

IN THE MATTER between **RAE-EDZO HOUSING AUTHORITY**, Applicant, and
MARIE LAMOUELLE, 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 **BEHCHOKO, NT**.

BETWEEN:

RAE-EDZO HOUSING AUTHORITY

Applicant/Landlord

- and -

MARIE LAMOUELLE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 84(3) and 41(4)(a) of the *Residential Tenancies Act*, the previous order (file #10-8780 filed on February 16, 2006) is rescinded and the respondent is ordered to pay the applicant rent arrears in the amount of thirty five thousand one hundred five dollars and sixty two cents (\$35,105.62).
2. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 430, Behchoko, NT shall be terminated on August 31, 2008 and the respondent shall vacate the premises on that date, unless the rent arrears in the amount of thirty five thousand one hundred five dollars and sixty two cents (\$35,105.62) are paid in full.

DATED at the City of Yellowknife, in the Northwest Territories this 18th day of July, 2008.

Hal Logsdon
Rental Officer

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BETWEEN:

RAE-EDZO HOUSING AUTHORITY

Applicant/Landlord

-and-

MARIE LAMOUELLE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: July 10, 2008

Place of the Hearing: Behchoko, NT

Appearances at Hearing: John St. Louis, representing the applicant
Marie Lamouelle, respondent
Priscilla Lamouelle, representing the respondent

Date of Decision: July 18, 2008

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement and a previous order by failing to pay rent and by failing to pay rent arrears in accordance with the order. The applicant sought an order rescinding the previous order, requiring the respondent to pay the remaining rent arrears and termination of the tenancy agreement. The premises are subsidized public housing.

The previous order (file # 10-8780 filed on February 16, 2006) required the respondent to pay rent arrears of \$30,463 in monthly payments of at least \$200 and to pay the monthly rent on time. The applicant testified that the rent arrears were now \$30,767.23 and provided a written calculation showing how he had determined that amount. A copy of the tenant ledger was also entered in evidence showing rent arrears of \$36,480.23. There were numerous adjustments on the ledger which were the result of an initial application of the full unsubsidized rent and later, the retroactive assessment of a rent based on income.

The respondent's representative questioned an entry on the tenant ledger dated June 30, 1994 where \$2142.38 was transferred to the respondent's rent account from the account of Bobby Dryneck in unit 910C. Mr. Dryneck's ledger card was also included in the evidence and indicates that this tenancy agreement was terminated on July 30, 1993. It is unclear if the respondent was a party to this agreement or not. In any case, this was a completely separate tenancy agreement and any action against the tenants of this agreement should have taken place within 6 months of the termination date pursuant to section 68 of the *Residential Tenancies Act*. Although the \$2142.38 was part of the

amount contained in the previous order and was previously determined, the transfer of this amount to the respondent's rent account is clearly unreasonable and should be deducted from the amount sought. The applicant agreed.

The respondent's representative also questioned an adjustment of \$7260 made in April, 2002. Although the applicant was unable to provide the income documentation for this adjustment of rent from \$32/month to \$637/month for April, 2001 to March, 2002 it is not inconsistent with the following year's assessment of \$703. The respondent could not provide any documentation to refute the assessment. In my opinion, this adjustment is reasonable in light of the evidence.

The respondent's representative also questioned the assessments between December, 2004 and March, 2005 when the respondent was not receiving any employment income and between September, 2006 and December, 2006 when the respondent was attending school. I note that the rent for the first period was only \$271/month and, taking into consideration the lag time between income reporting and assessment, only \$32/month during the second period. Although neither applicant or respondent could provide any specific income information for the first period, the assessment of \$271/month is not unreasonable assuming that there may have been some income from sources other than employment. The income information for the second period was available. I find assessments for both periods reasonable given the evidence provided.

Taking into account all of the adjustments to the rent that have been made, the respondent has been charged \$28,318 in rent since the last order was made to present. The respondent has paid \$19,807

during that period. Therefore the rent that has been paid is not sufficient to meet the respondent's obligation to pay the monthly rent and certainly not sufficient to satisfy the previous order. I note, however that she does pay some amount of rent with regularity but her income is such that her rent is often assessed at the maximum. Over the past twenty eight months (April, 2006 to July, 2008) the respondent has been assessed the maximum rent for ten months based on her income.

I do not agree with either amount of rent put forward by the applicant. I find the rent arrears to be \$35,105.62 calculated as follows:

Balance owing as per previous order	\$30,463.00
February/06 rent	1115.00
March/06 rent	1115.00
Adjustments to assessments to March 31/06	(1726.00)
Rent paid from last order to March 31/06	<u>(3100.00)</u>
Balance owing as at March 31/06	\$27,867.00
Rent assessed April 1/06 to July 31/08	26,088.00
Rent paid April 1/06 to present	(16,707.00)
Less arrears transferred in error	<u>(2142.38)</u>
Amount owing applicant	\$35,105.62

I find the respondent in breach of her obligation to pay rent and in breach of the previous order. In my opinion, there are sufficient grounds to rescind the previous order and terminate the tenancy agreement unless the rent arrears are paid in full.

An order shall issue rescinding the previous order and ordering the respondent to pay the balance of rent arrears in the amount of \$35,105.62. The tenancy agreement shall be terminated on August 31, 2008 unless that amount is paid in full.

Hal Logsdon
Rental Officer
