

IN THE MATTER between **TULITA HOUSING ASSOCIATION**, Applicant, and
JONATHAN N. YAKELEYA, 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 **TULITA, NT**.

BETWEEN:

TULITA HOUSING ASSOCIATION

Applicant/Landlord

- and -

JONATHAN N. YAKELEYA

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 two thousand four hundred ninety seven dollars (\$2497.00).
2. Pursuant to section 67(4) of the *Residential Tenancies Act*, the respondent shall pay the applicant compensation for overholding in the amount of five hundred ninety nine dollars and seventy six cents (\$599.76).

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

Hal Logsdon
Rental Officer

IN THE MATTER between **TULITA HOUSING ASSOCIATION**, Applicant, and
JONATHAN N. YAKELEYA, 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.

BETWEEN:

TULITA HOUSING ASSOCIATION

Applicant/Landlord

-and-

JONATHAN N. YAKELEYA

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 14, 2010

Place of the Hearing: Tulita, NT

Appearances at Hearing: Helen Squirrel, representing the applicant
Rosa Etchinelle, witness for the applicant

Date of Decision: January 21, 2010

REASONS FOR DECISION

The respondent was served with a Notice of Attendance sent by registered mail and confirmed delivered. 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 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 \$3800. 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. The applicant's witness, the subsidy agent testified that the full unsubsidized rent had been assessed because there was no current tenancy agreement and because the respondent had not provided any household income information on which to calculate a subsidized rent.

I find rent arrears of \$2497 to December 31, 2009 calculated as follows:

Balance as per ledger	\$3800
less January rent assessed	<u>(1303)</u>
Rent arrears to December 31, 2009	\$2497

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 tenant is 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 respondent has 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 \$599.76 calculated as follows:

$$(\$1303 \times 12) / 365 = \$42.84 / \text{day} \times 14 \text{ days} = \$599.76$$

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 respondent fails to move out of the premises, the applicant may seek an order from the Supreme Court to evict the respondent 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 respondent remains in possession of the

premises after January 14, 2010.

An order shall issue requiring the respondent to pay the applicant rent arrears of \$2497 and compensation for overholding in the amount of \$599.76.

Hal Logsdon
Rental Officer