

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Lee Ann Rabesca and Christopher Football**, 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, **Adelle Guigon**, Deputy Rental Officer, regarding a rental premises within **the community of Wekweeti in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

LEE ANN RABESCA and CHRISTOPHER FOOTBALL

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) and 83(2) of the *Residential Tenancies Act*, the Respondents shall pay to the Applicant rental arrears in the amount of \$8,040 (eight thousand forty dollars) in minimum monthly increments of \$500 (five hundred dollars).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the Respondents shall pay their rent on time in the future.

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

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Lee Ann Rabesca and Christopher Football**, 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 **Adelle Guigon**, Deputy Rental Officer.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

-and-

LEE ANN RABESCA and CHRISTOPHER FOOTBALL

Respondents/Tenants

REASONS FOR DECISION

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| <u>Date of the Hearing:</u> | May 24, 2013 |
| <u>Place of the Hearing:</u> | Yellowknife, Northwest Territories, via Teleconference |
| <u>Appearances at Hearing:</u> | Gerry Cheezie, representing the Applicant Lee Ann Rabesca, Respondent Christopher Football, Respondent |
| <u>Date of Decision:</u> | May 24, 2013 |

REASONS FOR DECISION

Application

The application package submitted by the Applicant regarding Unit 42 in the community of Wekweeti, Northwest Territories, was filed by the Rental Office on April 8, 2013. The Applicant personally served a copy of the filed application package on the Respondents on April 10, 2013.

The Applicant requested in the application the following remedies pursuant to the *Residential Tenancies Act* (the Act):

- Payment of rental arrears in the amount of \$28,881 pursuant to section 41(4)(a) of the Act;
- Termination of the tenancy for non-payment of rent pursuant to section 41(4)(c) of the Act; and
- Eviction pursuant to section 63(4) of the Act.

The following exhibits were included with the application package:

Exhibit 1: Correspondence signed April 5, 2013, from the Applicant requesting the Respondent to address their rental arrears

Exhibit 2: Rental Office Order File No. 10-12508 dated February 21, 2012, ordering payment of rental arrears in the amount of \$21,377 and payment of future rent on time

Exhibit 3: SLP Assessment Results dated July 25, 2011, assessing monthly subsidized rental payments at \$536

Exhibit 4: Income Verification Summary reflecting total household annual income based on 2010 CRA amounts

Exhibit 5: Statement of Account for April 1, 2005, to April 1, 2013, reflecting rental arrears in the amount of \$28,881

Exhibit 6: Supported Lease Program Agreement signed by the Respondents on April 5, 2005, and by the Applicant on May 16, 2005

Exhibit 7: Residential Tenancy Agreement signed March 27, 2007

Hearing

A hearing was scheduled for May 24, 2013, via three-way teleconference. The Applicant was personally served a notice of hearing on May 9, 2013. The Respondents were served a notice of hearing by registered mail signed for on May 13, 2013. The Applicant was represented at hearing by Mr. Gerry Cheezie. Both Respondents were present at hearing.

Submissions

The Applicant submitted the following exhibit prior to the hearing via fax received by the Rental Office on May 23, 2013. A copy of this exhibit was forwarded by the Rental Office via fax to the Respondents.

Exhibit 8: Statement of Account for April 1, 2005, to May 23, 2013, reflecting rental arrears in the amount of \$29,417

The Statement of Account is the landlord's accounting of transactions applied against a tenant. In this case the transactions consist of monthly rent and payments made. The Statement of Account is not in dispute and I accept that it accurately reflects the payments made by the tenants.

At hearing the Applicant confirmed that they were seeking payment of rental arrears, termination of the tenancy, and eviction. The Applicant indicated that there had been numerous attempts made to address the matter with the Respondents, in the form of calls from the supervisor and correspondence, with no response.

The Respondents replied that they had met with someone in February or March to determine what their rent is as they had not received any statements defining it. After some discussion it was learned that the Respondents had not understood that they would only be contacted if their rent amounts changed and that their rent amounts would only change when and if the Applicant received information from them regarding a change in household income. As the last reported household income was determined from the Respondents' 2010 CRA income reports provided in 2011, that is the last time the rent was assessed at \$536 and it has remained at that rate since.

The Respondents were further under the impression that their CRA income reports would be automatically forwarded to the Applicant annually. The Applicant clarified that this was not the case and that all the Respondents had to do was sign a form authorizing the Applicant to obtain their CRA income reports each year. The Applicant further indicated he would be happy to

provide the Respondents with the required forms to complete for 2011 and 2012, and that once those income reports were received from CRA their rent would be reassessed accordingly and any retroactive adjustments would be made to their account. The Respondents would be notified once this occurred.

Regardless of these misconceptions, the Respondents have not made any payments towards their rent since October 2008. A Rental Office Order had been granted on February 21, 2012, requiring the payment of rental arrears accumulated to that date of \$21,377 and to pay future rent on time. Neither of these orders have been satisfied. The Applicant may at any time file that order with the Territorial Court to commence enforcement measures.

The Respondents suggested that another reason payments had not been made was in response to problems with their unit not being addressed sufficiently by the Applicant. They acknowledged this may not be a good reason to withhold rent but that there were still problems with the unit. The Respondents were advised that they could not withhold their rent due to a landlord's failure to repair deficiencies in their unit. They were also advised that remedies were available to them in the Act such that they could make application to the Rental Office for an order addressing the deficiencies and/or permitting the payment of rent to be made to the Rental Office in trust until such deficiencies were repaired, among other options. However, for this hearing's purposes the matter of deficiencies to the unit would not be considered.

The Respondents indicated, now that they understood their current monthly rent assessment was \$536, they could make their payments plus another \$500 or more per month towards the rental arrears. The Applicant responded that he would be satisfied with a payment plan if it could be incorporated into an order requiring a minimum of \$500 per month plus the rent. Should such an order be made, plus an order to pay future rent on time, the Applicant would not be seeking termination and eviction orders at this time.

Determination

I am satisfied that a tenancy agreement is in place in accordance with the Act, based on the evidence of the tenancy agreement submitted by the Applicant and that there is no dispute as to the existence of a tenancy agreement.

I am satisfied that the Respondents do currently have rental arrears as evidenced by the Statement of Account submitted by the Applicant. As there is already an order accounting for rental arrears accumulated to February 16, 2012, the amount of rental arrears to be considered at this hearing are those accumulated since March 1, 2012, totalling \$8,040. .../5

I am satisfied that the Respondents have been repeatedly late paying their rent, as evidenced by the Statement of Account submitted by the Applicant, which in fact reflects the last payment having been made by the tenants as being in October 2008.

I am further satisfied that one more opportunity should be given to the Respondents to accept responsibility for their rent arrears, and that termination of the tenancy and eviction are not necessary at this time.

Order

An order will issue requiring the Respondents to pay rental arrears in the amount of \$8,040 in minimum monthly increments of \$500 and to pay their future rent on time.

Adelle Guigon
Deputy Rental Officer