

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,  
and **LINDA CHOCOLATE**, 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 -

**LINDA CHOCOLATE**

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 sixty dollars (\$3160.00).

DATED at the City of Yellowknife, in the Northwest Territories this 19th day of  
November, 2012.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,  
and **LINDA CHOCOLATE**, 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-

**LINDA CHOCOLATE**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** November 9, 2012

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

**Appearances at Hearing:** Ella Newhook, representing the applicant  
Linda Chocolate, respondent  
Arlene Hache, representing the respondent

**Date of Decision:** November 18, 2012

### **REASONS FOR DECISION**

The applicant served a notice on September 13, 2012 terminating the tenancy agreement between the parties on October 31, 2012 for non-payment of rent and failure to report the household income. The applicant sought an order requiring the respondent to pay the alleged rent arrears and evicting the respondent. The premises are subsidized public housing.

The applicant provided a copy of the notice of termination and a statement of the rent account in evidence. The statement indicated a balance of rent owing in the amount of \$4625. The applicant stated that full unsubsidized rent was applied in November, 2012 because the tenant was overholding.

The respondent's representative did not dispute the rent arrears but stated that the respondent reported her income in August, 2012 in accordance with the applicant's notice which resulted in a significant adjustment to the amount owing. The respondent's representative stated that the respondent is disabled and is now only receiving *Employment Insurance* and has made application for emergency funding to assist her in paying the amount due.

The notice of termination conforms to the requirements set out in sections 51(5) and 55(3) of the *Residential Tenancies Act*. However, I am not satisfied that the respondent failed to report her income in accordance with the tenancy agreement.

Article 6 of the tenancy agreement obligates the tenant to report the household income.

**6. Tenant's Income**

The Tenant promises to provide a subsidy agent appointed by the Landlord with an accurate report of the Tenant's income, the income of any occupant of the Premises, the size of the Tenant's family, and the number of occupants residing on the Premises, whenever, and as often as, the subsidy agent requests such a report.

Article 6 implies that the subsidy agent will notify the tenant to report the household income and the tenant will be obligated to report. The subsidy agent could notify the tenant that they are required to report each month, every quarter or semi-annually. Notification to report at certain intervals does not mean that the subsidy agent is prohibited from seeking information at any time and adjusting the rent retroactively to the reported income. Clearly, article 6 does not obligate the tenant to report the household income whenever it changes and does not prevent the landlord from making retroactive adjustments to the rent.

In this matter, it appears that the applicant requested a report of the household income in August, 2012 after the new rent scale came into effect. I find no evidence that the respondent was advised to report monthly or at any other interval. Based on this report, adjustments were posted to the account on September 11, 2012 which retroactively adjusted the rent back to October, 2011 and significantly increased the balance owing. Since that time the respondent has made payments of over \$3500 to address the arrears.

In my opinion, the adjustments were warranted. However, I find no evidence to support the application of the full unsubsidized rent for November, 2012. I find no evidence that the respondent has been notified that her November, 2012 income must be reported or her income

reported monthly. Based on the previous month's assessment the November rent should remain at \$160. I find rent arrears of \$3160 calculated as follows:

Balance as per ledger	\$4625
Less October/12 rent	(1625)
Adjusted Oct. rent	<u>160</u>
Rent arrears	\$3160

In my opinion, the eviction of the respondent is not justified. The rent was retroactively adjusted only two days before the termination notice was served on the respondent. There was no breach of the tenant's obligation to report the income - she did so in a timely manner when it was requested.

An order shall issue requiring the respondent to pay the applicant rent arrears of \$3160. The eviction order is denied.

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Hal Logsdon  
Rental Officer