

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **GRACE NEYELLE**, Respondent;

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:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

- and -

GRACE NEYELLE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. The application is dismissed.

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

Hal Logsdon
Rental Officer

IN THE MATTER between **YELLOWKNIFE HOUSING AUTHORITY**, Applicant,
and **GRACE NEYELLE**, 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 **Hal Logsdon**, Rental Officer.

BETWEEN:

YELLOWKNIFE HOUSING AUTHORITY

Applicant/Landlord

-and-

GRACE NEYELLE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 6, 2013

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: Ella Newhook, representing the applicant
Grace Neyelle, respondent

Date of Decision: November 8, 2013

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by refusing to provide bank statements which the applicant considered necessary to verify her household income for purposes of rent assessment. The applicant sought an order terminating the tenancy agreement and evicting the respondent. The premises are subsidized public housing.

The applicant previously sought an order evicting the respondent by an application that was filed on May 8, 2013. The applicant had terminated the tenancy agreement by notice on the grounds that she owned residential property in Deline and was not eligible for public housing. The applicant also alleged that she received rental income from that property which had not been reported as required by the tenancy agreement.

The previous matter was heard on June 14, 2013 and the eviction order was denied. The respondent was ordered to report the household income for April and May, 2013 in order to establish a rent based on income for May and June, 2013. The applicant had charged the full unsubsidized rent for those months considering her to be an overholding tenant.

In the previous matter, the applicant stated that they had been contacted by a person who claimed to pay rent to the respondent for premises in Deline. The respondent testified that she acted as agent for her son who owned the premises and forwarded all rent collected to him and earned no commission or fee for performing the service. Considering the hearsay evidence of the applicant

with the sworn testimony of the respondent and the evidence concerning the ownership of the rental property, I concluded, on the balance of probabilities that the respondent received no income from her role as agent. In the written reasons for decision, I wrote,

“In my opinion, there is not sufficient evidence to conclude that the respondent no longer qualifies for occupancy in public housing or that she has received income which she has failed to report. Therefore I shall not issue an eviction order as eviction, in my opinion, is not justified.”

Article 6 of the tenancy agreement between the parties sets out the tenants’ obligation to report income.

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.

Clearly, the applicant is not convinced that there was no income derived from the respondent’s previous role as agent. Their request for bank records is an effort to determine whether rent monies deposited in the respondent’s bank account between November, 2011 and November, 2012 were subsequently transferred to her son.

The respondent objected to the release of the bank records, stating that they were not in her possession and that the bank was unwilling to supply them. She stated that the account was no longer active. She continued to deny that she received any income from her former role as agent and provided unsworn letters from her son and her son’s tenant in evidence.

In my opinion, the respondent has complied with Article 6 of the tenancy agreement. There is simply not enough evidence to establish that the reported income is inaccurate or incomplete.

The applicant has not provided any additional evidence than was provided at the last hearing and that evidence remains hearsay. In my opinion, the demand for bank records is unreasonable in these circumstances and is unnecessary for compliance with the obligation set out in Article 6.

In addition, the allegations concerning unreported income have already been determined. The doctrine of *res judicata* applies. The same allegations can not be considered again.

Consequently, for these reasons, the request for an order terminating the tenancy agreement is denied and the application is dismissed.

Hal Logsdon
Rental Officer