

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **GRACE NEYELLE**, 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 **YELLOWKNIFE, NT.**

BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

- and -

GRACE NEYELLE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent shall report the household income for the months of April and May, 2013 in accordance with Article 6 of the tenancy agreement.

DATED at the City of Yellowknife, in the Northwest Territories this 2nd day of July,
2013.

Hal Logsdon
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **GRACE NEYELLE**, 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:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

-and-

GRACE NEYELLE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: June 14, 2013

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Ella Newhook, representing the applicant
Robert Bies, representing the applicant
Grace Neyelle, respondent

Date of Decision: June 14, 2013

REASONS FOR DECISION

The applicant alleged that the respondent was no longer eligible to occupy public housing because she owned residential property in the community of Deline. The applicant also alleged that the respondent received rental income which she did not report in accordance with the tenancy agreement. The applicant sought an order evicting the tenant.

The tenancy agreement between the parties was originally made for a term but has been automatically renewed as a monthly agreement in accordance with section 49 of the *Residential Tenancies Act*. On March 21, 2013 the applicant served a notice of termination for breach of Article 24 of the tenancy agreement to be effective on April 30, 2013. The respondent remains in possession of the premises. Article 24 reads as follows:

24. Termination

This Tenancy Agreement may be terminated pursuant to the *Residential Tenancies Act*, S.N.W.T 1987 (1), c28. The Tenant acknowledges that this Tenancy Agreement is a tenancy of subsidized public housing which may be terminated if the Tenant ceases to meet the requirements for occupancy of public housing.

There was no written policy statement regarding public housing eligibility requirements provided at the hearing. The applicant stated that a public housing tenant could not own property which I understand to mean residential real property.

The applicant provided a copy of a mortgage in evidence showing the respondent as mortgagor for Lot 4 Block 5 in Ft. Franklin (now Deline), NT. The applicant also provided an affidavit of

execution regarding an assignment of lease but there is no attached exhibit and the document does not appear to be completed properly. Neither party was familiar with the document or the purpose it was intended to serve. The applicant also provided a community land use map obtained from the GNWT Municipal and Community Affairs department showing lot 3, block 3, Plan 346 in Deline as belonging to Grace Neyelle.

The respondent acknowledged that she had owned property in Deline which she obtained through the NWT Housing Corporation's Homeownership Assistance Program (Lot 4, Block 5). She testified that she had sold the property to Pauline Roche in 2006 after the mortgage was forgiven and provided a Tenancy at Will agreement in evidence. She also provided a current Notice of Assessment for property taxes in the name of Kevin and Paulina Roche for the property in evidence.

The respondent stated that she did not own or lease Lot 3, Block 5 in Deline. She testified that she had contacted Municipal and Community Affairs and was told that there was no lease for that parcel of land.

I find no evidence to indicate that the respondent currently owns, leases or holds any sort of tenure for residential real property in Deline.

The applicant stated that they had been contacted by an unnamed person who claimed to pay rent to the respondent each month. The respondent stated that her son had previously rented property

to this party and that she had acted as agent for her son, collecting the rent money and forwarding it to him. She stated that she was not the landlord and that she did not receive any income for acting as her son's agent. She stated that the tenancy has since been terminated and that she no longer acts in the capacity of agent for her son. In my opinion, simply collecting the rent on half of another party without commission or remuneration does not constitute income and there is no compelling evidence that the respondent acted in any other capacity.

The applicant has considered the respondent to be an overholding tenant since May 1, 2013 and has charged her the full unsubsidized rent for May and June, 2013.

In my opinion, there is not sufficient evidence to conclude that the respondent no longer qualifies for occupancy in public housing or that she has received income which she has failed to report. Therefore I shall not issue an eviction order as eviction, in my opinion, is not justified.

The respondent shall comply with her obligation to report the household income for April and May 2013 so that the applicant may calculate a subsidized rent based on that income for May and June, 2013.

Hal Logsdon
Rental Officer