

IN THE MATTER between **HAY RIVER MOBILE HOME PARK LTD.**, Applicant,
and **DENNIS SINCLAIR**, 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 **FORT SMITH, NT.**

BETWEEN:

HAY RIVER MOBILE HOME PARK LTD.

Applicant/Landlord

- and -

DENNIS SINCLAIR

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of six thousand eight hundred seventy five dollars (\$6875.00).
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 #1329, Caribou Trailer Court, Fort Smith, NT shall be terminated on March 1, 2009 and the respondent shall vacate the premises on that date, unless the rent arrears and the rent for February, 2009 in

the total amount of seven thousand one hundred thirty five dollars (\$7135.00) are paid in full.

DATED at the City of Yellowknife, in the Northwest Territories this 14th day of January, 2009.

Hal Logsdon
Rental Officer

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and **DENNIS SINCLAIR**, Respondent.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
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BETWEEN:

HAY RIVER MOBILE HOME PARK LTD.

Applicant/Landlord

-and-

DENNIS SINCLAIR

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 13, 2009

Place of the Hearing: Yellowknife, NT via teleconference

Appearances at Hearing: Michelle Schaub, representing the applicant

Date of Decision: January 13, 2009

REASONS FOR DECISION

This matter was originally scheduled to be heard on October 3, 2008 but did not proceed because the respondent failed to pick up the Notice of Attendance sent by registered mail. After numerous attempts, the rental officer contacted the respondent by telephone on December 3, 2008 to arrange another hearing date by telephone. The respondent confirmed his mailing address and telephone number and was advised that a Notice of Attendance would be sent to him by registered mail to advise him of the date and time of the hearing. The Notice of Attendance was sent to the respondent by registered mail but was not picked up by the respondent. Numerous attempts to contact the respondent by phone prior to the hearing were unsuccessful. The telephone was always busy.

Section 71(2) of the *Residential Tenancies Act* permits deemed service of a notice sent by registered mail.

- (2). A notice, process or document sent by registered mail shall be deemed to have been served on the 7th day after the date of mailing.**

In my opinion, it is reasonable to deem the Notice of Attendance served as the respondent was clearly aware that it would be sent by registered mail and the address was confirmed to be correct. The rental officer took additional steps to ensure the respondent had the opportunity to appear at the hearing. The respondent failed to appear at the hearing and the hearing was held in his absence.

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement unless the rent arrears were paid in full. The premises consist of a lot in a mobile home park.

The applicant provided a statement of the rent account which indicated a balance of rent owing as at August 1, 2008 of \$5575. The applicant testified that since that date, the monthly rent of \$260 had come due for the months of September, October, November and December, 2008 and January, 2009 and no payments had been received bringing the balance owing to \$6875.

The statement indicates that no payments have been made since a payment of \$520 was made on March 13, 2008.

I find the statement in order and find the respondent in breach of his obligation to pay rent. I find the rent arrears to be \$6875. In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the rent arrears are promptly paid.

Section 54(2) of the *Residential Tenancies Act* prohibits the termination of tenancy agreements for mobile home park lots during the months of December, January and February.

54.(2) A notice of termination referred to in subsection (1) for rental premises on which a mobile home is situated shall be of at least three months and a tenancy agreement in respect of such rental premises cannot be terminated in the months of December, January or February.

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$6875 and terminating the tenancy agreement on March 1, 2009 unless the rent arrears and the rent for February, 2009 totaling \$7135 are paid in full.

Hal Logsdon
Rental Officer