and DC**, 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**, Rental Officer,

BETWEEN:

THA

Applicant/Landlord

-and-

PJ and DC

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	October 3, 2018
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories
<u>Appearances at Hearing:</u>	JK, representing the Applicant DC, Respondent
<u>Date of Decision:</u>	October 3, 2018

REASONS FOR DECISION

An application to a rental officer made by THA as the Applicant/Landlord against PJ and DC as the Respondents/Tenants was filed by the Rental Office July 27, 2018. The application was made regarding a residential tenancy agreement for a rental premises located in Inuvik, Northwest Territories. The filed application was personally served on the Respondents August 8, 2018.

The Applicant alleged the Respondents had repeatedly failed to pay rent, had accumulated rental arrears, and had repeatedly failed to report household income as required. An order was sought for payment of rental arrears, termination of the tenancy agreement, and eviction.

A hearing was scheduled for October 3, 2018, by three-way teleconference. JK appeared representing the Applicant. DC appeared as Respondent and on behalf of PJ.

Tenancy agreement

The parties agreed and evidence was presented establishing a residential tenancy agreement between them for subsidized public housing commencing January 1, 2015. I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Previous order

Rental Officer Order Number 15424 issued April 13, 2017: required the Respondents to pay rental arrears in the amount of \$3,307 in minimum monthly installments of \$1,200 starting in May 2017; required the Respondents to pay rent on time in the future; required the Respondents to comply with their obligation to report household income; terminated the tenancy agreement July 31, 2017, unless outstanding household income was reported and minimum monthly installments and rents for May, June, and July were paid on time; and evicting the Respondents from the rental premises August 1, 2017, if the termination of the

tenancy agreement became effective. Despite the Respondents' failure to make the required payments in the manner ordered, the Applicant did not have the termination and eviction orders enforced. It appears that the rental arrears under this order have ultimately been paid in full.

Rental arrears and reporting of household income

Paragraph 6 of the written tenancy agreement requires the tenant to report the total household income.

Paragraph 7 of the written tenancy agreement requires the tenant to pay rent as shown in Schedule A to the tenancy agreement.

Schedule A to the written tenancy agreement sets the monthly subsidized rent at 30 percent of the total household income, which amount is due the first of each month.

The Applicant's representative testified that the Respondents must report the total household income each month in order for the subsidized rent to be assessed each month. If the total household income is not reported then the Landlord cannot assess the rent.

The Applicant's representative testified that the Respondents have not reported the total household income since May of this year. As such, no rent has been assessed for June through to October.

The parties agreed that substantial payments were received in August and September towards the Respondents' rent account. The Applicant's representative testified that what payments were received in and before May 2018 have been of insufficient amounts to cover the full subsidized rent. The Applicant's representative testified that the rental arrears accumulated as of May 31, 2018, (including payments received to date) amount to \$2,697.20. It was reiterated that the balance does not account for the as-yet-undetermined rents for June through October.

The Respondent acknowledged that the total household income has not been reported since May 2018, explaining that they have had difficulty obtaining the requisite pay stubs. The pay stubs have only just been received and are expected to be provided to the Applicant shortly. The Respondent further acknowledged and accepted responsibility for not making rent payments, explaining that it has been difficult for them to pay the rent with only one source of income and their Child Tax Benefits. The Respondent understood that they benefit from subsidized rent, that they have an obligation to report their income each and every month, and that they are obligated to pay the subsidized rent in full and on time each and every month. The Respondent made a commitment to have the rental arrears paid in full and to pay future rent on time.

I find the Respondents have repeatedly failed to comply with their obligation to report the total household income as required, and in doing so the Respondents have repeatedly failed to comply with a rental officer order requiring them to comply with that obligation. I find the Respondents have repeatedly failed to pay rent in full when due as required, and in doing so the Respondents have repeatedly failed to comply with a rental officer order requiring them to pay future rent on time. I find the Respondents have accumulated rental arrears in the amount of \$2,697.20.

Termination of the tenancy agreement and eviction

Given the repeated pattern of behaviour in failing to report household income and failing to pay rent in full when due, and the amount of subsidized rental arrears accumulated, I am satisfied termination of the tenancy agreement and eviction are justified. However, in light of the Respondent's commitments to resolve these matters, I am prepared to issue the termination and eviction orders conditional on the Respondents reporting the total household income for the outstanding months, reporting the total household income on time in the future, paying the rental arrears in full, and paying future rent on time.

Orders

An order will issue:

- requiring the Respondents to pay rental arrears in the amount of \$2,697.20;
- requiring the Respondents to pay future rent on time;
- requiring the Respondents to comply with their obligation to report total household income as required, and not to breach that obligation again;
- terminating the tenancy agreement December 31, 2018, unless the rental arrears of \$2,697.20 are paid in full, the total household income for June to October is reported to the Applicant, the total household income for November and December is reported to the Applicant on time, and the rents for November and December are paid on time; and
- evicting the Respondents from the rental premises January 1, 2019, if the termination of the tenancy agreement becomes effective.

Adelle Guigon
Rental Officer