

IN THE MATTER between **BEHCHOKO KO GHA K'AODEE**, Applicant, and  
**ALBERTINE EYAKFWO AND NOEL FOOTBALL**, 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 -

**ALBERTINE EYAKFWO AND NOEL FOOTBALL**

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 forty nine thousand six hundred fifty four dollars and five cents (\$49,654.05).
2. Pursuant to section 45(4)(e) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the premises known as Unit 680, Behchoko, NT shall be terminated on October 31, 2013 and the respondents shall vacate the premises on that date unless the household income has been reported to the applicant for the months of May, 2010 to September, 2013 in accordance with the tenancy agreement.

3. Pursuant to section 45(4)(b) of the *Residential Tenancies Act*, the respondents shall not breach their obligation to report the household income to the applicant again.

DATED at the City of Yellowknife, in the Northwest Territories this 15th day of November, 2013.

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Hal Logsdon  
Rental Officer

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BETWEEN:

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Applicant/Landlord

-and-

**ALBERTINE EYAKFWO AND NOEL FOOTBALL**

Respondents/Tenants

**REASONS FOR DECISION**

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

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

**Appearances at Hearing:** Michael Keohane, representing the applicant  
Albertine Eyakfwo, respondent  
Noel Football, respondent

**Date of Decision:** October 1, 2013

### **REASONS FOR DECISION**

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

The applicant provided a statement of the rent account in evidence which indicated a balance of rent in the amount of \$49,654.05. The applicant testified that the full unsubsidized rent had been charged in every month since June, 2010 because the respondents had failed to provide any income information on which to calculate a subsidized rent. Article 6 of the tenancy agreement obligates the tenant to provide household income information.

#### **6. Tenant's Income**

The Tenant promises to provide a subsidy agent appointed by the Landlord with an accurate report of the Tenant's income, the income of any occupant of the Premises, the size of the Tenant's family, and the number of occupants residing on the Premises, whenever, and as often as, the subsidy agent requests such a report. All reporting by the Tenant must be in the form prescribed by the subsidy agent.

The Ms. Eyakfwo initially acknowledged that they had not reported the household income since June, 2010. Later in the hearing she suggested that she may have provided the information. Her testimony concerning the income information was unclear and contradictory. She also disputed the amount of rent alleged owing but was unable to provide any evidence of rent paid which was not accounted for on the applicant's statements.

A previous order (file #10-8104), filed on November 16, 2004 has been satisfied.

The application of the full unsubsidized rent is not unreasonable where the tenant has not provided any income information on which to calculate a subsidized rent. On the balance of probabilities I find that the respondents have failed to provide the required information and the application of the full unsubsidized rent is not unreasonable. I note that the landlord is obligated to adjust the rent to the household income if the respondents provide the household income at a later date. I find the ledger to be in order and find rent arrears of \$49,654.05.

Although the quantum of rent shown on the ledger would appear to be sufficient grounds to terminate the tenancy agreement, in my opinion it is important to consider how the arrears have accumulated. The ledger indicates that the respondents make reasonably regular payments of rent. Because the applicant charges the full unsubsidized rent month after month, finally making large adjustments, it is difficult to determine if the adjusted rent paid for any given month was sufficient to meet the respondents' obligation for rent that month or not.

I find the respondents' failure to report the household income a serious breach. It is unfortunate that the applicant ignores this breach for such long periods of time while applying the full unsubsidized rent then making large adjustments when income is reported. This practice creates a ledger which is, at best, difficult to interpret and for most tenants, incomprehensible. In this matter particularly, where there are regular rent payments being made, one must ask, if the income had been reported each month, would the arrears be increasing or decreasing in a given period of time. It is not easy to determine.

In my opinion there are sufficient grounds to terminate the tenancy agreement unless the household income is reported promptly for the months May, 2010 to September, 2013.

An order shall issue requiring the respondents to pay the applicant rent arrears in the amount of \$49,654.05 and terminating the tenancy agreement on October 31, 2013 unless the household income for the months of May, 2010 to September, 2013 are reported in accordance with the tenancy agreement. The order shall also require the respondents not to breach the obligation to report the household income again. No eviction order shall issue. The applicant may file an application seeking eviction if the household income is not reported as ordered and the respondents remain in possession of the premises after October 31, 2013.

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Hal Logsdon  
Rental Officer