

IN THE MATTER between **HAY RIVER HOUSING AUTHORITY**, Applicant, and  
**THOMAS EMBLETON**, Respondent;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter  
R-5 (the "Act") as amended;

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 -

**THOMAS EMBLETON**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 57(b) of the *Residential Tenancies Act* the tenancy agreement between the parties for the premises known as 2A Neville Place, Hay River, NT shall be terminated on February 21, 2013 provided that the applicant offers the respondent a transfer to a bachelor or one-bedroom apartment.

DATED at the City of Yellowknife, in the Northwest Territories this 12th day of  
February, 2013.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **HAY RIVER HOUSING AUTHORITY**, Applicant, and  
**THOMAS EMBLETON**, 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:

**HAY RIVER HOUSING AUTHORITY**

Applicant/Landlord

-and-

**THOMAS EMBLETON**

Respondent/Tenant

**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  
Donna McLean, representing the applicant  
Thomas Embleton, respondent

**Date of Decision:** February 11, 2013

### **REASONS FOR DECISION**

The applicant alleged that the respondent was no longer eligible for the two-bedroom apartment that he was occupying. The premises are subsidized public housing. The applicant stated that the respondent lived alone and was not eligible for a two-bedroom unit. The applicant stated that there were other families on the waiting list for two-bedroom units. The applicant stated that the respondent had been offered a bachelor apartment but had refused to move. The applicant sought an order terminating the tenancy agreement and evicting the respondent unless he accepted the transfer to the smaller unit.

The respondent acknowledged that he was the primary occupant but stated that his son, who lived with his girlfriend, often came to stay with him when the couple were not getting along. The respondent provided a probation order which prohibited his son from contacting his girlfriend if he had been consuming alcohol and to leave her presence if requested to do so. The respondent stated that he needed the additional bedroom for the occasions when his son could not stay with his girlfriend.

The respondent also stated that his son was trying to gain custody of his child and if successful was planning to move in with him.

The public housing program contains standards for the allocation of units according to family size and unit size. The intent of the standards is to maximize the usefulness of the public housing

portfolio in the community and to provide accommodation which is suitable for the household size.

Section 57(b) of the *Residential Tenancies Act* permits the termination of tenancy agreements for subsidized public housing where a tenant no longer meets the requirements for occupancy.

- 57. Where, on the application of a landlord, a rental officer determines that**
- (a) a tenant who, as a student or a staff member was provided with living accommodation that is not exempt from this Act by an educational institution, has ceased to meet the requirement for occupancy of the living accommodation,**
  - (b) a tenant of subsidized public housing has ceased to meet the requirement for occupancy of the rental premises, or**
  - (c) a landlord and a tenant who share a bathroom or kitchen facility have had personal differences that make the continuation of the tenancy unfair to either of them,**
- the rental officer may make an order terminating the tenancy on a date specified in the order and ordering the tenant to vacate the rental premises on that date.**

There is a shortfall of subsidized public housing in this community and most others in the NWT.

In order to make the best use of a scarce resource, it is necessary to ensure that as much as possible, households are not over-accommodated.

In my opinion, it is not reasonable for a single person to occupy a two-bedroom public housing unit when he/she could be accommodated in a bachelor or one-bedroom unit and there are households on the waiting list for two bedroom units. The fact that the respondent's adult son stays with him from time to time is not, in my opinion justification for a two-bedroom unit. The possible custody of the grandson does not warrant a two-bedroom unit as that household composition should, if it does come about, justify a three bedroom unit.

The applicant has offered a smaller unit to the respondent and has indicated that it remains available. In my opinion, the tenancy agreement should be terminated if the smaller unit is made available and the respondent refuses the transfer.

An order shall issue terminating the tenancy agreement on February 21, 2013 provided that the respondent is allocated a bachelor or one-bedroom unit. An eviction order to be effective on February 22, 2013 provided the respondent is offered the transfer shall be issued separately.

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Hal Logsdon  
Rental Officer