

IN THE MATTER between **MARJORIE OVAYUAK**, Applicant, and
TUKTOYAKTUK HOUSING ASSOCIATION, 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, **HAL LOGSDON**, Rental Officer,
regarding the rental premises at **TUKTOYAKTUK, NT.**

BETWEEN:

MARJORIE OVAYUAK

Applicant/Tenant

- and -

TUKTOYAKTUK HOUSING ASSOCIATION

Respondent/Landlord

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 30(4)(a) of the *Residential Tenancies Act*, the respondent shall make repairs to the rental premises known as Unit #81, Tuktoyaktuk in accordance to Schedule A of this order.
2. Pursuant to section 30(4)(d) of the *Residential Tenancies Act*, the respondent shall pay compensation to the applicant for loss of full enjoyment of the premises in the amount of fifty eight dollars (\$58.00), the compensation to be paid in the form of a rent credit.

DATED at the City of Yellowknife, in the Northwest Territories this 10th day of October,
2003.

Hal Logsdon
Rental Officer

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BETWEEN:

MARJORIE OVAYUAK

Applicant/Tenant

-and-

TUKTOYAKTUK HOUSING ASSOCIATION

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: October 1, 2003

Place of the Hearing: Tuktoyaktuk, NT

Appearances at Hearing: Marjorie Ovayuak, applicant
Lucille Pokiak, representing the respondent

Date of Decision: October 10, 2003

REASONS FOR DECISION

The applicant alleged that the respondent had breached their obligation to maintain the rental premises in a good state of repair. The applicant stated that she would like to move to another unit but failing that, would like certain repairs completed and compensation.

The premises is a subsidized public housing unit. The applicant outlined the problems that had been experienced with the sewage system over the past winter. A videotape provided in evidence outlined numerous other areas of concern including the poor condition of the floors in the premises.

The respondent indicated that the sewage tank and the floors had been repaired. The respondent also testified that they had not been made aware of all of the problems outlined by the applicant. The respondent stated that the sewage problem had been difficult to address during the winter and due to transportation and weather restraints, could not be repaired until summer.

The hearing was adjourned to permit the rental officer to inspect the premises with the parties.

The inspection confirmed that the sewage tank had been replaced and the floors had been repaired throughout the premises. A number of minor problems were noted. Some of these however had not been previously been brought to the landlord's attention. Section 30 of the *Residential Tenancies Act* requires a tenant to give reasonable notice to the landlord of any breach of the landlord's obligation to repair. I am not prepared to issue an order to repair items

which have not been previously identified to the landlord. However, the landlord has been notified of the following problems:

1. The drain mechanism on the bathroom sink is not connected properly.
2. The interior doors have been cut to permit proper fit but the cut sections are unfinished and door panels are unsupported.
3. The metal seam between the tile floor and the side door has not been installed.
4. The kitchen counter has a seam which permits water to drip into cabinet area.
5. The cupboard door has fallen off.

There were several problems noted by the applicant which have been communicated to the landlord which in my opinion are not breaches of the landlord's obligation to repair. The holes in the utility room were made to access certain parts of the heating/plumbing or electrical systems and do not require repair. The minor cracks in the wall surfaces are not structural problems nor do they permit infiltration. They should be patched when the unit is next painted but do not represent a breach. The side door appears to be reasonably weather tight. It appears to have been repaired and does not represent a breach.

In general, the premises appear to now be in reasonably good state of repair with the minor exceptions noted and a few other minor items which the tenant should note to the landlord. The videotape and other evidence provided by the applicant indicate that this was not the case during the past winter. The sewage system had persistent problems with freezing and overflow from December throughout the winter and the flooring in the premises was in extremely poor

condition. I accept the landlord's testimony that these problems were difficult to address during the winter months but must accept that the tenant did suffer considerable loss of enjoyment during those months. In my opinion compensation for that loss is reasonable.

The respondent testified that the tenant was in arrears of rent and presented the tenant ledger in evidence. The parties agreed that the applicant's rent account was in arrears of \$296. The applicant suggested that a "write off" of that balance would be reasonable compensation. I disagree. Compensation must be based on some definite calculation of loss. The applicant indicated that she had not incurred any expenses directly related to the maintenance problems. She had paid \$32 rent each month during the period that the problems existed. In my opinion she did not receive full value for the rent she paid and compensation should be based on a percentage of the rent paid. The landlord was notified of the problems with the sewage tank in December. In my opinion 20% of the rent paid for the nine months before the problem was repaired is reasonable compensation. I calculated this amount to be \$58. The compensation shall be paid as a rent credit.

It is not within my jurisdiction a rental officer to order the landlord to allocate another housing unit to the applicant. I may only consider remedies which are permitted under the Act.

An order shall be issued requiring the respondent to repair the premises in accordance with Schedule A which is attached to this order and to pay compensation to the applicant in the form of a rent credit of \$58.

Hal Logsdon
Rental Officer