

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **MARGARET ARDEN**, 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 **YELLOWKNIFE, NT**.

BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

- and -

MARGARET ARDEN

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent shall comply with her obligation to report the household income in accordance with Article 6 of the tenancy agreement.
2. Pursuant to section 45(4)(e) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Apartment 208, 5465 - 52nd Street, Yellowknife, NT shall be terminated on June 4, 2008 and the respondent shall vacate the premises on that date, unless the household income is reported in accordance with Article 6 of the tenancy agreement.

DATED at the City of Yellowknife, in the Northwest Territories this 27th day of May,
2008.

Hal Logsdon
Rental Officer

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and **MARGARET ARDEN**, Respondent.

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BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

-and-

MARGARET ARDEN

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: May 20, 2008

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Julie Forget, representing the applicant
Wanda Powder, witness for the applicant
Margaret Arden, respondent
Justin Beres, son of the respondent

Date of Decision: May 20, 2008

REASONS FOR DECISION

The applicant alleged that the respondent had failed to accurately report the household income in accordance with the tenancy agreement. The premises are subsidized public housing and Article 6 of the written tenancy agreement between the parties obligates the tenant to report the household income so that a rent can be calculated based on income.

Article 6 reads as follows:

- 6. Tenant's Income**
The Tenant promises to provide a 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.

Schedule B of the tenancy agreement states:

In addition to the Tenant, the following people may occupy the premises:

Justin Beres, the son of the respondent, is listed on Schedule B.

Ms. Wanda Powder, a client services officer (the subsidy agent), stated that Mr. Beres had not come to her office to sign a "Statement of Authorization" or fill out a "Monthly Household Member Income Statement". Ms Powder stated that these were requirements pursuant to the program policy. Consequently the full unsubsidized rent had been applied.

The respondent stated that Justin was hardly ever around and she did not want to report his

income because the rent would be increased. She stated that he stayed with others, sleeping on their couch and payed rent to them. She argued that the rent should be calculated on her income alone which she had reported.

Perhaps the most important aspect of the Public Housing Program is the rent charged to the tenant. The rent is calculated on a scale determined by the household income so that each household is charged a rent they can afford. The fairness of the program is dependent on the accurate reporting of income which ensures that tenants pay rent according to their financial capacity but are charged a rent that is within their means to pay.

Respectfully, the question in this matter is not whether Mr. Beres did or did not fill out the necessary forms. The tenancy agreement does not require anyone but the tenant to provide information. The question is whether Mr. Beres is an occupant of the premises. There is evidence in the Schedule B to the tenancy agreement that he may reside with the respondent. In my opinion, that places the onus on the respondent to rebut that evidence to show that he does not reside in the rental premises. If he does not reside with the respondent, his income is irrelevant, the respondent is not in breach of the tenancy agreement and the rent should be calculated on her income alone.

An order shall issue requiring the respondent to comply with her obligation to report the household income in accordance with Article 6 of the tenancy agreement. Specifically, she should either report the income of Mr. Beres or provide the subsidy agent with proof Mr. Beres

does not live in the premises. Rent receipts, a tenancy agreement, utility bills, drivers license or other identification could all be used to establish residency at a different address than that of the respondent. The tenancy agreement shall be terminated on June 4, 2008 unless the respondent complies with this obligation.

This decision was made known to the parties at the conclusion of the hearing.

Hal Logsdon
Rental Officer
