

IN THE MATTER between **BEHCHOKO KO GHA K'AODEE**, Applicant, and
BETTY ANN WEDZIN AND ANTOINE BETSIDEA, 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 -

BETTY ANN WEDZIN AND ANTOINE BETSIDEA

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents shall pay the applicant rent arrears in the amount of seven thousand nine hundred six dollars (\$7906.00).
2. Pursuant to section 42(3)(e) of the *Residential Tenancies Act*, the respondents shall pay the applicant repair costs in the amount of eight dollars and fifteen cents (\$8.15).
3. Pursuant to sections 45(4)(e) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 363, Behchoko. NT shall be terminated on October 20, 2013 and the respondents shall vacate the premises on that

date unless the monthly household income from May, 2013 to September, 2013 is reported to the applicant in accordance with the tenancy agreement.

4. 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 the tenancy agreement between the parties.

DATED at the City of Yellowknife, in the Northwest Territories this 8th day of October, 2013.

Hal Logsdon
Rental Officer

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AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act");

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BETWEEN:

BEHCHOKO KO GHA K'AODEE

Applicant/Landlord

-and-

BETTY ANN WEDZIN AND ANTOINE BETSIDEA

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: **October 1, 2013**

Place of the Hearing: **Behchoko, NT**

Appearances at Hearing: **Mike Keohane, representing the applicant**
 Therese Migwi, witness for the applicant
 Betty Ann Wedzin, respondent

Date of Decision: **October 4, 2013**

REASONS FOR DECISION

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent and by failing to repair damages to the rental premises. The applicant sought an order requiring the respondents to pay the alleged rent arrears and repair costs and terminating the tenancy agreement and evicting the respondents. The premises are subsidized public housing.

The applicant provided copies of the rent ledger which indicated a balance of rent owing in the amount of \$51,543.73. The applicant also provided a copy of the tenant damages ledger which indicated a balance of \$8.15 as well as a work order showing repairs to an exterior light.

Between the respondents, they have occupied seven public housing units since 1991 and have executed twenty tenancy agreements. In some tenancy agreements, Ms Wedzin is the sole tenant; in others she is a joint tenant with Mr Betsidea. Some tenancy agreements are periodic monthly agreements; others are made for a term. New periodic agreements replace old periodic agreements even though the parties are the same. There are multiple tenancy agreements executed for the same term and expired term agreements are not renewed for months at a time.

The full unsubsidized rent was assessed for nine months in 2008 and 2009. The applicant was unable to provide any information as to why that rent was assessed. The full unsubsidized rent was also applied from June, 2013 to present. The applicant's witness stated that some household income information had been reported by the respondents but it was deemed to be incomplete.

The respondent disputed the allegations stating that she had provided the required income information in 2008 and 2009. She acknowledged that no income information had been provided for Mr. Betsidea since June, 2013. There was no income information available at the hearing for either tenant. The respondent did not dispute the repair costs.

Although there are multiple tenancy agreements with these parties, the applicant has treated them as one. Rent which accrued during the sole tenancies of Ms Wedzin has been posted to the same ledger including rent which accrued during the joint tenancy of Ms Wedzin and Mr. Betsidea. Because there is no segregation of the various tenancies, it is not possible to allocate payments to one account or the other. Although the applicant testified that all rent had been adjusted to the household income except for some months in 2008 and 2009 and from June, 2013 to present, there do not appear to be any adjustments for the posted unsubsidized rent in January, February or March, 2012. There are so many postings of unsubsidized rent and subsequent adjustments that it is difficult to determine what months remain unadjusted or why the full unsubsidized rent was charged. The applicant has never taken any action to remedy the alleged non-payment of rent or the alleged failure of the respondents to report income until this application was made in July, 2013.

Clearly it is not reasonable to hold both joint tenants responsible for the accumulation of these arrears. The applicant suggests that two orders be made; one against Ms Wedzin for arrears which accumulated during her sole tenancies and one against both respondents for arrears which accumulated during periods of joint tenancies. The applicant suggested that the appropriate

orders would be \$48,459.73 for the joint tenants and \$3084 for Ms. Wedzin as sole tenant.

Section 68 of the *Residential Tenancies Act* sets out a time limitation on the making of applications.

- 68. (1) An application by a landlord or a tenant to a rental officer must be made within six months after the breach of an obligation under this Act or the tenancy agreement or the situation referred to in the application arose.**
- (2) At a hearing of an application to terminate a tenancy or to evict a tenant, a rental officer may permit a tenant to raise any issue that could be the subject of an application under this Act, and the rental officer may, if he or she considers it appropriate in the circumstances, make an order on that issue.**
- (3) A rental officer may extend the time for the making of an application to the rental officer, whether or not the time for making the application to a rental officer has expired, where the rental officer is of the opinion that it would not be unfair to do so.**

It has not been the practice of this tribunal to extend the time limitation without a reasonable explanation as to why the application could not have been made earlier. There was some suggestion in this matter that Mr. Betsidea may not have been available to enter into a new term agreement after the joint term agreement expired on December 31, 2010. Therefore a new term agreement was executed with Ms Wedzin alone. In fact, there was no requirement to enter into another term agreement as the joint agreement was automatically renewed in accordance with section 49(1) of the Act. As stated previously, there is no evidence to establish how payments made after tenancy agreements were terminated or replaced by others should be credited. As well, the myriad of unsubsidized rent assessments and subsequent adjustments, which have occurred continuously since 2006, make the history of account almost unintelligible. Both the

applicant and the respondent were unable to easily explain the transactions, much less provide any evidence of their validity. In my opinion, it would not be fair to extend the time limitation and I shall consider only the last tenancy agreement between the parties which commenced on April 1, 2012 and remains in place.

I find the application of the full unsubsidized rent from June to September, 2013 to be unreasonable. In *Inuvik Housing Authority v Harley* [1993 CanLII 2856 (NWT SC)] Justice Richard, referring to *Inuvik Housing Authority v Stewart and Kendi*, set out that the application of the full unsubsidized rent where there is some income information provided by the tenant is not consistent with the court's decision in *Inuvik Housing Authority v Koe*.

Ignoring rent for June-September, 2013 I find rent arrears related to the current tenancy agreement to be \$7906, calculated as follows:

Rent assessed April 1/12 to March 31/13	\$8406
Pmts. April 1/12 to March 31/13	(600)
April /13 rent	150
May/13 rent	150
June to present	Unknown
Pmts. April/13 to present	<u>(200)</u>
TOTAL	\$7906

I find the respondents in breach of their obligation to pay rent and the obligation to report the household income. In my opinion, the failure to report income is a serious breach which must be remedied promptly and not repeated.

An order shall issue requiring the respondents to pay the applicant rent arrears of \$7906 and terminating the tenancy agreement on October 20, 2013 unless the household income for May, June, July, August and September, 2013 are reported in accordance with the tenancy agreement. The respondents are also ordered to pay the repair costs of \$8.15 and to comply with their obligation to report income in the future.

Hal Logsdon
Rental Officer