

IN THE MATTER between **NWT HOUSING CORPORATION**, Applicant, and  
**LESLIE RABESCA AND MABEL GON**, 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 **GAMETI, NT**.

BETWEEN:

**NWT HOUSING CORPORATION**

Applicant/Landlord

- and -

**LESLIE RABESCA AND MABEL GON**

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 thirty seven thousand two hundred dollars (\$37,200.00).

DATED at the City of Yellowknife, in the Northwest Territories this 28th day of October,  
2011.

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Hal Logsdon  
Rental Officer

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R-5 (the "Act");

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BETWEEN:

**NWT HOUSING CORPORATION**

Applicant/Landlord

-and-

**LESLIE RABESCA AND MABEL GON**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** September 23, 2011

**Place of the Hearing:** Yellowknife, NT via teleconference

**Appearances at Hearing:** Mike Keohane, representing the applicant  
Mabel Gon, respondent

**Date of Decision:** October 28, 2011

### **REASONS FOR DECISION**

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondents to pay the alleged rent arrears. The premises are subsidized public housing.

The applicant provided a statement of the rent account which indicated a balance owing in the amount of \$37,200.

The respondent disputed the amount owing on the basis that the rent was retroactively adjusted to income reported to the *Canada Revenue Agency* and the adjustments applied without notifying her. She also stated that the applicant never reminded them that they had failed to report their income.

The tenancy agreement between the parties commenced on September 1, 2005 and the monthly rent was assessed at \$948. Article 6 of the tenancy agreement between the parties obligates the tenant to report the household income.

#### **6. Tenant's Income**

The Tenant promises to provide verification of income annually, when the household income changes and/or when requested by the Corporation or its Agent, and in accordance with the Supported Lease Agreement.

The Supported Lease Agreement sheds little additional detail on this obligation except to set out that only the income of the tenant and his/her partner will be initially be used for rent

determination. Both agreements were duly executed by the parties.

When the respondents were accepted into the program they were sent a letter on May 20, 2005 confirming their rent assessment of \$948/month and reminding them of their obligation to report the household income annually. There is no evidence that the respondents reported their income until October 5, 2009. The evidence suggests that the rent was assessed at \$1510/month effective October 1, 2009. There is no evidence that the respondents were advised in writing of this assessment although the statements indicate that the respondents began paying \$1510/month in January, 2010. They continued to pay that amount until the application was filed on June 28, 2011 although the full amount was not paid every month.

In June, 2010 the District Office sought a statement of the account from Headquarters and were advised that the rent arrears were currently \$5339. In a note to file, a District Office staff member notes that the respondents were advised of the rent arrears and urged to make a payment plan for the arrears of \$5339.

On January 28, 2011 Headquarters advised the District Office that an income report was due from the respondents. Income information was provided and the monthly rents were retroactively adjusted as follows:

January to December, 2007	From \$948	To \$1636
January to December, 2008	From \$948	To \$1674
January to September, 2009	From \$948	To \$2060
October to December, 2009	From \$1510	To \$2060
January to December, 2010	From \$1510	To \$1681

The monthly rent effective January 1, 2011 was set at \$1507.

An email memo dated February 9, 2011 from Headquarters to the District Office confirms these re-assessments. There is no evidence that the respondents were formally notified of the re-assessments until the *Application to a Rental Officer* was served on them.

The applicant acknowledged that the respondents had not been advised of their failure to report income or advised of the reassessments in a timely manner. He stated that the District Office had been understaffed and that there had been no one assigned to monitor the portfolio in the community.

In my opinion, it is prudent public housing property management practice to remind tenants who have failed to report income in a timely manner, but it is not a legal obligation. A landlord's failure to provide reminders does not prevent the reassessment of the rent if more accurate income information becomes available. The obligation to report income is clearly set out in the tenancy agreement. Retroactive adjustments of rent in public housing, up or down, is not unreasonable. Prudent property management suggests that a tenant's failure to report income in a timely manner should result in prompt action by the landlord.

Although it is easy to sympathise with the respondents, it would appear that the re-assessed rents are now based on the respondents' accurate household income. The adjusted rents represent what the respondents should have been paying. The respondents did breach their obligation to report

income. In my opinion, it would not be fair to relieve them of the reassessed amounts even though the landlord, has not exercised particularly diligent portfolio management.

I find the current statement in order and find the respondents in breach of their obligation to pay rent. I find the rent arrears to be \$37,200. An order shall issue requiring the respondents to pay the applicant rent arrears in the amount of \$37,200.

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Hal Logsdon  
Rental Officer