

IN THE MATTER between **BEHCHOKO KO GHA K'AODEE**, Applicant, and
MONIQUE MACKENZIE, 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 **BEHCHOKO, NT**.

BETWEEN:

BEHCHOKO KO GHA K'AODEE

Applicant/Landlord

- and -

MONIQUE MACKENZIE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 57(b) and 83(2) of the *Residential Tenancies Act* the tenancy agreement between the parties for the premises known as Unit 260, Behchoko, NT shall be terminated fifteen (15) days after the respondent is offered a transfer to other suitable premises that are provided with an access ramp and ready for occupancy.

DATED at the City of Yellowknife, in the Northwest Territories this 10th day of April,
2013.

Hal Logsdon
Rental Officer

IN THE MATTER between **BEHCHOKO KO GHA K'AODEE**, Applicant, and
MONIQUE MACKENZIE, 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:

BEHCHOKO KO GHA K'AODEE

Applicant/Landlord

-and-

MONIQUE MACKENZIE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: March 26, 2013

Place of the Hearing: Behchoko, NT

Appearances at Hearing: Mike Keohane, representing the applicant
Monique Mackenzie, respondent
Rose Lamouelle, representing the respondent
Phillip Mackenzie, witness for the respondent
Mary Adelle Mackenzie, witness for the respondent

Date of Decision: April 10, 2013

REASONS FOR DECISION

The applicant alleged that the respondent's current premises are no longer suitable for her household size. The premises are subsidized public housing. The applicant stated that the respondent lives alone in a four-bedroom unit. The applicant notified the respondent on September 10, 2012 that she had been allocated a new one-bedroom unit (#255B) and gave her 30 days to accept the offer. The respondent refused to move and the application was filed on January 22, 2013 seeking termination of the tenancy agreement and eviction. The applicant stated that the one-bedroom unit had not been rented and continued to be reserved for the respondent.

The respondent is 84 years old and stated that she will not move to the new unit because it is too small. She stated that she has lived in the house for a long time and has a lot of belongings including two freezers which will not all fit in the new unit. She also stated that she had an outdoor shed which she does not want to give up. The respondent acknowledged that she had never been inside the new unit but she expressed concerns that the front stairs to the entrance would create problems for her. She stated that she regularly uses a walker.

The respondent's son and daughter appeared at the hearing. Both expressed concern that their mother had lived in the house for a long time and had many memories connected with the unit. They stated that the size of the unit would prevent their mother from carrying on some of her traditional activities. Both expressed concern with the number of stairs at the entrance and Mr. Mackenzie worried about the fact that the premises had only one door.

The NWT Housing Corporation requires its agents to use the *National Occupancy Standards* when allocating units to households. These standards specify appropriate unit sizes depending on household size. The respondent, having a household size of just one is eligible for a one-bedroom unit. Because household size does change from time to time, the tenancy agreement used in Public Housing sets out in Article 3 that the tenant agrees to accept a transfer to other premises when the premises are no longer suitable. This provision is, in my opinion, completely reasonable for subsidized public housing.

Matching unit size with household size is important. Subsidized public housing is both expensive and scarce. The applicant stated that there are currently 15 families in the community on the waiting list for a four-bedroom house. Some are overcrowded in smaller units and others are living in substandard units which urgently require extensive renovations. Permitting over-accommodation is an inefficient use of a valuable and scarce public resource which deprives other community members of adequate and suitable housing.

The applicant has previously argued that the respondent is no longer eligible for the unit she occupies. At a hearing in July, 2010 (file #10-11544, filed on August 4, 2010) I declined to terminate this tenancy agreement in part because the applicant had not offered the respondent accommodation that was better suited to her household size. That is not the case now. The respondent is in need of public housing but she does not need a four-bedroom unit nor is it reasonable for her to continue to occupy one when others are in need of larger units.

The applicant described Unit #255B as a “newly constructed seniors facility”, designed for independent living. Such units normally are designed with features which provide assists with mobility such as entrance ramps, grab handles and wheelchair access. After the hearing I visited Unit #255B. The entrance stairs have significantly more treads than the entrance to the respondent’s current premises. Unit #255B has no ramp or other features of a seniors unit. It is a new unit which has never been occupied and appears to meet all applicable codes including those associated with egress.

I find that the respondent is no longer eligible to occupy unit #260. I do, however share the concerns expressed by the respondent and her children concerning the stairs and believe that a ramp should be constructed before the respondent is required to move. Therefore an order shall issue terminating the tenancy agreement for Unit #260 fifteen days after a smaller unit with a completed ramp is ready for occupancy and offered to the respondent.

I expect the respondent to accept the unit, but should she refuse and remain in possession of Unit #260, the applicant may apply for an eviction order.

Hal Logsdon
Rental Officer