

IN THE MATTER between **HAY RIVER HOUSING AUTHORITY**, Applicant, and
DONALD KERR, 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 **HAY RIVER, NT**.

BETWEEN:

HAY RIVER HOUSING AUTHORITY

Applicant/Landlord

- and -

DONALD KERR

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 67(4) of the *Residential Tenancies Act*, the respondent shall pay the applicant compensation for the use and occupation of the rental premises in the amount of one hundred thirteen dollars and twenty five cents (\$113.25) and shall continue to pay the applicant compensation in the amount of twenty two dollars and sixty five cents (\$22.65) for each day after January 5, 2009 that the respondent remains in occupation of the premises.

DATED at the City of Yellowknife, in the Northwest Territories this 5th day of January,
2009.

Hal Logsdon
Rental Officer

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Applicant/Landlord

-and-

DONALD KERR

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 5, 2009

Place of the Hearing: Hay River, NT via teleconference

Appearances at Hearing: Willa-Jean Conroy, applicant
Donald Kerr, respondent
Ann Gill, representing the respondent

Date of Decision: January 5, 2009

REASONS FOR DECISION

The applicant alleged that the respondent had repeatedly disturbed other tenants in the residential complex and sought an order terminating the tenancy agreement between the parties. The applicant served a Notice of Early Termination on the respondent on November 7, 2008 seeking vacant possession on November 17, 2008. The application was filed on November 12, 2008. The respondent remains in possession of the premises. The premises are subsidized public housing.

The applicant provided numerous notices and notes to file outlining disturbances caused by the respondent or persons he permitted in the premises.

The tenancy agreement between the parties was made for a term which ended on December 31, 2008. The applicant stated that the tenancy agreement has not been renewed and that they do not intend to enter into a new tenancy agreement. There is no evidence to indicate that this tenancy agreement has been renewed or that a new tenancy agreement has been created by the parties.

Since the premises are subsidized public housing and section 49(3) of the *Residential Tenancies Act* exempts subsidized public housing from the automatic renewal provisions contained in section 49(1), the tenancy agreement has already been terminated and the respondent is now overholding. There is no requirement to determine if the evidence warrants termination of the tenancy agreement although I note that the evidence provided at the hearing, although disputed by the respondent, left no doubt in my mind that disturbances have occurred, have been persistent

and show little sign of abatement . There is no requirement to issue an order terminating the tenancy agreement. The tenancy agreement has already been terminated. Should the respondent fail to vacate the premises, the applicant may seek an eviction order from the NWT Supreme Court pursuant to section 63 of the *Residential Tenancies Act*.

The respondent is not entitled to a subsidized rent for the days he is overholding. The applicant is entitled to compensation for the use and occupation of the rental premises at the full unsubsidized rate of \$689/month or \$22.65/day. I calculate the amount due to date as \$113.25. The compensation shall continue at the per diem rate until the respondent gives up possession or is evicted by order.

An order shall issue requiring the respondent to pay the applicant compensation of \$113.25 and to pay additional compensation of \$22.65/day until the respondent vacates the premises or is evicted.

Hal Logsdon
Rental Officer