

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **MARION MACKEINZO AND GEORGE MACKEINZO**, 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 **YELLOWKNIFE, NT.**

BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

- and -

MARION MACKEINZO AND GEORGE MACKEINZO

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 one thousand four hundred thirty one dollars (\$1431.00).
2. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondents shall pay the applicant repair costs in the amount of two hundred six dollars and twenty nine cents (\$206.29).
3. Pursuant to section 67(4) of the *Residential Tenancies Act*, the respondents shall pay the applicant compensation for use and occupation of the rental premises after the

termination of the tenancy agreement in the amount of nine hundred forty five dollars and sixty eight cents (\$945.68).

DATED at the City of Yellowknife, in the Northwest Territories this 22nd day of March, 2012.

Hal Logsdon
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **MARION MACKEINZO AND GEORGE MACKEINZO**, 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:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

-and-

MARION MACKEINZO AND GEORGE MACKEINZO

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: March 21, 2012

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Ella Newhook, representing the applicant
Marion Mackeinzo, respondent

Date of Decision: March 22, 2012

REASONS FOR DECISION

The first name of Ms Mackeinzo is incorrectly spelled on the application. The order shall reflect the correct spelling of her name.

The applicant served a notice of termination on the respondents on January 24, 2012 terminating the tenancy agreement on February 29, 2012 for non-payment of rent and failure to regularly report the household income. The premises are subsidized public housing. The applicant stated that the respondents were still in possession of the rental premises and sought an eviction order. The applicant also alleged that there were rent arrears and repair costs owing and sought an order requiring the respondents to pay those costs.

I find the termination notice in order and in accordance with sections 51(5) and 55(3) of the *Residential Tenancies Act*. Therefore the tenancy agreement between the parties was lawfully terminated on February 29, 2012 and the respondents are now overholding.

The applicant provided a statement of account in evidence which indicated a balance owing of \$3825.29. Included in this amount is the cost of a repair to the oven handle of \$206.29.

The full unsubsidized rent of \$1396 was charged in February and March, 2012. The applicant stated that the unsubsidized amount had been charged in February, 2012 because in their opinion, the respondents had not reported the full amount of their household income for that month. The

applicant stated that the full unsubsidized amount had been charged in March, 2012 because the tenants were overholding and not eligible for subsidy.

The respondent did not dispute the allegations and stated that she felt the amounts could be paid by April 13, 2012. The applicant stated that they would not enforce the eviction if the ordered amounts were paid in full on or before that date.

The application of the full unsubsidized rent in February, 2012 represents a penalty which is not permitted pursuant to section 13 of the Act. Even if the reported income is considered incomplete or inaccurate, the rent should be calculated on the income declared by the tenant. A landlord should pursue a remedy for breach of the obligation to accurately report the income rather than apply a penalty. The income information reported for February, 2012 was available at the hearing and the applicant stated that based on that income, the rent would be \$604.

I find rent arrears of \$1431 calculated as follows:

October/11 rent	\$32
November/11 rent	131
December/11 rent	755
January/12 rent	714
February/12 rent	604
Payments	(32)
Electrical credits	<u>(773)</u>
Total	\$1431

I find the repairs costs of \$206.29 to be reasonable.

I find compensation for overholding (March 1-21) to be \$945.68 calculated as follows:

$$(\$1396 \times 21)/31 = \$945.68$$

An order shall issue requiring the respondents to pay rent arrears of \$1431, repair costs of \$206.29 and compensation for use and occupation of \$945.68.

An eviction order to be effective on April 13, 2012 unless the rent arrears, repair costs and compensation for use and occupation in the total amount of \$2582.97 are paid in full shall be issued separately.

Hal Logsdon
Rental Officer