

IN THE MATTER between **FORT SMITH HOUSING AUTHORITY**, Applicant, and **SHANE MANDEVILLE**, 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 **FORT SMITH, NT**.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

- and -

SHANE MANDEVILLE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of seventeen thousand five hundred eleven dollars (\$17, 511.00).
2. Pursuant to section 42(3)(c) of the *Residential Tenancies Act*, the respondent shall pay the applicant costs associated with the repair of tenant damages to the premises in the amount of five hundred thirty six dollars and twenty eight cents (\$536.28).
3. Pursuant to section 84(2) of the *Residential Tenancies Act*, the respondent may pay the rent arrears and repair costs in monthly installments of no less than two hundred dollars

(\$200.00), the first payment being due on February 1, 2004 and payable thereafter, with the monthly rent, on the first day of every month, until this order is fully satisfied.

4. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent shall pay future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 12th day of January, 2004.

Hal Logsdon
Rental Officer

IN THE MATTER between **FORT SMITH HOUSING AUTHORITY**, Applicant, and **SHANE MANDEVILLE**, 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.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

-and-

SHANE MANDEVILLE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 8, 2004

Place of the Hearing: Fort Smith, NT via teleconference

Appearances at Hearing: Ruth White, representing the applicant
Kim McArthur, representing the applicant
Shane Mandeville, respondent

Date of Decision: January 8, 2004

REASONS FOR DECISION

This matter was originally set for hearing on November 28, 2003. At that time the parties agreed to postpone the hearing to enable the respondent to update the household income declaration to permit the rent to be accurately calculated.

The rent has now been adjusted by the applicant based on an updated income declaration and the details of the adjustments have been provided to the applicant and the rental officer. The applicant alleges that the respondent breached the tenancy agreement by failing to pay rent and by failing to make repairs to the premises which were required due to his negligence. The applicant seeks an order requiring the respondent to pay the alleged rent arrears and costs of repair and terminating the tenancy agreement between the parties.

The applicant provided a statement of the rent account and a statement of the damage account which indicated rent arrears in the amount of \$17,511 and a balance of charges for repairs in the amount of \$617.13.

The respondent did not dispute the allegations pertaining to rent but objected to the charge of \$80.85 on the repair statement for cutting the grass. He stated that he was on vacation when the landlord cut the grass and had made arrangements with a third party to cut the grass during his absence. He stated that the person he had contracted to do the work arrived to find the grass had recently been cut. The respondent felt the charges were unjustified and unreasonable. The

premises have a private yard.

Section 42 of the *Residential Tenancies Act* sets out the tenant's responsibility to repair damage.

A tenant shall repair damage to the rental premises and the residential complex caused by the wilful or negligent conduct of the tenant or persons who are permitted on the premises by the tenant.

In my opinion, failure to cut the grass does not constitute wilful or negligent conduct nor does it result in damage. The written tenancy agreement between the parties does not set out yard maintenance as a responsibility of the tenant. I see no other evidence that suggest this obligation belongs to the tenant. In the absence of any rule or obligation setting out yard maintenance as a responsibility of the tenant, it is, in my opinion, the landlord's obligation pursuant to section 30 of the Act. Therefore the charges of \$80.89 are denied. The remainder of the charges (\$536.28) are for repairs of the roof and ceiling resulting from the tenant's installation of a satellite dish. The respondent did not dispute the costs and I find them reasonable.

The respondent offered to pay the arrears and costs of repair in monthly installments and offered to pay \$100/month in addition to the rent. The landlord agreed to the continuance of the tenancy agreement if monthly payments of at least \$200 were made in addition to the rent.

The rent arrears are substantial and the respondent has shown little effort to address the matter. The rent statement indicates that no payments of rent have been made since October, 2003. The current rent plus \$200 is significantly less than 30% of the household gross income. In my opinion, it is entirely reasonable for the landlord to seek monthly payments of this amount in

addition to the rent.

An order shall issue requiring the respondent to pay the rent arrears and repair costs in the total amount of \$18,047.28 in monthly installments of no less than \$200. The payments will be due with the full amount of the rent on the first day of each month, the first payment being due on February 1, 2004. The respondent shall continue making these payments until this order is fully satisfied.

Should the respondent fail to pay the rent on time or make payments in accordance with this order, the landlord may file a future application seeking the lump sum payment of any balance and/or termination of the tenancy agreement.

Hal Logsdon
Rental Officer