

IN THE MATTER between **BEHCHOKO KO GHA K'AODEE**, Applicant, and  
**MASON MANTLA AND LYDIAH RABESCA**, 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 -

**MASON MANTLA AND LYDIAH RABESCA**

Respondents/Tenants

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(a) and 45(4)(b) of the *Residential Tenancies Act*, the respondents shall comply with Article 6 of the tenancy agreement by reporting the complete and accurate household income for the months of December, 2012 to present and shall not breach their obligation to report income in the future.
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 Apartment B, 784 Jiewa Tili, Behchoko, NT shall be terminated on December 31, 2013 and the respondents shall vacate the premises on that date, unless the complete and accurate household income information is provided to the applicant for the months of December, 2012 to present.

3. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents shall pay the applicant rent arrears in the amount of thirteen thousand six hundred sixty six dollars (\$13,666.00).

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

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Hal Logsdon  
Rental Officer

IN THE MATTER between **BEHCHOKO KO GHA K'AODEE**, Applicant, and  
**MASON MANTLA AND LYDIAH RABESCA**, 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:

**BEHCHOKO KO GHA K'AODEE**

Applicant/Landlord

-and-

**MASON MANTLA AND LYDIAH RABESCA**

Respondents/Tenants

**REASONS FOR DECISION**

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

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

**Appearances at Hearing:** Michael Keohane, representing the applicant  
Mason Mantla, respondent

**Date of Decision:** December 6, 2013

### **REASONS FOR DECISION**

The applicant alleged that the respondents had breached the tenancy agreement by failing to pay rent. The applicant 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 copy of the tenant ledger in evidence which indicated a balance of rent owing as at November 19, 2013 in the amount of \$30,661. The applicant stated that since that date the December, 2013 rent of \$1545 had come due bringing the balance owing to \$32,206.

The full unsubsidized rent of \$1545 has been assessed for every month in 2013. The applicant stated that the unsubsidized rent had been applied because the respondents had failed to report the full amount of the household income from December, 2012 to present. There was no income information available at the hearing.

The respondent did not dispute the allegations.

Article 6 of the tenancy agreement obligates the tenants to report the household 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. All

reporting by the Tenant must be in the form prescribed by the subsidy agent.

The application of the full unsubsidized rent where some income information has been provided by the tenant has repeatedly been found to constitute a penalty in breach of section 13 of the *Residential Tenancies Act*. In **Inuvik Housing Authority v. Koe** [(1991), 85 D.L.R. (4th) 548, [1992] N.W.T.R. 9 (S.C.) ] and **Inuvik Housing Authority v. Harley** [1994] NWTR 131, and in numerous decisions of this tribunal, assessing the full unsubsidized rent when some income information has been provided has been determined to be a penalty. Again, I find the application of the full unsubsidized rent for every month in 2013 to be a penalty and a breach of section 13. Since the applicant provided no income information at the hearing. I am unable to calculate a subsidized rent for any months in 2013.

I find the respondents in breach of their obligation to report the complete and accurate household income in accordance with Article 6 of the tenancy agreement. In my opinion, there are sufficient grounds to terminate the tenancy agreement unless this information is promptly provided to the applicant. An order shall issue requiring the respondents to comply with this obligation by providing the full and accurate income information from December, 2012 to present and to not breach this obligation again. The order shall terminate the tenancy agreement on December 31, 2013 unless the information is provided to the applicant on or before that date.

The order shall also require the respondents to pay rent arrears of \$13,666 which is the amount of rent owing to December 31, 2012. I am confident that this amount has been adjusted to the

household income. I calculate this amount as follows:

Balance as at Nov 01 /13 as per ledger	\$30,661
plus Dec/13 assessed rent	1,545
less unsubsidized rent (Jan-Dec/13)	<u>(18,540)</u>
Total	\$13,666

The request for an eviction order is denied. The applicant may seek an eviction order if the tenancy is terminated on December 31, 2013 and the respondents fail to give up possession. The applicant is granted leave to make another application for 2013 rent arrears based on reported income.

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Hal Logsdon  
Rental Officer