

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Bert Timbre and Freda Berreault**, 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, **Adelle Guigon**, Deputy Rental Officer, regarding a rental premises within **the Hamlet of Fort Liard in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

BERT TIMBRE and FREDA BERREAUULT

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents must pay to the applicant rental arrears in the amount of \$1,169.70 (one thousand one hundred sixty-nine dollars seventy cents).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents must pay their rent on time in the future.

3. Pursuant to section 41(4)(c) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Lot 289, Plan 3919, in Fort Liard, Northwest Territories, is terminated on February 28, 2014, and the respondents must vacate the rental premises on or before that date.

DATED at the City of Yellowknife in the Northwest Territories this 12th day of
December 2013.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Bert Timbre and Freda Berreault**, 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 **Adelle Guigon**, Deputy Rental Officer.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

-and-

BERT TIMBRE and FREDA BERREAUULT

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	November 27, 2013
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories, via Teleconference
<u>Appearances at Hearing:</u>	Chris Hewitt, representing the Applicant
<u>Date of Decision:</u>	November 27, 2013

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Bert Timbre and Freda Berreault as the respondents/tenants was filed by the Rental Office August 6, 2013. The applicant served a copy of the filed application package on the respondents by registered mail which was deemed served August 21, 2013, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act).

The application was made with respect to a tenancy agreement for the rental premises known as Lot 289, Plan 3919, in Fort Liard, Northwest Territories. The applicant alleged the respondents had accumulated rental arrears. Evidence submitted in support of the application is listed in Appendix A attached to this order.

A hearing was scheduled for November 27, 2013. Notices of attendance were sent to the parties by registered mail sent November 5, 2013. Mr. Chris Hewitt attended representing the applicant. The notice to the respondents was deemed served November 12, 2013, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act). Neither Mr. Bert Timbre nor Ms. Freda Berreault appeared at the hearing, nor did anyone appear to represent them. The hearing proceeded in their absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Mr. Hewitt advised me Mr. Timbre and Ms. Berreault had accumulated rental arrears in the amount of \$1,169.70 as of November 27, 2013. Referring to the tenant ledger submitted by the applicant, Mr. Hewitt confirmed the tenants' subsidized rent was re-assessed on August 1, 2013, to \$34 per month; previous to then the assessed rent was \$167 per month. He submitted, based on the last reported income in August 2013, the tenants no longer have sufficient income in the household to support the shelter cost requirements under the Homeownership Entry Level Program (HELP) which the tenants are currently contracted under.

He further advised the tenants had five instances between April 1 and October 24, 2012, of insufficient funds (NSF) in their bank account to support scheduled automatic withdrawals (AWD) for rent. After October 24th the landlord no longer attempted the AWD method for payments of rent; the tenants made three payments by money order towards the rental arrears: July 25, 2013, of \$200, October 22, 2013, of \$400, and November 15, 2013, of \$494. These

payments have brought the rental arrears to the amount alleged of \$1,169.70. In referencing the ledger submitted by the applicant, Mr. Hewitt suggested the repeatedly late and irregular payments of rent are indicators there is no financial stability in the household and the tenants can no longer afford housing under HELP.

Mr. Hewitt requested an order for payment of rental arrears, that future rent be paid on time, and termination of the tenancy agreement. He justified the request for termination of the tenancy agreement based on the accumulated rental arrears and the repeatedly late payments of rent, and the indication based on the recent rent assessment that the tenants are no longer eligible for HELP housing.

Tenancy Agreement

The Homeownership Entry Level Program (HELP) is designed to assist approved applicants with the opportunity to assume the responsibilities of homeownership prior to purchasing a home. The contract requires the tenants to be directly responsible for the utilities for the rental unit while assessing subsidized rent based on the income of the tenants. A HELP contract was entered into between the parties November 17, 2010, requiring the tenants to enter into six-month fixed-term leases beginning November 18, 2010, and continuing for a two-year period. At the expiration of the two-year period the tenancy agreements may be for either fixed-term or month-to-month tenancies and the subsidized rent is assessed based on the income of the tenant and any occupants who are 19 years of age or older. The HELP contract also requires the tenant to provide verification of income annually, when household income changes, and when requested by the Corporation.

A residential lease agreement under HELP was submitted into evidence for subsidized public housing for the rental premises known as Lot 289, Plan 3919, in Fort Liard, Northwest Territories. This agreement was for a fixed-term starting April 1, 2012, ending April 30, 2013, after which it reverted to a month-to-month tenancy agreement. I am satisfied a valid tenancy agreement was in place.

Rental Arrears

The lease balance statement and internal ledger are the landlord's accountings of assessed rent and payments made by the tenant as of November 15, 2013. I am satisfied these ledgers accurately represent the accumulation of rental arrears against Mr. Timbre's and Ms. Berreault's

account. These ledgers further indicate there were payments made against the account in addition to the scheduled AWDs and after the AWDs were ceased, however, since May 2012 the tenants were unable to bring their account to a zero balance.

I accept the notices from the landlord to the tenants regarding outstanding rental arrears and re-assessed monthly rent as indications the tenants were aware of the status of their account.

I find the tenants have accumulated rental arrears in the amount of \$1,169.70. In light of the ineffective effort on the part of the tenants to rectify the rental arrears, the repeatedly late payments in the form of NSF transactions, and the indications in the rent assessments that the tenants are no longer eligible for HELP housing, I find termination of the tenancy agreement is justified.

An order will issue requiring the tenant to pay rental arrears in the amount of \$1,169.70, to pay future rent on time, and terminating the tenancy agreement on February 28, 2014.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Homeownership Entry Level Program (HELP) Contract signed November 17, 2010

Exhibit 2: Residential Lease Agreement

Exhibit 3: Lease Balance Statement for April 1, 2012 to July 25, 2013

Exhibit 4: Applicant's Outstanding Rental Arrears - 30 Days correspondence dated May 21, 2013

Exhibit 5: Applicant's Payment Change correspondence dated July 16, 2013

Exhibit 6: HELP Assessment Results dated July 16, 2013

Exhibit 7: Internal Ledger to NWT HC for September 30, 2011, to November 15, 2013