

IN THE MATTER between **BEHCHOKO KO GHA K'AODEE**, Applicant, and **LISA LAFFERTY AND GARY SIMPSON**, 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, **HAL LOGSDON**, Rental Officer, regarding the rental premises at **BEHCHOKO, NT**.

BETWEEN:

BEHCHOKO KO GHA K'AODEE

Applicant/Landlord

- and -

LISA LAFFERTY AND GARY SIMPSON

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondents shall comply with their obligation to report the household income in accordance with Article 6 of the tenancy agreement.
2. Pursuant to section 41(4)(a) and 83(2) of the *Residential Tenancies Act*, the respondents shall pay the applicant rent arrears in the amount of six thousand eight hundred twenty four dollars (\$6824.00). The arrears shall be paid in monthly installments of no less than one hundred fifty dollars (\$150.00) payable on the last day of every month until the rent arrears are paid in full. The first payment shall be due on June 30, 2013.

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3. 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 6th day of June,
2013.

Hal Logsdon
Rental Officer

IN THE MATTER between **BEHCHOKO KO GHA K'AODEE**, Applicant, and **LISA LAFFERTY AND GARY SIMPSON**, 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:

BEHCHOKO KO GHA K'AODEE

Applicant/Landlord

-and-

LISA LAFFERTY AND GARY SIMPSON

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: May 23, 2013

Place of the Hearing: Behchoko, NT

Appearances at Hearing: Jessica Relucio, representing the applicant
Therese Migwi, representing the applicant
Lisa Lafferty, respondent
Gary Simpson, respondent

Date of Decision: June 6, 2013

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent. The applicant sought an order requiring the respondents to pay the alleged rent arrears in monthly installments of \$150 and to pay future rent on time. The premises are subsidized public housing.

The applicant provided copies of the tenant ledger in evidence which indicated a balance of rent owing as at March 25, 2013 in the amount of \$12,354. The applicant testified that since that date the April and May, 2013 rents had been assessed at \$1545, a credit of \$4530 had been applied to the account as a rent adjustment, a payment of \$400 had been made on May 5, and a payment of \$750 had been made on April 8, bringing the balance owing to \$9764.

The applicant stated that the full unsubsidized rent of \$1545 had been charged in April and May because they did not have complete income information from all income earners in the household. The applicant stated that the April and May rents would be assessed at \$75 if the only income information provided was used to calculate the rent. The applicant testified that all other rents had been calculated based on the household income reported.

The respondents did not agree with the balance of rent arrears alleged to be owing. They referred to a number of payments that had been made, all of which were accounted for on the tenant ledger. They also questioned an entry on a security deposit ledger provided by the landlord with

the application which indicated that a security deposit and interest of \$460.74 has been refunded in July, 2007. The applicants stated that they never received the refund.

I find the application of the full unsubsidized rent in April and May to be unreasonable. I find that the respondents' failure to report the full household income is a breach of section 6 of the tenancy agreement.

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. All reporting by the Tenant must be in the form prescribed by the subsidy agent.

Following the precedent in *Inuvik Housing Authority v. Koe* [1992] N.W.T.R. 9, I find the application of the full subsidized rent to be a penalty which is prohibited pursuant to section 13 of the *Residential Tenancies Act*. I shall adjust the rent for April and May to \$75 and issue an order requiring the respondents to report the household income in accordance with their tenancy agreement. When they do so, the applicant shall recalculate the rent in accordance with the reported income and the approved rent scale. In all other respects I find the rent ledger in order. I find the rent arrears to be \$6824 calculated as follows:

Balance as per ledger	\$12,354
credit adjustment	(4530)
May 05 pmt	(400)
April 8 pmt	(750)
April rent	75
May rent	<u>75</u>
Total	\$6824

An order shall issue requiring the respondents to pay rent arrears of \$6824 in monthly

installments of \$150 payable on the last day of every month until the rent arrears are paid in full. The first payment shall be due on June 30, 2013. The order shall also require the respondents to pay the monthly rent on time.

In the matter of the refunded security deposit I note that the present tenancy commenced with a term agreement between the parties starting on November 1, 2008 for unit 625B. The security deposit ledger card indicates that a security deposit of \$451 was collected from Lisa Lafferty for unit 623B on February 6, 2007 and refunded on May 5, 2007. This is obviously a security deposit for a previous tenancy agreement and not related to this application.

Hal Logsdon
Rental Officer