

IN THE MATTER between **TULITA HOUSING ASSOCIATION**, Applicant, and  
**EDWARD KENNY AND CORRINE ANDREW**, 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 -

**EDWARD KENNY AND CORRINE ANDREW**

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 eight thousand six hundred forty dollars (\$8640.00).
2. Pursuant to section 67(4) of the *Residential Tenancies Act*, the respondents shall pay the applicant compensation for the use and occupation of the rental premises after the tenancy agreement ended on December 31, 2009 in the amount of seven hundred sixty eight dollars and sixty cents (\$768.60).

DATED at the City of Yellowknife, in the Northwest Territories this 21st day of January,  
2010.

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Hal Logsdon  
Rental Officer

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BETWEEN:

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Applicant/Landlord

-and-

**EDWARD KENNY AND CORRINE ANDREW**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** January 14, 2010

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

**Appearances at Hearing:** Helen Squirrel, representing the applicant  
Edward Kenny, respondent  
Corrine Andrew, respondent

**Date of Decision:** January 21, 2010

### **REASONS FOR DECISION**

The applicant alleged that the respondents 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. 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 \$13,763.86. The full unsubsidized rent has been applied in January, 2010. The applicant stated that the full unsubsidized rent was applied because the tenancy agreement between the parties, which was made for a term, expired on December 31, 2009 and they do not intend to enter into a new tenancy agreement with the respondents.

The respondents disputed the amount owing and stated that they did not believe they should have been charged for the repairs to their former rental premises, house #50. A previous order (file #20-9592, filed on July 19, 2007) terminated the tenancy agreement between the parties for unit #50 on August 31, 2007. It appears the respondents vacated the premises in October, 2007. The ledger card for unit #50 indicates that the respondents paid all of the rent arrears except \$78 by March 31, 2008. The parties entered into a new tenancy agreement for unit #67 on April 15, 2008 and the applicant applied the unit #50 rent arrears (\$78) and unit #50 repair costs (\$3375.86) to the present account for unit #67.

The rent arrears and repair costs relating to unit #50 are from another tenancy agreement which

was terminated on August 31, 2007. The application was filed on October 7, 2009 twenty six months after that tenancy agreement was terminated. Section 68(1) of the *Residential Tenancies Act* requires that an application be made within six months.

**68.(1) An application by a landlord or a tenant to a rental officer must be made within six months after the breach of an obligation under this Act or the tenancy agreement or the situation referred to in the application arose.**

I find no reason to extend this time limitation. The applicant's request for relief for the rent arrears and repair costs for unit #50 in the amount of \$3453.86 is denied.

I find rent arrears of \$8640 to December 31, 2009 calculated as follows:

Balance as per ledger	\$13,763.86
less January rent assessed	(1670.00)
less previous rent arrears (unit#50)	(78.00)
less previous repair costs (unit#50)	<u>(3375.86)</u>
Rent arrears to December 31, 2009	\$8640.00

Subsidized public housing is exempt from the automatic renewal provisions for term agreements contained in section 49 of the *Residential Tenancies Act*. Therefore if a landlord and tenant enter into a tenancy agreement for a specific term, there is no requirement for the landlord to renew the agreement or enter into another term agreement. I find no evidence that another tenancy agreement has been formed between the parties. Therefore the tenancy agreement between the parties has expired and the tenants are overholding.

Section 67 entitles a landlord to compensation for the occupation and use of the rental premises after a tenancy agreement has been terminated.

**67.(1) A landlord is entitled to compensation for a former tenant's use and occupation of the rental premises after the tenancy has been terminated.**

The compensation is based on the full unsubsidized rent on a per diem basis. Since the respondents have continued to occupy the premises for 14 days after the tenancy agreement ended, I find compensation owing to the landlord for use and occupation of the premises in the amount of \$768.60 calculated as follows:

$$(\$1670 \times 12) / 365 = \$54.90/\text{day} \times 14 \text{ days} = \$768.60$$

There is no requirement to terminate this tenancy agreement by order. It was terminated on December 31, 2009 when the tenancy agreement expired. The evidence suggests this is not simply an administrative oversight. If the respondents fail to move out of the premises, the applicant may seek an order from the Supreme Court to evict the respondents pursuant to section 63 of the Act. They may also seek additional compensation for the continued use and occupation of the rental premises based on the number of days the respondents remain in possession of the premises after January 14, 2010.

An order shall issue requiring the respondents to pay the applicant rent arrears of \$8640 and compensation for overholding in the amount of \$768.60.

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Hal Logsdon  
Rental Officer