

IN THE MATTER between **HAY RIVER HOUSING AUTHORITY**, Applicant, and
DARLENE ROSS AND KELLY YEW, 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 **HAY RIVER, NT**.

BETWEEN:

HAY RIVER HOUSING AUTHORITY

Applicant/Landlord

- and -

DARLENE ROSS AND KELLY YEW

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 84(3) of the *Residential Tenancies Act*, the previous order (file #10-12632, filed on February 15, 2012) is rescinded and the respondents are ordered to pay the applicant the remaining rent arrears in lump sum in the amount of two thousand three hundred seventy four dollars and twenty five cents (\$2374.25).
2. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondents shall pay the applicant repair costs in the amount of sixty four dollars and fifty cents (\$64.50).
3. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as 53 Woodland Drive, Hay River,

NT shall be terminated on March 15, 2013 and the respondents shall vacate the premises on that date unless the rent arrears and the repair costs in the total amount of two thousand four hundred thirty eight dollars and seventy five cents (\$2438.75) are paid in full.

4. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents shall pay future rent on time.

DATED at the City of Yellowknife, in the Northwest Territories this 31st day of January, 2013.

Hal Logsdon
Rental Officer

IN THE MATTER between **HAY RIVER HOUSING AUTHORITY**, Applicant, and
DARLENE ROSS AND KELLY YEW, 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:

HAY RIVER HOUSING AUTHORITY

Applicant/Landlord

-and-

DARLENE ROSS AND KELLY YEW

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: January 29, 2013

Place of the Hearing: Hay River, NT via teleconference

Appearances at Hearing: Adam Swanson, representing the applicant
Darlene Ross, respondent
Kelly Yew, respondent

Date of Decision: January 31, 2013

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent and had breached a previous order to pay rent arrears in monthly payments. The applicant sought an order requiring the respondents to pay the alleged rent arrears in lump sum and terminating the tenancy agreement and evicting the respondents. The premises are subsidized public housing.

The applicant provided a statement of the rent account which indicated a balance of \$2438.75. Included in that amount were charges of \$64.50 for repairs of a damaged door. The applicant stated that the door was damaged by the respondents or persons permitted in the premises by the tenants.

A previous order (file 10-12632, filed on February 15, 2012) required the respondents to pay rent arrears of \$3515.79 in monthly payments of \$200 until the rent arrears were paid in full.

The respondents acknowledged that the order had been breached and did not dispute the amounts alleged to be owing. They stated that Mr. Yew, the primary income earner, had become disabled and was no longer able to work in his previous occupation. Mr. Yew stated that he was seeking disability and worker's compensation and expected a refund from his income tax return. The respondents stated that they could more reasonably pay the monthly rent plus \$100.

The applicant noted that Mr Yew earned significant income during several months in 2012 which would have permitted him to retire the arrears completely. Copies of the rent assessments, provided in evidence by the applicant, indicate that the respondents' household income exceeded the maximum allowable for the public housing program in several months.

In the *Reasons for Decision* included with the previous order, it is noted that a previous agreement for payment of arrears had been made between the applicant and the respondents which had been breached.

A review of the rent statements provided indicates that the respondents have made progress in paying the arrears previously ordered but the respondents' household income since the last order provides little in the way of an excuse as to why the order was breached at all. In my opinion, it is not reasonable to expect the applicant to accept yet another extended payment plan. On the other hand, it appears that the respondents are in need of the assistance provided by the program due to Mr. Yew's reduced income and the current level of arrears could be paid reasonably quickly, particularly with tax return season approaching and the possibility of other avenues of assistance.

In my opinion, it is reasonable to continue the tenancy agreement provided the monthly rent is paid on time and that the balance of arrears and the repair costs are paid on or before March 15, 2013.

An order shall issue rescinding the previous order and ordering the respondents to pay rent

arrears of \$2374.25, repair costs of \$64.50 and to pay future rent on time. The tenancy agreement will be terminated by order on March 15, 2013 unless those rent arrears and repair costs are paid in full. An eviction order to be effective on March 16, 2013 unless the rent arrears and repair costs are paid in full will be issued separately.

Hal Logsdon
Rental Officer