

IN THE MATTER between **APRIL HAYWARD**, Applicant, and **SARAH SULTAN AND LORI SINGER**, 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 **YELLOWKNIFE, NT.**

BETWEEN:

**APRIL HAYWARD**

Applicant/Landlord

- and -

**SARAH SULTAN AND LORI SINGER**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. The application is dismissed.

DATED at the City of Yellowknife, in the Northwest Territories this 10th day of October, 2013.

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Hal Logsdon  
Rental Officer

IN THE MATTER between **APRIL HAYWARD**, Applicant, and **SARAH SULTAN AND LORI SINGER**, 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:

**APRIL HAYWARD**

Applicant/Landlord

-and-

**SARAH SULTAN AND LORI SINGER**

Respondents/Tenants

**REASONS FOR DECISION**

**Date of the Hearing:** October 3, 2013

**Place of the Hearing:** Yellowknife, NT via teleconference

**Appearances at Hearing:** April Hayward, applicant  
Tú Pham, representing the applicant  
Caroline Wawzonek, representing the applicant  
Sarah Sultan, respondent  
Lori Singer, respondent  
Patricia Tiffin, representing the respondents

**Date of Decision:** October 10, 2013

### **REASONS FOR DECISION**

The applicant rents a house from the owner. Her tenancy agreement with the owner gives her exclusive possession of the house. The applicant has, through an agreement with the respondents, permitted them possession of a portion of the house in exchange for monthly rent and a percentage of the utilities. The applicant seeks an order on several grounds terminating the agreement between her and the respondents and an eviction order.

As is the case with all matters, the applicability of the *Residential Tenancies Act* and the jurisdiction of a rental officer must first be determined. I thank both counsels for their submissions on jurisdiction and have arrived at the following conclusion.

Section 6(1) of the *Residential Tenancies Act* sets out the application of the statute.

- 6. (1) Subject to this section, this Act applies only to rental premises and to tenancy agreements, notwithstanding any other Act or any agreement or waiver to the contrary.**

Although somewhat circular, rental premises are defined as follows:

**"rental premises" means a living accommodation or land for a mobile home used or intended for use as rental premises and includes a room in a boarding house or lodging house.**

A number of specific premises listed in section 6(2) are explicitly exempted from the application of the Act. None of these exemptions apply to the premises in this matter.

“Residential complex” is defined as follows:

**"residential complex" means a building, related group of buildings or mobile home park, in which one or more rental premises are located and includes all common areas, services and facilities available for the use of tenants of the building, buildings or park.**

In this matter the applicant’s rental premises and the residential complex are one and the same (the house).

“Tenancy agreement”, “landlord” and “tenant” are defined as follows:

**"tenancy agreement" means an agreement between a landlord and a tenant for the right to occupy rental premises, whether written, oral or implied, including renewals of such an agreement**

**"tenant" means a person who pays rent in return for the right to occupy rental premises and his or her heirs, assigns and personal representatives.**

**"landlord" includes the owner, or other person permitting occupancy of rental premises, and his or her heirs, assigns, personal representatives and successors in title and a person, other than a tenant occupying rental premises, who is entitled to possession of a residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent.**

Clearly, for there to be a tenancy agreement there must be a landlord and a tenant as defined in the Act. The definition of “landlord” contains three components. The definition may be restated as follows, making it clear that the clauses “other than a tenant occupying rental premises” and “who is entitled to possession of a residential complex” refer only to the third component.

"landlord" includes:

1. The owner, or other person permitting occupancy of rental premises.
2. His or her heirs, assigns, personal representatives and successors in title.

3. A person, other than a tenant occupying rental premises, who is entitled to possession of a residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or this Act, including the right to collect rent.

The “person” in the first component is distinguishable from the “person” in the third component in that they simply permit occupancy. They are not entitled to possession. Agents and property managers are typical of this component. They are not themselves entitled to possession but permit others (tenants) to occupy premises through the authority to enter into tenancy agreement given to them by the owner or by statute (e.g. a mortgagee in possession). The applicant is not a landlord by virtue of this component. The owner has not appointed her as his agent to rent the premises (the house). The owner has entitled her to possession of the premises by entering into a tenancy agreement with her.

The applicant is clearly not an heir, assign, personal representative or successor in title of the owner. She is not a landlord by virtue of the second component.

The applicant cannot be considered a landlord by virtue of the third component. Although she is entitled to possession of the residential complex (the house) and is collecting rent from the respondents she is a tenant of the owner.

I find that the applicant does not meet the definition of a landlord. In my opinion, to give the definition a broader interpretation would contradict the clear intention of the Act to exclude tenants in possession. Neither section 74(c) nor section 75 would permit a rental officer from determining this matter without first establishing jurisdiction of the Act. There being no landlord in the relationship between the parties as defined by the Act, there can be no tenancy agreement and the provisions of the Act do not apply to their relationship. A rental officer therefore has no jurisdiction to determine this matter and I must dismiss the application.

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Hal Logsdon  
Rental Officer