

IN THE MATTER between **BUENA VISTA PROPERTIES LTD.**, Applicant, and **TODD SHATTLER AND DEANNE SHATTLER**, 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 **INUVIK, NT**.

BETWEEN:

BUENA VISTA PROPERTIES LTD.

Applicant/Landlord

- and -

TODD SHATTLER AND DEANNE SHATTLER

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 dollars (\$3000.00).
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 Lot #6, Kenaston Trailer Court, Inuvik, NT shall be terminated on July 31, 2008 and the respondents shall vacate the premises on that date, unless the rent arrears and the rent for May, June and July, 2008 in the total amount of three thousand nine hundred dollars (\$3900.00) are paid in full.

DATED at the City of Yellowknife, in the Northwest Territories this 17th day of April, 2008.

Hal Logsdon
Rental Officer

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TODD SHATTLER AND DEANNE SHATTLER, Respondents.

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BETWEEN:

BUENA VISTA PROPERTIES LTD.

Applicant/Landlord

-and-

TODD SHATTLER AND DEANNE SHATTLER

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: April 2, 2008

Place of the Hearing: Inuvik, NT

Appearances at Hearing: Barb Kiely, representing the applicant
Todd Shattler, respondent
Deanne Shattler, respondent

Date of Decision: April 17, 2008

REASONS FOR DECISION

The rental premises consist of a lot in a mobile home park. The applicant alleged that the respondents have 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 between the parties unless the arrears were paid in full.

The applicant testified that the respondents owed \$4000.

The respondents questioned whether the premises were exempt from the provisions of the *Residential Tenancies Act*, stating that the mobile home, situated on the lot was used as a business office as well as a residence. Section 1(1) of the *Residential Tenancies Act* sets out the definition of rental premises.

"rental premises" means a living accommodation or land for a mobile home used or intended for use as rental premises and includes a room in a boarding house or lodging house.

Sections 6(2)(i) and 6(2)(j) set out two exemptions from the *Residential Tenancies Act* related to business.

- 6.(2) This Act does not apply to**
- (i) living accommodation situated in a building used for non-residential purposes where the occupancy of the living accommodation is necessarily connected with the employment of the occupant in, or the performance by the occupant of services related to, a non-residential business or enterprise carried on in the building; and**
 - (j) premises occupied for business or agricultural purposes with living accommodation attached under a single tenancy agreement where**

the person occupying the living accommodation is occupying the premises for business or agricultural purposes.

Neither of the above exemptions can apply to land for a mobile home. Both exemptions refer to rented buildings, not land. The building in this matter is not rented. It is the property of the respondent. I find that the rental premises are within the jurisdiction of the Act.

The applicant did not provide a ledger or other similar record of rents applied and payments received. The application, which was filed on February 27, 2008 stated that rent had not been paid for January-December, 2007 and January and February, 2008 resulting in a balance owing of \$4200. At the hearing the applicant testified that the balance of rent now owing was \$4000 which included rents up to and including April, 2008 and a payment of \$500 made on February 27, 2008. The monthly rent has been \$300 throughout the tenancy. The amount sought by the applicant is not consistent with her testimony.

The respondents provided a number of receipts which cast further doubt on the accuracy of the applicant's accounting of the rent. The following rent receipts were entered in evidence:

207101	January 4/06	\$300
207138	April 24/06	\$350
207044	August 8/06	\$600
207297	November 21/06	\$300
23	May 22/07	\$600
27	June 20/07	\$600
42	August 16/07	\$300
38	September 24/07	\$300
760416	February 27/08	\$500

From the notations on the receipts it is apparent that the applicant applies payments to the oldest

debt. Receipt #23 indicates that the \$600 payment was applied to the September and October, 2006 rents, leaving the rents for November, 2006 to and including May, 2007 outstanding. That amount would be \$2100. At a hearing on June 5, 2007 the applicant sought and received an order for \$2400 which would have included the June, 2007 rent of \$300 which became due on June 1, 2007.

The receipts provided by the respondents confirm that \$1700 has been paid since the issuance of the previous order. Since that time, rents have come due for July, 2007 to and including April, 2008 which amount to \$3000. Therefore the rent arrears to the date of the hearing are \$3700 calculated as follows:

Balance as per previous order	\$2400
plus rent (July/07-April/08)	3000
less payments since order	<u>(1700)</u>
Rent arrears	\$3700

The rent arrears represent the following unpaid rent:

April/06	\$100
May/06 to April/08 (12 months @ \$300)	<u>3600</u>
Total	\$3700

I find the respondents in breach of their obligation to pay rent and find the rent arrears to be \$3700. As there is still an unsatisfied balance of \$700 on the previous order, an order shall issue requiring the respondents to pay the applicants rent arrears in the amount of \$3000. In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the rent arrears are paid in full. Considering weather conditions, logistics of removing the mobile home from the

lot, the desire of both parties to clear the arrears and continue the tenancy agreement, and the likelihood that the respondents will have the means to satisfy this debt, in my opinion, July 31, 2008 is a reasonable date to have the arrears paid in full.

An order shall issue requiring the respondents to pay the applicant rent arrears in the amount of \$3000 and terminating the tenancy agreement on July 31, 2008 unless the rent arrears and the rents for May, June and July, 2008 in the total amount of \$3900 are paid in full.

Hal Logsdon
Rental Officer