

IN THE MATTER between **TULITA HOUSING ASSOCIATION**, Applicant, and  
**WILFRED LENNIE AND SARAH LENNIE**, Respondents;

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 **TULITA, NT**.

BETWEEN:

**TULITA HOUSING ASSOCIATION**

Applicant/Landlord

- and -

**WILFRED LENNIE AND SARAH LENNIE**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents shall pay the applicant rent arrears in the amount of three thousand four hundred nine dollars (\$3409.00).
2. Pursuant to sections 41(4)(c), 45(4)(e) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 0052, Tulita, NT shall be terminated on November 21, 2008 and the respondents shall vacate the premises on that date, unless the rent arrears in the amount of three thousand four hundred nine

dollars (\$3409.00) are paid in full and the respondents report the complete and accurate household income information in accordance with Article 6 of the tenancy agreement.

DATED at the City of Yellowknife, in the Northwest Territories this 28th day of October, 2008.

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Hal Logsdon  
Rental Officer

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BETWEEN:

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Applicant/Landlord

-and-

**WILFRED LENNIE AND SARAH LENNIE**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:**                      **October 28, 2008**

**Place of the Hearing:**                      **Tulita, NT via teleconference**

**Appearances at Hearing:**                      **Helen Squirrel, representing the applicant**  
   **Lee-Ann Yakeleya, witness for the applicant**

**Date of Decision:**                              **October 28, 2008**

### **REASONS FOR DECISION**

The respondents were served with Notices of Attendance sent by registered mail and confirmed delivered. The respondents failed to appear at the hearing and the hearing was held in their absence.

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

The applicant provided a copy of the tenant ledger in evidence which indicated a balance of rent owing in the amount of \$19,241. The full unsubsidized rent has been assessed for the months of March, April, May, June, July, August, September and October, 2008. The applicant's witness, the subsidy agent, testified that the full unsubsidized rent had been assessed for those months because Wilfred Lennie Jr., who is a joint tenant but is not named as a respondent, had failed to submit the required forms in accordance with the policy guidelines of the *Public Housing Rental Subsidy Program*. The applicant's witness stated that the household income had been reported for those months but the information was believed to be incomplete as it did not contain business income derived from a home based business. The applicant also stated that she believed the respondents were operating a business from the premises and stated that a notice had been sent to the respondents reminding them that this was a breach of the tenancy agreement.

Article 6 of the tenancy agreement obligates the tenant to provide household income information.

**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.

Article 6 does not specify the form of the required report or any additional documents that must be completed by the tenant. In my opinion, the tenant can not be found in breach of Article 6 only because they have failed to fill out a document required by the *Public Housing Rental Subsidy Program* that is not referenced, at least in a general way, in the tenancy agreement. However, if the reported household information is found to be inaccurate, then the tenant is clearly in breach of the obligation imposed by Article 6.

The practice of assessing the full unsubsidized rent when household income information is available but allegedly incomplete or inaccurate is not consistent with decisions of the NWT Supreme Court. In *Inuvik Housing Authority and Gary Harley*, [1994] NWTR 131, The Hon. Justice J.R. Richard wrote,

“In Inuvik Housing Authority vs Stewart and Kendi (Rental Officer decision, January 11, 1993) the landlord alleged that the tenant had provided inaccurate income data and accordingly assessed full economic rent. Although the rental officer granted termination of the tenancy as the ultimate remedy, he reassessed the rents for the relevant months at a lower figure based on the income data that was provided (even though allegedly inaccurate).”

Justice Richard continues in line 29 of the decision,

“The rental officer’s decisions in Sharpe and Allain, Tingmiak, Stewart and Kendi and Day appear to be consistent with the decision of this Court in Koe.”

In my opinion, there is sufficient evidence to conclude that the respondents have not reported the complete and accurate income information to the subsidy agent. I find no evidence to rebut the testimony of the applicant and the applicant’s witness that there has likely been some business income which has not been reported. However, I do not find the application of the full unsubsidized rent to be reasonable as the respondents have reported some income.

I am unable to determine what the rents should be for the months of March, April, May, June, July, August, September and October, 2008. Ignoring those months, the balance of rent owing as at February 28, 2008 was \$5409 and since that date \$2000 has been paid, bringing the balance owing to \$3409.

I find the respondents in breach of their obligation to pay rent and find rent arrears in the amount of \$3409. I also find the respondents in breach of their obligation to report the household income in accordance with the tenancy agreement. In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the rent arrears are paid in full and the household income is reported in accordance with Article 6 of the tenancy agreement.

An order shall issue requiring the respondents to pay the applicant rent arrears in the amount of

\$3409 and terminating the tenancy agreement on November 21, 2008 unless those arrears are paid in full and the complete and accurate household income information is reported in accordance with the tenancy agreement.

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Hal Logsdon  
Rental Officer