

IN THE MATTER between **Hay River Mobile Home Park Ltd.**, Applicant, and
Brenda Matto, 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, **Adelle Guigon**, Deputy Rental Officer,
regarding a rental premises within **the Town of Hay River in the Northwest
Territories.**

BETWEEN:

HAY RIVER MOBILE HOME PARK LTD.

Applicant/Landlord

- and -

BRENDA MATTO

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 67(1) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears and compensation for use and occupation of the rental premises known as #51-61 Woodland Drive in Hay River, Northwest Territories, after the tenancy was terminated in the total amount of \$3,380 (three thousand three hundred eighty dollars).

2. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, the respondent must pay to the applicant compensation for use and occupation of the rental premises known as #51-61 Woodland Drive in Hay River, Northwest Territories, in the amount of \$8.55 for each day the respondent remains in the rental premises after March 1, 2014.

DATED at the City of Yellowknife, in the Northwest Territories this 16th day of December 2013.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Hay River Mobile Home Park Ltd.**, Applicant, and
Brenda Matto, Respondent.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act");

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BETWEEN:

HAY RIVER MOBILE HOME PARK LTD.

Applicant/Landlord

-and-

BRENDA MATTO

Respondent/Tenant

REASONS FOR DECISION

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|---------------------------------------|---|
| <u>Date of the Hearing:</u> | December 6, 2013 |
| <u>Place of the Hearing:</u> | Hay River, Northwest Territories, via Teleconference |
| <u>Appearances at Hearing:</u> | Michelle Schaub, representing the Applicant |
| <u>Date of Decision:</u> | December 6, 2013 |

REASONS FOR DECISION

An application to a rental officer made by Hay River Mobile Home Park Ltd. as the applicant/landlord against Brenda Matto as the respondent/tenant was filed by the Rental Office October 8, 2013. The applicant served a copy of the filed application package on the respondent by registered mail sent October 21, 2013; it was deemed served October 28, 2013, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act).

The application was made regarding a tenancy agreement for a mobile home lot at the rental premises known as 51-61 Woodland Drive in Hay River, Northwest Territories. The applicant alleged the respondent had not complied with a previous Rental Officer order requiring that she pay rental arrears by March 4, 2013, resulting in the termination of the tenancy agreement on that date. The applicant further alleged the tenant had not vacated the rental premises and had accumulated rental and compensation arrears.

A hearing was scheduled for December 6, 2013. Notices of attendance were sent to the applicant by registered mail sent November 18, 2013, and to the respondent by personal service. Ms. Michelle Schaub appeared representing the applicant. Ms. Brenda Matto was personally served on December 4, 2013. She failed to appear at hearing and no one appeared on her behalf. The hearing proceeded in her absence, pursuant to section 80(2) of the Act.

Ms. Schaub stated at hearing that Ms. Matto was bound to a decision of the Rental Officer issued December 3, 2012, requiring her to pay rental arrears in the amount of \$8,592.23 and terminating the tenancy agreement on March 4, 2013, unless the rental arrears and the rent for December 2012 and January and February 2013 were paid in full. Ms. Matto failed to pay the rental arrears and rent by the specified date, therefore the tenancy agreement was terminated March 4, 2013. Ms. Matto did not vacate the rental premises and the applicant submitted a subsequent application requesting an eviction order, which was granted by an order issued June 7, 2013. Ms. Matto's eviction was ordered for June 14, 2013, and she was ordered to pay compensation for use and occupation of the rental premises since the date of termination of the tenancy.

Ms. Schaub indicated the applicant's reasons for failing to enforce the eviction order lied in their lack of familiarity with the process required to do so. By the time they figured out how to do it the seasons were changing, making it unlikely they would be able to physically remove the mobile home from the property before the ground froze, and the six-month time limit on the eviction order would approach before they could facilitate the removal.

Ms. Matto remains in the rental premises and has not made any payments against her account since June 10 and 12, 2013. Although those payments were of a substantial amount – totalling \$7,000 – they were paid well after the tenancy was formally terminated and after the eviction order was issued. As of December 6, 2013, Ms. Matto still had \$1,592.23 owing in rental arrears to November 30, 2012, had accumulated rental arrears for December 2012 and January and February 2013 of \$780, and had accumulated arrears for use and occupation of the rental premises after the termination date of March 4, 2013, of \$2,600.

Ms. Schaub advised the last direct communication she had with Ms. Matto was in a Facebook conversation from Tuesday, December 3, 2013, in which Ms. Matto confirmed to Ms. Schaub that she was still residing in the rental premises and was driving for a local cab company. Prior to this communication, Ms. Schaub had not heard from Ms. Matto since June 2013 when she made her last payment.

Ms. Schaub requested an order nullifying the tenancy agreement, requiring payment of rental arrears and compensation for use and occupation of the rental premises, and eviction.

Tenancy Agreement

The applicant submitted a lease agreement made between the parties on April 30, 2004, for mobile home lot #51 in the Hay River Mobile Home Park. The agreement established the rent at the time at \$220 per month. The applicant testified the current rent was at \$260 per month. The reasons for decision of Rental Officer Order No. 10-13112 identify the rent at \$260 per month as well. I am satisfied a tenancy agreement was in place and that the monthly rent for the lot was \$260.

The termination of the tenancy agreement on March 4, 2013, was confirmed at the hearing for the eviction order issued June 7, 2013. It is not necessary to do more now than reiterate that the tenancy agreement between the parties regarding the rental premises known as #51-61 Woodland Drive in Hay River, Northwest Territories, was terminated March 4, 2013, pursuant to Rental Officer Order No. 10-13112 and confirmed by Rental Officer Eviction Order No. 10-13450.

Rental Arrears

The tenant statement and statement of account is the landlord's accounting of monthly rent and payments made by the respondent against the rent account. I am satisfied these accurately reflect payments made by the respondent.

Rental Officer Order No. 10-13112 ordered the payment of rental arrears accumulated to November 30, 2012, in the amount of \$8,592.23. Two payments were received from the respondent: one on June 10, 2012, for \$1,600 and another on June 12, 2012, for \$5,400, totalling \$7,000. These payments reduced the rental arrears identified in Rental Officer Order No. 10-13112 to \$1,592.23. That order is binding on the parties until or unless the rental arrears are paid in full, therefore, the applicant has what they need to enforce the payment of the remaining \$1,592.23 in rental arrears. This amount will not be reiterated in this order.

I am satisfied Ms. Matto has not paid any amounts for either the rent for December 2012 and January and February 2013 or the compensation for use and occupation of the rental premises after the termination date. I find Ms. Matto has accumulated rental arrears of \$780. Ms. Matto has not vacated the rental premises to date. I find Ms. Matto owes the applicant compensation for the use and occupation of the rental premises for a period of 10 months totalling \$2,600. The total amount of arrears owing is \$3,380.

As the termination of the tenancy has been determined in accordance with the Act and Ms. Matto has not vacated the rental premises, nor has she made any payments for arrears, an eviction order is justified, as is an order for compensation for use and occupation of the rental premises for each day after the eviction date the tenant remains in the rental premises. In light of the winter season and the unreasonable expectation of being able to remove the mobile home lot before spring, the eviction will be ordered for March 1, 2014.

An order will issue requiring: the respondent to pay to the applicant rental arrears and compensation for use and occupation of the rental premises in the amount of \$3,380; and the respondent to pay to the applicant compensation for use and occupation of the rental premises of \$8.55 for each day the respondent remains in the rental premises after March 1, 2014.

An eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Lease Agreement dated April 30, 2004

Exhibit 2: Tenant Statement for December 31, 2012, to October 1, 2013

Exhibit 3: Statement of Account for January 1, 2012, to October 3, 2013