

IN THE MATTER between **Harvey Hamilton**, Applicant, and **Crystal King-Chraifi**,  
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 **Town of Hay River in the Northwest  
Territories.**

BETWEEN:

**HARVEY HAMILTON**

Applicant/Landlord

- and -

**CRYSTAL KING-CHRAIFI**

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 \$1,069.01 (one thousand sixty-nine dollars one cent).

DATED at the City of Yellowknife in the Northwest Territories this 26th day of August  
2014.

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Adelle Guigon  
Deputy Rental Officer

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**CRYSTAL KING-CHRAIFI**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** August 16, 2013

**Place of the Hearing:** Hay River, Northwest Territories, via Teleconference

**Appearances at Hearing:** Harvey Hamilton, the Applicant  
Crystal King-Chraifi, the Respondent

**Date of Decision:** August 20, 2013

## **REASONS FOR DECISION**

### **Application**

This Application to a Rental Officer was received and filed by the Rental Office on July 30, 2013. The Applicant served a copy of the application package on the Respondent in person on August 1, 2013.

The Applicant is seeking payment of rental arrears pursuant to section 41(4)(a) of the *Residential Tenancies Act* (the Act), termination of the tenancy for repeatedly late payment of rent pursuant to section 54(1)(g) of the Act, and eviction pursuant to section 63(4) of the Act.

The following evidence was included in the application package:

Exhibit 1: 10-day Notice of Termination dated July 21, 2013

Exhibit 2: Applicant's Written Submission

### **Hearing**

A hearing was scheduled for August 16, 2013, for which both parties were served with notice by registered mail sent August 2, 2013. Both parties attended at hearing.

### **Submissions**

The Applicant reiterated his desire to terminate the tenancy agreement and evict the tenant from the premises. Several attempts were made throughout the month of July to obtain payment for utilities bills, which the Respondent is obligated to pay, along with the premises rent, on the 5<sup>th</sup> of each month. The Applicant suggested the Respondent has repeatedly failed to pay the utilities portion of the rent by the 5<sup>th</sup> of the month. The Applicant's submissions indicated he provided the utilities bills which are outstanding to the Respondent on July 2, 2013, and that the Respondent advised him at that time that Income Support would not pay the utilities unless the utilities were in the tenant's name and that she would pay the bills by July 5, 2013.

Prior to the hearing commencement, the Respondent faxed a written submission to the Rental Office. As it primarily spoke to allegations of the landlord improperly entering the rental premises and generally harassing the tenant, and the Applicant had not had an opportunity prior to the hearing to read and consider the submission, I advised the parties I would not be

considering the Respondent's written submission as the arguments did not pertain to the matter at hand as made in the Application to a Rental Officer. The opportunity for the tenant to submit an Application to a Rental Officer regarding the matters discussed in her written submission remains available to her.

The Respondent confirmed that Income Support advised her earlier in July that they would no longer pay the utilities, as per section 3.5 of their Income Assistance Policy Manual, which requires clients to have utilities in their name if they wish to receive financial support for them.

The Respondent stated at hearing that she had believed the transfer of the utilities to her name was supposed to be initiated by the landlord and this was why it had not been done by the time this application was made. The Respondent has since transferred the utilities to her name, however, she seemed to be under the mistaken impression that this resolved the outstanding utilities bills. It was clarified at hearing that any utilities bills generated prior to the transfer of the utilities to her name are still her responsibility to pay. She did not dispute that she was obligated to pay utilities as part of her rental agreement.

As the utilities bills in question had not been submitted by the time of the hearing, I adjourned the hearing *sine die* pending receipt of the outstanding utilities bills. In requesting that the Applicant submit the utilities bills to the Rental Office either by fax or e-mail, I also requested that he ensure copies of what he sends me are also provided to the Respondent. I indicated at hearing that once the requested invoices were received I would make my decision regarding the matter at hand.

After the hearing, the Respondent provided by fax the utilities bills she had received to date, noting that they were not received directly from the Applicant, rather they were delivered to Income Support by the Applicant. The Respondent did not clarify in her fax submission what date these bills were provided to either herself or Income Support. The afternoon of August 19<sup>th</sup>, the Applicant provided by fax the same utilities bills the Respondent provided plus receipts for his payment of those utilities. Those utilities bills are as follows. The Respondent's Income Support Worker was able to confirm by e-mail that the first two bills listed were submitted to Income Support by the Respondent on July 2, 2013. The remaining bills were submitted to the Income Support Worker on July 19, 2013, but she was unable to confirm who submitted them.

Exhibits 4 and 5:

<b>Description</b>	<b>Billing Date</b>	<b>Amount</b>	<b>Date Paid by Landlord</b>
Town of Hay River - Water	May 31, 2013	\$168.16	July 3, 2013
Northland Utilities - Electricity	June 14, 2013	\$311.90	July 4, 2013
Midnight Petroleum (Imperial Oil) - Fuel	[Unreadable]	\$144.13	July 4, 2013
Town of Hay River - Water	June 30, 2013	\$150.39	August 1, 2013
Northland Utilities - Electricity	July 17, 2013	\$294.43	August 1, 2013
	<b>TOTAL</b>	\$1,069.01	

Determinations

This oral tenancy agreement was established at the hearing regarding Rental Office file number 10-13474. It commenced February 1, 2013, on a month-to-month basis. The monthly rent was agreed to be \$1,200 plus utilities and the rent was set to be due on the 5<sup>th</sup> of the month.

I accept that the utilities bills submitted by the parties equalling a total of \$1,069.01 are an accurate reflection of the outstanding utilities owed by the Respondent to the Applicant as of July 19, 2013. The Respondent does not dispute these utilities remain outstanding. Further, it has been established at hearing that the Respondent has transferred the utilities to her name, therefore, the issue of payment of future utilities is no longer the Applicant's concern to pursue. I find the Respondent in rental arrears for utilities in the amount of \$1,069.01.

Having established that the Respondent did in fact receive utilities bills for \$480.06 on or before July 2, 2013, and utilities bills for \$588.95 on or before July 19, 2013, and further establishing at hearing that no payments for utilities were made as of the hearing date, I find the Respondent is late paying the full amount of her rent for July and August and, by extension, is in breach of Rental Officer Order #10-13474 issued June 17, 2013, which required her to pay future rent on time.

In determining the request of the Applicant for termination of the tenancy and eviction due to repeatedly late payment of rent, I must reflect on the 'repeated' nature of the late payments. The Canadian Oxford Dictionary defines repeated as "frequent; done or said again and again". Frequent is further defined as "occurring often or in close succession". While the argument that the Respondent has been repeatedly late paying her rent may seem to be made out, one must keep in mind the following:

- That this tenancy began February 1, 2013;
- That of the seven months this tenancy has been in existence the Respondent has been late paying rent three times;
- That the base premises rent of \$1,200 has been paid consistently on time each month;
- That the utilities portion of the rent is the portion that has been late in being paid;
- That for the first five months of the tenancy Income Support had paid the utilities bills submitted by the landlord, as evidenced in Rental Office File #10-13474, contrary to their own policies; and
- That the utilities are now in the tenant's name, making her responsible to pay those bills directly to the utility companies rather than to the landlord, resulting in the rent payable to the landlord consisting of the premises rent only.

With these facts in mind, in my opinion the rent has not been *repeatedly* late in payment. Further, it is unlikely to be late in the future when considering that with the transfer of the utilities to the Respondent's name the rent solely consists of the premises rent of \$1,200, which portion has been historically paid on time without incident. I find that termination of the tenancy in this instance is not justified.

### Order

An order will issue for the Respondent to pay to the Applicant rental arrears for outstanding utilities in the amount of \$1,069.01.

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Adelle Guigon  
Deputy Rental Officer