

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **SAMANTHA BISHOP**, 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 -

SAMANTHA BISHOP

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 45(4)(e) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 622 Williams Avenue, Yellowknife, NT shall be terminated on August 31, 2008 and the respondent shall vacate the premises on that date, unless the household income for the months of March, April, May, June, July and August, 2008 are reported in accordance with the tenancy agreement.

DATED at the City of Yellowknife, in the Northwest Territories this 12th day of August,
2008.

Hal Logsdon
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
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BETWEEN:

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Applicant/Landlord

-and-

SAMANTHA BISHOP

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: August 12, 2008

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Julie Forget, representing the applicant
Samantha Bishop, respondent

Date of Decision: August 12, 2008

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to accurately report the household income and by failing to pay rent. The applicant sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement. The premises are subsidized public housing.

The applicant provided a statement of the rent in evidence which indicated a balance of rent owing in the amount of \$7005.00. The full unsubsidized rent of \$1401 has been applied in the months of April, May, June, July and August, 2008. The statement indicates that the rent for April and May, 2008 was originally assessed at \$32 and a subsidy provided to the landlord through the *Public Housing Subsidy Program*. The subsidies for April and May were withdrawn in August and the rent adjusted to the full unsubsidized rate of \$1401.

An e-mail from the subsidy agent to the applicant states that income information was submitted for April but the cheque stub indicates that prior income was earned. Presumably, the subsidy agent later considered the information for April and May to be incomplete or inaccurate and withdrew the previous subsidies and applied the full unsubsidized rent.

The respondent acknowledged she had been working since late February, 2008 but had reported some income in April and some in June.

It would appear from the evidence that the subsidy agent has applied the full unsubsidized rent in two or more months because the income information is believed to be inaccurate or incomplete. In *Inuvik Housing Authority vs. Stewart and Kendi* (file 20-1631, filed on January 11, 1993) the landlord alleged that the tenants had provided inaccurate income information and assessed the rent at the full unsubsidized rate. The rental officer re-assessed the rent based on the income reported and terminated the tenancy agreement. The *Stewart and Kendi* case was referred to in *Inuvik Housing Authority v. Harley*, 1993, CanLII 2856 (NWT S.C.) -1993-12-03 where the Honourable Mr. Justice J.E. Richard noted that the decision appeared consistent with the Court's previous decision regarding the application of the full unsubsidized rent.

The application of the full unsubsidized rent is not reasonable when there is some income information provided by the tenant on which to calculate a subsidized rent. Where the information is found to be inaccurate, the remedy of termination of the tenancy agreement is the more reasonable remedy. Termination of the tenancy agreement can, of course, be conditional upon the tenant complying with the obligation. In this matter, it would appear that the subsidy agent had income information on which to base the April and May rents but later elected to rescind these assessments after it appeared that the information provided was incomplete. As well, based on the testimony of the respondent, some information was also provided in June, yet the full unsubsidized rent has been applied. This is not consistent with the previous decisions of the NWT Supreme Court.

Article 6 of the tenancy agreement between the parties obligates the tenant to report the household

income.

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.

It would appear that the original rent assessments of \$32 for the months of April and May are based on inaccurate income information provided by the respondent as she acknowledged working during this period of time. I find the respondent in breach of her obligation to report income in accordance with Article 6 of the tenancy agreement. I do not find the application of the economic rent to be reasonable. In my opinion, the appropriate remedy is termination of the tenancy agreement unless the respondent complies with her obligation by reporting the household income for the months of March, April, May, June, July and August, 2008 in accordance with the tenancy agreement. An order shall issue terminating the tenancy agreement on August 31, 2008 unless the income is reported for those months. I leave it to the parties to determine how the resultant rent arrears shall be paid. A future application may be filed by the landlord if agreement can not be reached on repayment or if the resultant rent arrears are not paid in a reasonable amount of time.

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

Hal Logsdon
Rental Officer
