

IN THE MATTER between **HAY RIVER HOUSING AUTHORITY**, Applicant, and  
**THOMAS EMBLETON**, 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 -

**THOMAS EMBLETON**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. The application is dismissed

DATED at the City of Yellowknife, in the Northwest Territories this 23rd day of  
February, 2010.

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Hal Logsdon  
Rental Officer

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Applicant/Landlord

-and-

**THOMAS EMBLETON**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>January 4, 2010 continued February 17, 2010</b>
<b><u>Place of the Hearing:</u></b>	<b>Hay River, NT via teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>Christine Smith, representing the applicant Thomas Embleton, respondent</b>
<b><u>Date of Decision:</u></b>	<b>February 17, 2010</b>

### **REASONS FOR DECISION**

The applicant alleged that the respondent had breached the tenancy agreement by committing or permitting a criminal act in the rental premises. The applicant sought an order terminating the tenancy agreement. The applicant provided a newspaper article and a transcript of a radio broadcast in evidence which reported the respondent's testimony at the trial of Emrah Bullatci. The applicant relied on the testimony, as reported by the media as evidence that a criminal act had been committed on the premises.

The respondent stated that in his opinion, the media reports did not accurately reflect his testimony at the trial and sought an adjournment to enable him to produce a transcript of the proceedings. He also suggested that the rental officer contact a member of the RCMP who had direct knowledge of the trial evidence and proceedings. The adjournment was granted.

I contacted the RCMP member who confirmed that the press releases were accurate but did not fully reflect the respondent's testimony at the trial. The member provided some additional information based on the testimony which had not been reported.

When the hearing was resumed on February 17, 2010 the results of my interview with the RCMP member was outlined to the parties, who had no further evidence to produce.

Although I indicated at the hearing that I would consider an order obligating the respondent to

comply with his obligation to not commit any criminal acts in the premises and to not commit any criminal acts in the premises again, on further reflection, I find that all of the evidence in this matter flows from the respondent's testimony at the Bullatci trial and section 13 of the *Canadian Charter of Rights and Freedoms* extends the right to the respondent to not have that testimony used in any other proceeding.

- 13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence.**

Accordingly, I am unable to make a finding that the respondent committed a criminal act in the premises or permitted a criminal act to be committed on the premises and the application must be dismissed.

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Hal Logsdon  
Rental Officer