

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,  
and **TASHA RIFFEL**, Respondent;

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 **YELLOWKNIFE, NT.**

BETWEEN:

**YELLOWKNIFE HOUSING AUTHORITY**

Applicant/Landlord

- and -

**TASHA RIFFEL**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(b) of the *Residential Tenancies Act*, the respondent shall not breach her obligation to report the household income in accordance with the tenancy agreement again.

DATED at the City of Yellowknife, in the Northwest Territories this 13th day of January,  
2012.

---

Hal Logsdon  
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,  
and **TASHA RIFFEL**, 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:

**YELLOWKNIFE HOUSING AUTHORITY**

Applicant/Landlord

-and-

**TASHA RIFFEL**

Respondent/Tenant

**REASONS FOR DECISION**

|                                       |  |
|---------------------------------------|--|
| <b><u>Date of the Hearing:</u></b>    | <b>December 14, 2011 continued January 11, 2012</b>  |
| <b><u>Place of the Hearing:</u></b>   | <b>Yellowknife, NT</b>   |
| <b><u>Appearances at Hearing:</u></b> | <b>Ella Newhook, representing the applicant<br/>Tasha Riffel, respondent<br/>Kim Collins-Riffel, representing the respondent</b> |
| <b><u>Date of Decision:</u></b>       | <b>January 13, 2012</b>  |

**REASONS FOR DECISION**

The applicant served a notice on the respondent on October 18, 2011 terminating the monthly tenancy agreement between them on November 30, 2011 for non-payment of rent and for breach of the obligation to report the household income. The applicant sought an order requiring the respondent to pay alleged rent arrears and compensation for use and occupation totalling \$8343.70 and an order evicting the respondent. The premises are subsidized public housing.

At the hearing on December 14, 2011 the respondent provided a number of documents concerning her income and payment of electrical costs. The respondent stated that she had previously provided some income information to the applicant but the applicant denied that they had received it. The matter was adjourned to provide the applicant and the Rental Officer an opportunity to review the documents submitted at the hearing.

When the hearing continued on January 11, 2012 the applicant provided a revised statement of the rent account. Rent for the months of July, August, September, October and November, 2011 had been adjusted from \$1396 to \$32 based on the income provided previously by the respondent. Credits for electricity totalling \$737 had also been applied to the account. The rents for December, 2011 and January, 2012 were posted at \$1396, the full unsubsidized rent. The applicant stated that since the respondent was overholding, the full unsubsidized rent was applied. After the application of the rent subsidies and electricity credits there are no rent arrears, only compensation for use and occupation. The amount alleged owing is \$2182.70.

|  |                  |
|--|------------------|
| Previous relief sought                       | \$8343.70        |
| July-November subsidies @\$1364/month        | (6820.00)        |
| Electrical credits                           | (737.00)         |
| Less December compensation previously posted | <u>(1396.00)</u> |
| Subtotal - rent owing to November 30/11      | (609.30)         |
| December/11 compensation                     | 1396.00          |
| January/12 compensation                      | <u>1396.00</u>   |
| Relief sought                                | \$2182.70        |

The respondent provided a letter dated December 5, 2011 stating that she was currently an in-patient receiving treatment and that her condition may have played a role in the issues that have led to the landlord's application. The respondent's witness, her mother, stated that the respondent has been discharged from the hospital and will be receiving additional support to ensure that her obligations as a tenant are met.

The income information indicates that the respondent receives only public support through a disability pension, income support and child tax credits.

The tenancy agreement between the parties was made for a term that expired on January 31, 2011 and was automatically renewed on a monthly basis thereafter. Sections 51(5) and 55(3) set out termination of a monthly tenancy agreement by notice in subsidized public housing.

**51(5) Where a tenancy agreement for subsidized public housing is renewed as a monthly tenancy under subsection 49(1), a landlord may terminate the tenancy on the last day of a period of the tenancy, by giving the tenant a notice of termination not later than 30 days before that day.**

**55(3) A notice of termination from a landlord to a tenant must**  
**(a) be in writing;**  
**(b) be signed by the landlord or an agent of the landlord;**  
**(c) identify the rental premises to which the notice applies;**

- (d) state the date on which the tenancy is to terminate; and**
- (e) state the reason for the termination of the tenancy.**

Section 63(4) of the Act permits eviction orders and orders for compensation for use and occupation.

- 63(4) A rental officer who terminates a tenancy or determines that a tenancy has been terminated in accordance with this Act, and who determines that an eviction is justified, may make an order**
- (a) evicting the tenant on the date specified for the termination of the tenancy in the agreement, notice or order, or on the earliest reasonable date after the date of termination of the tenancy; and**
  - (b) requiring the tenant to compensate the landlord for the use and occupation of the rental premises, calculated for each day the tenant remains in occupation following the termination of the tenancy.**

It is clear that the applicant's October 18, 2011 termination notice conforms to the requirements contained in sections 51(5) and 55(3) and was therefore effective in terminating the tenancy agreement on November 30, 2011.

In order to issue an eviction order, I must also determine that the eviction is justified. In determining this I have considered the following:

1. The provision enabling public housing providers to terminate tenancy agreements by notice indicates a confidence in their ability to make good and just decisions. Most other landlords must make an application to terminate a tenancy agreement. It follows that the refusal to grant an eviction order in these circumstances should be exercised with caution and for sound reasons. Some examples when it may be appropriate are when the reasons given for termination

are not breaches of the Act or the tenancy agreement, or are so trivial that they do not warrant termination or when the circumstances surrounding the breach are such that the breach was understandable and perhaps even unavoidable.

2. The medical condition of the respondent may have played a significant role in preventing her from fulfilling her obligation to report the household income as set out in the tenancy agreement.
3. The outstanding documents verifying the household income have been submitted and there are no rent arrears.
4. The respondent now appears to now have adequate support from family and others to enable her to fulfill her obligations as a tenant in the future.
5. The respondent is in financial need of the assistance provided under the program.
6. The *Residential Tenancies Act* is intended to be remedial rather than punitive. The respondent's breach has been remedied and the issuance of an eviction order would not provide any additional remedy to the applicant except to prevent any future breach, which in my opinion, is unlikely.

Considering all of the above factors, I do not think that the eviction is justified. The request for an eviction order is denied. The respondent did breach her obligation to report the household income in accordance with the tenancy agreement. In my opinion, an order prohibiting her from breaching that agreement again is the more reasonable remedy.

Although the Act lacks a specific provision as the status of the tenancy agreement should a rental officer refuse to grant an eviction order where a public housing tenancy agreement was terminated by notice, it seems obvious that the tenancy agreement continues. The tenant can not continue in a perpetual state of overholding. This interpretation, in my opinion, is consistent with section 10 of the *Interpretation Act*.

**10. Every enactment shall be construed as being remedial and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects.**

The rents for December, 2011 and January 2012 should be assessed on income resulting in rents of \$32 for those months. After this adjustment, there are no rent arrears.

An order shall issue prohibiting the respondent from breaching her obligation to report the household income in accordance with the tenancy agreement again.

---

Hal Logsdon  
Rental Officer