

IN THE MATTER between **Fort Smith Housing Authority**, Applicant, and **Natashia Tourangeau**, 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 Fort Smith in the Northwest Territories**.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

- and -

NATASHIA TOURANGEAU

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 \$400 (four hundred dollars).
2. Pursuant to sections 67(4) and 63(4)(b) of the *Residential Tenancies Act*, the respondent shall pay to the applicant compensation:
 - (a) for use and occupation of the rental premises between August 1, 2013, and November 15, 2013, in the amount of \$4,875 (four thousand eight hundred seventy-five dollars) and
 - (b) for use and occupation of the rental premises in the amount of \$53.42 (fifty-three dollars forty-two cents) per day for each day the respondent remains in the rental premises after November 15, 2013.

DATED at the City of Yellowknife in the Northwest Territories this 19th day of November 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Fort Smith Housing Authority**, Applicant, and **Natashia Tourangeau**, Respondent.

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	November 15, 2013
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories, via Teleconference
<u>Appearances at Hearing:</u>	Kevin Mageean, representing the Applicant Natashia Tourangeau, the Respondent
<u>Date of Decision:</u>	November 18, 2013

REASONS FOR DECISION

The application to a rental officer made by the Fort Smith Housing Authority as the applicant/landlord against Natashia Tourangeau as the respondent/tenant was filed by the Rental Office on July 30, 2013. The application is regarding the rental premises known as Unit #0012, 67 St. Ann's Street, in Fort Smith, Northwest Territories. The applicant served a copy of the filed application package on the respondent by registered mail sent August 13, 2013.

The applicant alleges the respondent has rental arrears and has been repeatedly late paying her rent. The applicant claims to have terminated the tenancy agreement in accordance with the *Residential Tenancies Act* (the Act). The applicant is seeking an order for payment of rental arrears and eviction of the tenant from the rental premises. Evidence submitted in support of the application is listed in Appendix A attached to this order.

A hearing was scheduled for October 9, 2013, for which both parties were served notices of hearing. The respondent advised the presiding Rental Officer she had been subpoenaed to Territorial Court for the same date and requested an adjournment, which the presiding Rental Officer granted.

The hearing was re-scheduled for November 15, 2013. Both parties were served notices of hearing. Mr. Kevin Mageean appeared representing the applicant. Ms. Natashia Tourangeau appeared representing herself.

Mr. Mageean submitted at hearing documentary evidence and testimony that Ms. Tourangeau had been a tenant in subsidized public housing with the Fort Smith Housing Authority (FSHA) since April 7, 2011. Since June of 2011 Ms. Tourangeau had repeatedly accumulated rental arrears and been late paying her rent on time, resulting in 10 different 30-day notices to terminate the tenancy to date.

Several of the 30-day notices to terminate had been appealed by Ms. Tourangeau to the FSHA board. All were upheld, however, the first eight were extended on conditions that the rental arrears were paid up and negotiated payment plans were entered into. Each subsequent 30-day notice to terminate was issued as a result of Ms. Tourangeau failing to either meet those conditions or failing to comply with the negotiated payment plans, resulting in repeatedly

accumulated rental arrears. The ninth notice to terminate was for May 31, 2013. This was appealed to the FSHA board resulting in a hearing on June 26, 2013, at which time the board upheld the decision to terminate, extending and formalizing the termination date to July 31, 2013. No options to renew or continue the tenancy were offered by the board. The board informed Ms. Tourangeau of her appeal options. The board further notified Ms. Tourangeau of her ineligibility for subsidized rent as of August 1, 2013, and that if she failed to vacate the rental premises she would be charged the market rent for the unit of \$1,625 per month.

Mr. Mageean reiterated the FSHA had gone above and beyond in accommodating Ms. Tourangeau and felt at this point they were being taken advantage of. He confirmed they are adamant in their request for an order evicting Ms. Tourangeau from the rental premises as soon as is practicable.

Mr. Mageean identified, with reference to the lease balance statement, Ms. Tourangeau had rental arrears as of June 30, 2013, of \$240 representing subsidized rent for May and June 2013. He further identified unsubsidized market rent was owing for July through November 2013 of \$8,125, so calculated due to Ms. Tourangeau's overholding tenant status. He requested an order for payment of rental arrears and overholding tenant compensation for use and occupation of the rental premises.

Ms. Tourangeau did not dispute that she had repeatedly been in rental arrears, or that she had been brought before the board several times regarding termination of her tenancy for being in rental arrears and failing to provide income statements. She did argue that although she had carried rental arrears she had paid them off, bringing her account to a zero balance several times throughout the tenancy.

Ms. Tourangeau stated she is a single mother of three children aged 4 years, 6 years, and 12 years – one of whom is autistic, making finding appropriate child care providers difficult. She is not currently employed and has a monthly income of less than \$1,600 coming primarily from her family allowance benefits and a small amount of child support. She is scheduled to start Aboriginal Entrepreneurship courses through Keyano College's on-line program on December 1, 2013. Ms. Tourangeau claims to have been attempting to find suitable alternate accommodation since the summer without success, indicating that two local multi-family housing complexes have one- and two-year waiting lists.

Tenancy Agreement

The residential tenancy agreement dated April 1, 2012, was submitted by the applicant to establish a written tenancy between the parties for the rental premises in question. It identifies a fixed-term tenancy agreement for subsidized public housing at the rental premises known as Unit #0012, 67 St. Ann's Street, in Fort Smith, Northwest Territories, starting April 1, 2012, to May 31, 2013. Mr. Mageean and Ms. Tourangeau agreed in their submissions that she has had occupancy of this rental premises since April 2011. I am satisfied a valid tenancy agreement was in place and that it reverted to a monthly tenancy agreement as of June 1, 2013, in accordance with section 49(1) of the Act.

Termination of the Tenancy

The applicant's correspondence dated June 27, 2013, notifies the respondent of the termination of their tenancy effective July 31, 2013. Section 51(5) of the Act permits a landlord to terminate a subsidized public housing tenancy on the last day of a period of a monthly tenancy by giving the tenant a notice of termination not later than 30 days before that day. Mr. Mageean stated all notices, including the June 27th notice, were sent to Ms. Tourangeau by registered mail. I am satisfied this tenancy agreement has been terminated in accordance with the Act.

Rental Arrears

The lease balance statement is the landlord's accounting of assessed rent and payments made by the respondent. The statement provided by the landlord covers the period of April 1, 2012, to November 1, 2013, and includes rental arrears and monthly overholding tenancy rent. Ms. Tourangeau did not dispute the lease balance statement. I am satisfied the lease balance statement accurately reflects payments made by Ms. Tourangeau to date.

The lease balance statement shows the last zero balance to this account was on April 19, 2013. In assessing the charges and payments applied since then, and being satisfied that the tenancy ended July 31, 2013, I find the assessed rent charged for May and June totalling \$240 remains outstanding. The rent for July is listed as \$1,625 in the lease balance statement, which was identified by Mr. Mageean as the market rent applied due to Ms. Tourangeau's apparent overholding tenancy as of July 1, 2013. However, having accepted that Ms. Tourangeau's tenancy was in effect until July 31, 2013, the application of market rent for the month of July is

inappropriate as Ms. Tourangeau remained eligible for subsidized rent for that month. As Ms. Tourangeau has not been recently employed, I find it reasonable to assess rent for the month of July at \$160, which is the same as that which was assessed for June. Therefore, Ms. Tourangeau owes the Fort Smith Housing Authority \$400 in rental arrears.

As the tenancy ended July 31, 2013, in accordance with the Act, Ms. Tourangeau's continued occupation of the rental premises constitutes an overholding tenancy starting August 1, 2013. Section 67(1) identifies the landlord as being entitled to compensation for a former tenant's use and occupation of the rental premises after the tenancy has been terminated. As Ms. Tourangeau has not been a formal tenant of the Fort Smith Housing Authority since July 31, 2013, she is no longer eligible for subsidized rent. Schedule A of the residential tenancy agreement identifies the maximum monthly (market) rent for the rental premises as \$1,625. I find Ms. Tourangeau owes the Fort Smith Housing Authority \$4,875 as compensation for use and occupation of the rental premises from August 1, 2013, to November 15, 2013, plus \$53.42 per day for each day she remains in the rental premises after November 15, 2013.

Eviction

I have found the tenancy agreement has been terminated July 31, 2013, in accordance with the Act. The applicant has submitted uncontested evidence reflecting a pattern of behaviour by the respondent of repeatedly failing to pay rent, repeatedly failing to pay rent on time, and repeatedly failing to comply with negotiated payment plans. While Ms. Tourangeau's personal circumstances identify her as a candidate for social housing, she has not exhibited herself as someone who respects what social housing provides and the rules that must be followed to continue receiving subsidized support. Ms. Tourangeau did not vacate the premises when requested to do so and remains in the premises as of the hearing date. I find an eviction order is justified in these circumstances. Ms. Tourangeau has had more than four months to find alternate accommodations, however, in light of her being the primary caregiver for her young family and her starting an on-line college education program December 1, 2013, the date for eviction will be set as December 15, 2013. A daily rate of \$53.42 will be payable by Ms. Tourangeau for each day she remains in the rental premises after December 15, 2013.

An order will issue for payment of rental arrears in the amount of \$400; payment for use and occupation of the rental premises in the amount of \$4,875 for August 1, 2013, and November 15, 2013; and payment for use and occupation of the rental premises in the amount of \$53.42 per day for each day the respondent remains in the rental premises after November 15, 2013.

An eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Lease Balance Statement for April 1, 2012, to July 1, 2013
- Exhibit 2: Applicant's Tenancy, Unit #0012 - 67 St. Ann's Street, correspondence to the respondent dated June 27, 2013
- Exhibit 3: Residential Tenancy Agreement dated April 1, 2012
- Exhibit 4: Applicant's registered letter to the respondent dated April 18, 2013
- Exhibit 5: Applicant's Tenancy - Unit #0012 - 67 St. Ann's Street correspondence to the respondent dated February 21, 2013
- Exhibit 6: Child Access Order issued by the Territorial Court on June 10, 2013, court file number T1CP2013000013
- Exhibit 7: Legal Services Board Family Law Legal Aid Application - 13F000681 correspondence to the respondent dated June 6, 2013
- Exhibit 8: Subpoena to a Witness issued September 18, 2013, for Natasha Tourangeau to appear before Territorial Court in Fort Smith on October 9, 2013
- Exhibit 9: Alberta Health Services' Confirmation of Appointment/Consultation correspondence addressed to the "Parents or Guardian of Henry Ralph Cash Edjericon" dated May 31, 2013
- Exhibit 10: Lease Balance Statement for April 1, 2012, to November 1, 2013
- Exhibit 11: Applicant's Appeal regarding 67 St. Ann's Street Fort Smith Unit #12 correspondence to the respondent dated July 23, 2013
- Exhibit 12: Applicant's entry inspection report dated April 7, 2011