

IN THE MATTER between **LAC LA MARTRE HOUSING**, Applicant, and **LISA MANTLA**, 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 **WHATI**.

BETWEEN:

**LAC LA MARTRE HOUSING**

Applicant/Landlord

- and -

**LISA MANTLA**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to sections 84(3) and 41(4)(a) of the *Residential Tenancies Act*, the previous order (file#10-9621, filed on September 13, 2007) is rescinded and the respondent shall pay the applicant rent arrears in the amount of twenty four thousand fifty four dollars (\$24,054.00).
2. Pursuant to section 41(4)(c) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as unit 903, WhaTi, NT shall be terminated on July 15, 2009 and the respondent shall vacate the premises on that date.

DATED at the City of Yellowknife, in the Northwest Territories this 9th day of June, 2009.

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Hal Logsdon  
Rental Officer

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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.

BETWEEN:

**LAC LA MARTRE HOUSING**

Applicant/Landlord

-and-

**LISA MANTLA**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** May 26, 2009

**Place of the Hearing:** WhaTi, NT, by teleconference

**Appearances at Hearing:** Penelope Kocik, representing the applicant  
Louisa Beaverho, witness for the applicant  
Lisa Mantla, respondent

**Date of Decision:** June 9, 2009

### **REASONS FOR DECISION**

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and had breached a previous order requiring her to pay rent arrears in monthly installments. The applicant sought an order rescinding the previous order, requiring the respondent to pay the remaining rent arrears in lump sum and terminating the tenancy agreement. The premises are subsidized public housing.

The previous order (file #10-9621, filed on September 13, 2007) found rent arrears of \$15,213 and ordered the respondent to pay the rent arrears in monthly installments of \$200 and to pay the monthly rent on time. The applicant provided a current statement of the rent account which indicated a balance of rent owing in the amount of \$32,093.

The tenancy agreement used in public housing requires the tenant to report the household income to a subsidy agent who in turn calculates the rent owed by the tenant and the subsidy which is paid to the landlord. The applicable sections of the tenancy agreement are as follows:

#### **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.

#### **7. Rent Calculation**

The Tenant promises to pay to the Landlord the rent, in Canadian dollars each month, shown in Schedule "A". As long as the Tenant is not in breach of any of the terms or promises of this Agreement, the Tenant will be eligible for a rent subsidy. The rent subsidy will be calculated according to the GNWT Public Housing Rental Subsidy

Program. The Tenant agrees that no notice of rent increase is required so long as the rent assessed in any month does not exceed the amount shown in Schedule "A".

The landlord relies on the subsidy agent to advise them of the calculated amounts for the tenant's rent and the subsidy for entry on their accounts. The Schedule "A" rent is the full unsubsidized rent for the premises.

The full unsubsidized rent had been applied in 13 of the 21 months since the last order was issued. The applicant's witness, the subsidy agent, stated that she had applied the full unsubsidized rent for April, May, June, September and October, 2008 because the respondent had not signed a tenancy agreement. She stated that she had received income information for each of these months from the respondent. The applicant's witness stated that the full unsubsidized rent had also been applied in August, 2008 but was calculated based on the household income reported by the respondent. The applicant's witness stated that she had not received any income information from the respondent since October 2008 and had applied the full economic rent in each month afterward.

The respondent did not dispute the allegations or the amount of rent the applicant claimed was owing. She acknowledged that she had not reported the household income as alleged by the subsidy agent because she was too busy at work.

The applicant stated that when the term tenancy agreement between the parties expired, they sent a series of new tenancy agreements, each made for a term of one month. None of these were

signed by the landlord. The applicant stated that they expected the respondent to execute each agreement and return it to the landlord for execution. Apparently, none were signed or returned and the subsidy agent would not process a subsidy unless a valid tenancy agreement was provided. Consequently, the full unsubsidized rent was applied.

The security of tenure provision contained in section 49 of the *Residential Tenancies Act* does not apply to subsidized public housing. Therefore, when a tenancy agreement between a tenant and a public housing provider is made for a term, it is not automatically renewed at its expiry date. It is clear, however, that both the landlord and the tenant intended this tenancy to continue, otherwise the tenant would have given notice or the landlord would not have provided a new tenancy agreement each month for execution.

Section 9 of the Act permits implied tenancy agreements.

**9. (1) A tenancy agreement may be oral, written or implied.**

In my opinion, the implication of the landlord's action was to renew the tenancy agreement for an additional one month term in the same form as the previous agreement. Therefore, there was a valid tenancy agreement in place and the application of the full economic rent for the months of April, May, June, September and October, 2008 is not reasonable because the tenant provided income information in accordance with article 6 of the tenancy agreement. Since I do not have access to that information, I can not determine the rent which should have been calculated for those months.

I find the application of the full unsubsidized rent for the months following October, 2008 to be reasonable. The respondent failed to report any income to the subsidy agent to enable the calculation of a subsidized rent.

The applicant provided several different documents generated by the subsidy agent, outlining the rent to be paid by the tenant and the subsidy provided. When comparing these documents to the rent statement provided by the applicant I found that they did not always agree. Following the hearing I requested further documentation from the subsidy agent regarding rent assessments since the last order was issued. The amount of rent payable by the tenant and posted to the landlord's statement varied from the subsidy agents records in September, October, November and December, 2007 and in January, February, March and July, 2008. The landlord has recorded \$879 more rent owing for those months that was assessed by the subsidy agent. The differences are as follows:

<u>Month</u>	<u>Subsidy Agent</u>	<u>Landlord</u>
September/07	\$961	\$970
October/07	\$963	\$972
November/07	\$971	\$980
December/07	\$1121	\$1592
January/08	\$1419	\$1428
February/08	\$1056	\$1065
March/08	\$724	\$733
July/08	\$1078	\$1432

It appears that these rent assessments were amended by the subsidy agent, in some cases more than once, but the landlord was not apprised of the amendments or failed to make the necessary changes on their records.

Taking into consideration the months where the full unsubsidized rent was charged and can not now be determined and the errors in the assessed rents, I find the rent arrears to be \$24,054 calculated as follows:

Rent as per ledger	\$32,093
Less Apr/08 rent	(1432)
Less May/08 rent	(1432)
Less June /08 rent	(1432)
Less Sept/08 rent	(1432)
Less Oct/08 rent	(1432)
Less posting errors	<u>(879)</u>
Total	\$24,054

In my opinion there are sufficient grounds to terminate the tenancy agreement. The respondent previously agreed to pay the rent arrears in installments but has failed to pay sufficient rent to meet the monthly amount due and has fallen even deeper in arrears. Since the previous hearing she has also repeatedly failed to report her income in accordance with the tenancy agreement. I can not accept her defence that she is too busy at work to do so.

An order shall issue rescinding the previous order and requiring the respondent to pay rent arrears in the amount of \$24,054. The tenancy agreement between the parties shall be terminated on July 15, 2009.

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Hal Logsdon  
Rental Officer