

IN THE MATTER between **FORT PROVIDENCE HOUSING ASSOCIATION**,
Applicant, and **WILBERT MINOZA AND VERN MINOZA**, 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 **FORT PROVIDENCE, NT.**

BETWEEN:

FORT PROVIDENCE HOUSING ASSOCIATION

Applicant/Landlord

- and -

WILBERT MINOZA AND VERN MINOZA

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent Vern Minoza shall pay the applicant rent arrears in the amount of two thousand six hundred fifty two dollars (\$2652.00).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent Vern Minoza shall pay future rent on time.
3. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent Wilbert Minoza shall pay the applicant rent arrears in the amount of one thousand seven hundred

twelve dollars and nine cents (\$1712.09).

4. Pursuant to section 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the applicant and Wilbert Minoza for the premises known as unit 65A, Fort Providence, NT shall be terminated on August 15, 2010 and the respondent shall vacate the premises on that date, unless the rent arrears in the amount of one thousand seven hundred twelve dollars and nine cents (\$1712.09) are paid in full.
5. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent Wilbert Minoza shall pay future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 8th day of July, 2010.

Hal Logsdon
Rental Officer

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BETWEEN:

FORT PROVIDENCE HOUSING ASSOCIATION

Applicant/Landlord

-and-

WILBERT MINOZA AND VERN MINOZA

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: June 24, 2010

Place of the Hearing: Fort Providence, NT

Appearances at Hearing: Pearl Leishman, representing the applicant

Date of Decision: July 8, 2010

REASONS FOR DECISION

The respondents were served with Notices of Attendance sent by registered mail and confirmed delivered. The respondents failed to appear at the hearing and the hearing was held in their absence.

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent. The applicant sought an order requiring the respondents to pay the alleged rent arrears and terminating the tenancy agreements between the parties. The applicant alleged that Wilbert Minoza owed rent arrears of \$15,048.85 and Vern Minoza owed rent arrears of \$2740.99. Copies of the tenant ledgers and tenancy agreements were provided by the applicant in evidence.

There are multiple written tenancy agreements with different parties as tenants and different premises. The applicant has, for the most part, treated them all as one tenancy agreement when, in fact, they are not.

The applicant entered into a four month term tenancy agreement with Rosa Minoza, Wilbert Minoza and Vern Minoza as joint tenants for unit #17 commencing on April 1, 2009. Although no earlier tenancy agreements between these parties were provided in evidence, it appears that the tenancy may have started as early as December, 1972. Another tenancy agreement between the same parties for the same premises followed, commencing August 1, 2009.

The applicant entered into another term tenancy agreement for unit #17 commencing September 23, 2009 with Rosa Minoza and Wilbert Minoza as joint tenants. This replaced the former tenancy agreement for the premises.

The applicant entered into a monthly tenancy agreement with Vern Minoza and Rosyln Causa as joint tenants for unit #72B commencing October 1, 2009. Prior to that date, it appears that the applicant and Ms Causa had a previous tenancy agreement for the premises.

Rosa Minoza passed away in December, 2009 and the applicant entered into a three month term tenancy agreement with Wilbert Minoza as sole tenant for unit #65A commencing February 1, 2010. Another three month term agreement followed with the same tenant for the same premises.

Only tenants are responsible for paying rent. The applicant's accounting of the rent does not accurately allocate the rent to the persons who were tenants at the time. For example, the applicant is seeking relief for rent arrears from Vern Minoza for a period of time before he was a tenant in unit #72B. Similarly, relief from Vern Minoza and Wilbert Minoza is being jointly sought for a period after Vern Minoza was no longer a tenant in unit #17.

The applicant should have made three applications for relief from Wilbert and Vern Minoza.

1. An application covering coving the period April 1, 2009 to September 22, 2009 for unit #17 when Vern and Wilbert Minoza were joint tenants.

2. An application covering the period Sept 23, 2009 to present when Wilbert Minoza was the tenant in units #17 and unit #65A.
3. An application covering the period October 1, 2009 to present when Vern Minoza was a tenant in unit #72B.

Although in the future, I request that the applicant file one application for each tenancy agreement (including renewals and transfers), I believe it is reasonable to consider the three tenancy agreements noted above in one order since the parties were duly served with the application and relevant evidence.

1. Relief sought for the period April 1, 2009 to September 22, 2009 for unit #17 - Vern and Wilbert Minoza

Section 68 of the *Residential Tenancies Act* sets out a time limitation for filing of applications and service of filed applications on respondents.

- 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.**
- (2) A landlord or a tenant making an application to a rental officer for an order or a decision under this Act must file the application with the rental officer and serve a copy of the application on the other party within at least 14 days after the filing of the application.**
- (3) A rental officer may extend the time for the making of an application to the rental officer, whether or not the time for making the application to a rental officer has expired, where**

the rental officer is of the opinion that it would not be unfair to do so.

This application was filed on May 7, 2010 which is more than eight months after this tenancy agreement ended. Although Vern and Wilbert Minoza promised in writing to pay the arrears in monthly installments, the agreement was breached the first month after it was signed. There is no evidence to conclude that the applicant could have reasonably considered that the rent arrears would be paid without resorting to legal action.

As well, the evidence indicates that one or more tenancy agreements preceded the agreement that commenced on April 1, 2009 but the applicant did not provide copies of these agreements and I am unable to confirm that they were all agreements naming Wilbert and Vern Minoza as joint tenants. The applicant's ledger indicates that the last zero balance on the account was on November 26, 2002 . A previous order (File #10-7424, filed on August 1, 2003) notes that Wilbert Minoza was not a tenant prior to May 27, 2003.

For the above reasons, I shall not extend the time limit for filing for this tenancy agreement and relief for the alleged rent arrears for this period is denied.

2. Relief sought for the period Sept 23, 2009 to present when Wilbert Minoza was the tenant in units #17 and unit #65A.

Wilbert Minoza was either the sole tenant or a joint tenant with the late Rosa

Minoza during this period. A transfer from unit #17 to unit #65A took place during this period. I find the rent arrears that accrued during this period to be \$1712.09 calculated as follows:

Rent, Oct/09	600.00
Rent, Nov/09	703.00
Rent, Dec/09	549.00
Rent Jan/10	553.00
Rent Feb/10	32.00
Rent March/10	553.00
Rent April/10	311.00
Rent May/10	311.00
Payments & credits	<u>(1899.91)</u>
TOTAL	\$1712.09

3. Relief sought for the period October 1, 2009 to present when Vern Minoza was a tenant in unit #72B.

The tenancy agreement indicates that Vern Minoza became a joint tenant with Roslyn Causa in unit #72B on October 1, 2009 but the tenant ledger and subsidy agent assessment report appear to indicate that he took possession sometime in September, 2009. Prior to September, 2009 Ms Causa was the sole tenant. Again these are two separate tenancy agreements although the applicant has treated the rent account as a single tenancy. Vern Minoza is not liable for rent that accrued prior September, 2009. I find Vern Minoza liable for the payment of \$2652, calculated as follows:

Rent, Sept/09	32.00
Rent, Oct/09	400.00
Rent, Nov/09	400.00
Rent, Dec/09	400.00
Rent, Jan/10	555.00
Rent, Feb/10	423.00

Rent, March/10	784.00
Payments & credits	<u>(342.00)</u>
TOTAL	\$2652.00

I find Wilbert Minoza in breach of his obligation to pay rent and find rent arrears of \$1712.09. In my opinion, there are sufficient grounds to terminate the tenancy agreement unless the rent arrears are promptly paid. An order shall issue requiring Wilbert Minoza to pay the applicant rent arrears in the amount of \$1712.09 and terminating the tenancy agreement on August 15, 2010 unless the rent arrears are paid in full. Should the tenancy agreement continue, Wilbert Minoza is also ordered to pay future rent on time.

I find Vern Minoza in breach of his obligation to pay rent and find rent arrears of \$2652. The applicant has not named the joint tenant, Roslyn Causa as respondent and in my opinion, it would not be reasonable to terminate this tenancy agreement without giving Ms Causa an opportunity to respond. Therefore, the request for an order terminating the tenancy agreement is denied. An order shall issue requiring Vern Minoza to pay the applicant rent arrears of \$2652 and to pay future rent on time.

Hal Logsdon
Rental Officer