

IN THE MATTER between **DELINE HOUSING ASSOCIATION**, Applicant, and **JONAS MODESTE**, 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 **DELINE, NT**.

BETWEEN:

DELINE HOUSING ASSOCIATION

Applicant/Landlord

- and -

JONAS MODESTE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of three thousand one hundred twenty five dollars and sixty five cents (\$3125.65).

DATED at the City of Yellowknife, in the Northwest Territories this 2nd day of February, 2012.

Hal Logsdon
Rental Officer

IN THE MATTER between **DELINE HOUSING ASSOCIATION**, Applicant, and
JONAS MODESTE, 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:

DELINE HOUSING ASSOCIATION

Applicant/Landlord

-and-

JONAS MODESTE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: January 27, 2012

Place of the Hearing: Deline, NT via teleconference

Appearances at Hearing: Les Baton, representing the applicant

Date of Decision: February 1, 2012

REASONS FOR DECISION

The respondent was served with a Notice of Attendance sent by registered mail and confirmed delivered. The respondent failed to appear at the hearing and the hearing was held in his absence.

The tenancy agreement between the parties was terminated on or about January 31, 2011 when the respondent abandoned the premises. The applicant retained the security deposit (\$300) and the accrued interest (\$71.35) applying it against the packing and removal of personal effects from the premises (\$300) and rent arrears (\$6099) leaving a balance owing to the applicant of \$6027.65. The applicant sought an order requiring the respondent to pay that amount. The premises are subsidized public housing.

The applicant provided a copy of the tenant ledger in evidence indicating a balance of rent owing in the amount of \$6027.65. The applicant stated that all of the assessed rent had been adjusted to the household income of the respondent in accordance with the tenancy agreement.

Section 18(4) of the *Residential Tenancies Act* sets out what may be deducted from a security deposit or pet deposit.

- (4) A landlord may, in accordance with this section, retain all or a part of a security deposit, a pet security deposit or both for arrears of rent owing from a tenant to the landlord in respect of the rental premises, and for repairs of damage to the premises caused by the tenant or a person permitted on the premises by the tenant.**

Packing and removing abandoned personal property is neither rent arrears nor repair costs and

may not be deducted from the security deposit. There is no remedy in the Act for this compensation. Section 65 of the Act permits the landlord to demand these costs from the former tenant prior to the release of the goods or to retain the proceeds of sale to cover the costs if the former tenant fails to claim the property. Therefore, the full security deposit and interest should be applied against the rent arrears resulting in a balance of \$5727.65 calculated as follows:

Rent arrears	\$6099.00
Security deposit	(300.00)
Interest	<u>(71.35)</u>
Balance	\$5727.65

A previous order (file #20-11001, filed on September 30, 2009) ordered the respondent to pay rent arrears of \$8602. Since that order was issued, the respondent has paid \$6000 in rent, leaving an unsatisfied balance of \$2602. That balance may still be enforced.

Taking into consideration the unsatisfied balance of the previous order, another order shall issue for \$3125.65, calculated as follows:

Rent arrears	\$5727.65
Unsatisfied balance of previous order	<u>(2602.00)</u>
Current order	\$3125.65

An order shall issue requiring the respondent to pay the applicant rent arrears in the amount of \$3125.65.

Hal Logsdon
Rental Officer