

IN THE MATTER between **MARIANNE MCCASHIN**, Applicant, and **MARLENE GREEN AND WARREN HANSEN**, Respondents;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act") and amendments thereto;

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer, regarding the rental premises at **INUVIK, NT**.

BETWEEN:

MARIANNE MCCASHIN

Applicant/Landlord

- and -

MARLENE GREEN AND WARREN HANSEN

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 and penalties for late rent in the amount of one thousand six hundred eighty seven dollars (\$1687.00).
2. Pursuant to section 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 3 Bonnetplume Road, Inuvik, NT shall be terminated on August 2, 2011 and the respondents shall vacate the premises on that date unless the rent arrears, penalties for late rent and the rent for August, 2011 in

the total amount of three thousand two hundred eighty seven dollars (\$3287.00) are paid in full.

DATED at the City of Yellowknife, in the Northwest Territories this 21st day of July, 2011.

Hal Logsdon
Rental Officer

IN THE MATTER between **MARIANNE MCCASHIN**, Applicant, and **MARLENE GREEN AND WARREN HANSEN**, 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.

BETWEEN:

MARIANNE MCCASHIN

Applicant/Landlord

-and-

MARLENE GREEN AND WARREN HANSEN

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: July 14, 2011

Place of the Hearing: Yellowknife, NT via teleconference

Appearances at Hearing: Marianne McCashin, applicant
Marlene Green, respondent
Warren Hansen, respondent

Date of Decision: July 21, 2011

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent, failing to pay for furniture and failing to pay for utilities. The applicant sought an order requiring the respondents to pay the alleged rent arrears, penalties for late payment of rent, utility costs and compensation for furniture. The applicant also alleged that a previous order requiring the respondents to pay future rent on time had been breached. The applicant sought monetary relief and an order terminating the tenancy agreement and evicting the respondents.

A previous order (file #20-12047, filed on April 12, 2011) required the respondent to pay future rent on time. The applicant testified that full amount of the May, 2011 rent was not paid until June, 2011 and that the June, 2011 rent was not paid in full until June 30, 2011 and that the entire amount of the July, 2011 rent was outstanding. The written tenancy agreement between the parties requires the tenants to pay the monthly rent in advance on or before the first day of each month. The respondents did not dispute the allegations concerning rent.

The applicant stated that the respondents had agreed to purchase furniture from her but had not paid for it. The written tenancy agreement makes no mention of furniture.

The applicant sought a penalty for late rent of \$400. She stated that she incurred penalties for late taxes as a direct result of the respondents' failure to pay the rent on time.

The applicant also stated that she believed the utility accounts may be in arrears but did not have any evidence regarding what accounts were in arrears or the quantum of arrears. The Town of Inuvik informed me prior to the hearing that the June, 2011 water bill was overdue in the amount of \$79.50 but acknowledged that the bill and/or payment may be held up due to the mail strike. The respondents stated that they had paid every utility bill received to date.

I find the respondents in breach of the previous order and in breach of their obligation to pay rent. I find the rent arrears to be \$1600, which represents the full amount of the July, 2011 rent.

The *Residential Tenancies Act* does not contain a compensation remedy for loss directly related to a tenant's failure to pay the rent on time. A tenant may be ordered to pay the outstanding rent and any penalties contained in the regulations but there can be no order for compensation directly related to late payment or non-payment of the rent.

The amount sought by the applicant as a penalty far exceeds the allowable penalty for late rent set out in the regulations. The regulation would permit penalties of \$87 calculated as follows:

May penalty	$\$5 + \$1/\text{day} \times 30 \text{ days} = \35
June penalty	$\$5 + \$1/\text{day} \times 29 \text{ days} = \34
July penalty	$\$5 + \$1/\text{day} \times 13 \text{ days} = \underline{\$18}$
Total allowable penalties for late rent	\$87

The relief of \$400 is denied but relief of \$87 shall be provided for late rent penalties.

There is no evidence that the utility accounts are in arrears except for the June, 2011 water bill. In

my opinion, given the delay in mail, this account is not seriously in arrears and an order authorizing the applicant to pay it is not warranted.

Whatever arrangement the parties have regarding the furniture it is clearly not a part of the tenancy agreement. Therefore I have no jurisdiction to deal with this matter.

An order shall issue requiring the respondents to pay the applicant rent arrears and penalties for late rent in the amount of \$1687. In my opinion, there are sufficient grounds to terminate the tenancy agreement and evict the respondents if the arrears, penalties and the August, 2011 rent are not paid in full on or before August 2, 2011. I find that amount to be \$3287 calculated as follows:

Rent arrears	\$1600
Penalties	87
August/11 rent	<u>1600</u>
Total	\$3287

The respondents were previously ordered to pay future rent. That order remains in effect. An eviction order shall issue separately.

Hal Logsdon
Rental Officer