

IN THE MATTER between **Fort McPherson Housing Association**, Applicant, and
Eileen Kay, 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,
regarding a rental premises located within the **Hamlet of Fort McPherson in the
Northwest Territories**.

BETWEEN:

FORT MCPHERSON HOUSING ASSOCIATION

Applicant/Landlord

- and -

EILEEN KAY

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the Respondent shall pay to the Applicant rental arrears in the amount of \$230 (two hundred thirty dollars).
2. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the Respondent shall pay to the Applicant expenses in the amount of \$214.18 (two hundred fourteen dollars eighteen cents).
3. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the Respondent shall pay her rent on time in the future.

4. Pursuant to section 41(4)(c), 54(4), and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as Unit 0007 James Simon Road in Fort McPherson, Northwest Territories, shall be terminated on June 30, 2013, unless rental arrears are paid in full by that date.

DATED at the City of Yellowknife in the Northwest Territories this 3rd day of June 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Fort McPherson Housing Association**, Applicant, and
Eileen Kay, 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:

FORT MCPHERSON HOUSING ASSOCIATION

Applicant/Landlord

-and-

EILEEN KAY

Respondent/Tenant

REASONS FOR DECISION

<u>Date of the Hearing:</u>	May 29, 2013
<u>Place of the Hearing:</u>	Fort McPherson, Northwest Territories, via Teleconference
<u>Appearances at Hearing:</u>	Shirley Wilson, representing the Applicant Elizabeth Firth, representing the Applicant
<u>Date of Decision:</u>	May 29, 2013

REASONS FOR DECISION

Application

The application package submitted by the Applicant regarding the rental premises at Unit 0007 James Simon Road in Fort McPherson, Northwest Territories, was received and filed by the Rental Office on March 21, 2013. The Applicant served a copy of the filed application package on the Respondent by registered mail sent April 8, 2013, which was deemed served pursuant to section 71(3) of the *Residential Tenancies Act* (the Act) on April 15, 2013.

The application package indicated the Applicant was seeking the following remedies:

- Payment of rental arrears in the amount of \$139.85 pursuant to section 41(4)(a) of the Act;
- Payment of expenses for unscheduled water delivery in the amount of \$164.60 pursuant to section 42(3)(e) of the Act;
- Termination of the tenancy agreement for non-payment of rent pursuant to section 41(4)(c) of the Act;
- Eviction pursuant to section 63(4)(a) of the Act; and
- Compensation for use and occupation of the premises after termination of the tenancy pursuant to section 63(4)(b) of the Act.

The following exhibits were included in the application package:

Exhibit 1: Tenant Ledger for April 30, 2012, to February 26, 2013

Exhibit 2: Residential Tenancy Agreement Indeterminate Lease signed April 1, 2012

Exhibit 3: Demand Notice signed January 16, 2013

Exhibit 4: Termination Notice signed February 8, 2013

Exhibit 5: Invoice #13-165 and attached Call Out Authorizations for water deliveries on December 13, 2012, and December 27, 2012

Hearing

A hearing was scheduled for May 29, 2013, for which notices were sent to the Applicant and Respondent by registered mail sent May 3, 2013. The Applicant appeared at hearing, represented by Shirley Wilson and Elizabeth Firth. The Respondent was deemed served the notice of hearing pursuant to section 71(5) of the Act on May 10, 2013. The Respondent did not appear at hearing nor was there anyone present to represent the Respondent. The hearing proceeded in her absence.

Submissions

The Applicant submitted further documentation amending the amounts of arrears requested. The following exhibits were received by the Rental Office via fax on May 28, 2013:

Exhibit 6: Tenant Ledger for November 27, 2012, to May 16, 2013

Exhibit 7: Invoice #13-230 and attached Work Order #1,695 for a locked out call out

Exhibit 8: Invoice #14-003 and attached Call Out Authorizations for water deliveries on April 14, 2013, and April 21, 2013

The Applicant confirmed they were seeking payment of rental arrears in the amount of \$230, payment of expenses for call outs and water delivery charges in the amount of \$214.18, termination of the tenancy agreement, eviction, and compensation for use and occupation of the premises after termination.

The Applicant further clarified that the charges for water deliveries reflected actual amounts charged to the Applicant by the Hamlet for unscheduled water delivery call outs to the premises. No additional charges by the Applicant are added to the unscheduled water delivery charges. The total unpaid charges for this service amount to \$164.18.

The Applicant further confirmed that Work Order #1,695 reflected standard flat rate charges for a call out to unlock the door to the premises for the tenant. The total unpaid charge for this service amounts to \$50.

The Applicant indicated that the Respondent had last made a payment against the tenant account on March 27, 2013, which covered the expenses originally applied for and some of the rent owing. The current unpaid rent amounts to \$230.

The Applicant further indicated they would be satisfied with an order terminating the tenancy on a specified date if the rental arrears were not paid in full. In the event this was ordered, they also requested an order for future rent to be paid on time.

Determinations

The Residential Tenancy Agreement Indeterminate Lease was signed April 1, 2012, for a month-to-month tenancy commencing the same day. Among the standard sections of the agreement it was also identified that rent was due the first day of each month. There was no dispute that a tenancy agreement existed between the parties and I accept that it does.

The Tenant Ledgers are the landlord's accounting of transactions applied against a tenancy. In this case, the tenant ledgers reflect rent applied, costs for damages and/or expenses, and payments made against the account. The Tenant Ledger was not disputed and I accept that it accurately reflects the payments made by the tenant to date. The Tenant Ledgers reflect repeatedly late payments of rent. Further, the Tenant Ledgers reflect current rental arrears in the amount of \$230, which is the equivalent of nearly two months' rent (based on the last assessed rent of \$140 for March 2013). I find that the Respondent currently has rental arrears in the amount of \$230 and that she has been repeatedly late in paying her rent.

The Demand Notice signed January 16, 2013, by the Applicant demanded payment of arrears and rent to be paid on or before January 31, 2013, and notified the Respondent that the consequences to the demand being unfulfilled would be termination of the tenancy.

The Termination Notice signed February 8, 2013, by the Applicant notified the Respondent that their tenancy was terminated effective February 22, 2013, for failure to pay rent pursuant to section 54(1)(g) of the Act. In light of the repeatedly late payment of rent reflected in the Tenant Ledgers, I find that the Termination Notice complies with section 54(1)(g) of the Act and that submission of this application requesting an order for termination of the tenancy is in accordance with section 54(4) of the Act.

Work Order #1,695 was generated March 28, 2013, in response to a call out by the tenant to unlock the premises door. This work order was not disputed and I accept that it reflects a legitimate call out for which a charge can be applied. I find that the Respondent is in arrears of \$50 for a locked out call out.

Invoice #14-003 was generated May 3, 2013, upon receipt by the Applicant of two Call Out Authorizations from the Hamlet of Fort McPherson reflecting unscheduled water deliveries to the premises on April 14, 2013, and April 21, 2013. These deliveries were not disputed and I accept the invoice reflects the actual expenses incurred for the unscheduled water deliveries. I find that the Respondent is in arrears of \$164.18 for unscheduled water delivery charges.

In light of the repeatedly late payment of rent and current rental arrears, I find that termination of the tenancy is justified pursuant to sections 41(4)(c) and 54(4) of the Act if the rental arrears are not paid in full by June 30, 2013. Further, I find that an eviction order under the circumstances is justified should the termination order become effective.

Order

An order shall issue requiring the Respondent to pay rental arrears in the amount of \$230, to pay expenses in the amount of \$214.18, to pay future rent on time, and terminating the tenancy on June 30, 2013, unless rental arrears are paid in full by that date.

An order for eviction and compensation for use and occupancy after termination shall follow under separate cover.

Adelle Guigon
Deputy Rental Officer