

IN THE MATTER between **Hay River Housing Authority**, Applicant, and **Delmer Lafleur**, 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 HOUSING AUTHORITY

Applicant/Landlord

- and -

DELMER LAFLEUR

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$7,684.69 (seven thousand six hundred eighty-four dollars sixty-nine cents).
2. Pursuant to sections 41(4)(c), 54(1)(g), and 57(b) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as 4 Dessy Place in Hay River, Northwest Territories, is terminated on January 31, 2014, and the respondent must vacate the rental premises on or before that date.

DATED at the City of Yellowknife, in the Northwest Territories this 17th day of December 2013.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Hay River Housing Authority**, Applicant, and **Delmer Lafleur**, 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.

BETWEEN:

HAY RIVER HOUSING AUTHORITY

Applicant/Landlord

-and-

DELMER LAFLEUR

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: December 6, 2013

Place of the Hearing: Hay River, Northwest Territories, via Teleconference

Appearances at Hearing: Willa-Jean Conroy, representing the Applicant
Delmer Lafleur, representing himself

Date of Decision: December 6, 2013

REASONS FOR DECISION

An application to a rental officer made by Hay River Housing Authority as the applicant/landlord against Delmer Lafleur as the respondent/tenant was filed by the Rental Office October 15, 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 in relation to a tenancy agreement for subsidized public housing regarding the rental premises known as 4 Dessy Place in Hay River, Northwest Territories. The applicant alleged the tenant had accumulated rental arrears, had failed to report monthly income, and was no longer eligible for subsidize public housing. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for December 6, 2013. Both parties were served notices of hearing. Ms. Willa-Jean Conroy appeared representing the applicant. Mr. Delmer Lafleur appeared representing himself.

Mr. Lafleur's first name was incorrectly spelled on the application form. It was amended at hearing to D-E-L-M-E-R.

Ms. Conroy testified that a previous Rental Officer order against Mr. Lafleur issued June 12, 2012, for payment of rental arrears by June 30, 2012, was satisfied and the tenancy agreement for subsidized public housing continued uninterrupted. Since July 1, 2013, Mr. Lafleur had accumulated rental arrears again to the amount of \$9,004.69 as of December 1, 2013. These arrears consisted of subsidized rent of \$1,295 for each of July and August 2013 plus market rent of \$1,625 for each of September through December 2013. Until today, Mr. Lafleur had not provided income information for September to December 2013. Ms. Conroy indicated Mr. Lafleur had provided just prior to hearing two cheque stubs from which Ms. Conroy believed the rent for those months likely would be re-assessed lower than the maximum monthly rent. Until she can do the formal calculations, Ms. Conroy could not provide a firm amount, but estimated the previously assessed rent of \$1,295 per month would not be unlikely.

Ms. Conroy further submitted payments were repeatedly late throughout the tenancy. The last payment received from Mr. Lafleur was on September 17, 2013, for \$200 – a portion of which went towards rental arrears prior to July 1, 2013, such that Mr. Lafleur's account was brought to a zero balance on June 30, 2013. She requested an order for the payment of the rental arrears.

Ms. Conroy also testified that, based on Mr. Lafleur's reported income for the months of March through August 2013, Mr. Lafleur is no longer eligible for subsidized public housing as his income is above the maximum core need income threshold established by NWT Housing Corporation policy. Hay River Housing Authority requested termination of the tenancy agreement for this reason, as well as the rental arrears and repeatedly late payment of rent. The applicant also requested an eviction order.

Mr. Lafleur did not dispute either the rental arrears or that his income had increased to the point of ineligibility for subsidized public housing. He acknowledged he needed to find alternate accommodations and said he had been looking for a couple of months without immediate success. He was hopeful he would be able to find something soon and actually anticipates having the rental arrears paid off within a couple of months.

Tenancy Agreement

The residential tenancy agreement submitted into evidence is between the parties for subsidized public housing for the rental premises known as 4 Dessy Place in Hay River, Northwest Territories. It is for a fixed-term tenancy starting May 20, 2010, ending November 30, 2010, after which it reverted to a month-to-month tenancy pursuant to section 49(1) of the Act. Mr. Lafleur did not dispute the tenancy agreement. I am satisfied a valid tenancy agreement is in place.

Rental Arrears

The client aged detail submitted into evidence is the landlord's accounting of assessed rent and payments made between May 20, 2010, and December 1, 2013. It reflects rental arrears of \$9,004.69. Mr. Lafleur did not dispute this accounting. I am satisfied the client aged detail accurately reflects payments made by Mr. Lafleur.

Schedule A of the residential tenancy agreement identifies the maximum monthly rent for the subsidized housing unit at \$1,625 as of July 1, 2012. In consideration of the likelihood stated by Ms. Conroy that the monthly rent for September through December 2013 would be re-assessed to a lesser amount based on the cheque stubs provided by Mr. Lafleur, I find it reasonable to calculate the rental arrears based on an anticipated assessment amount of \$1,295 per month for September through December, resulting in accumulated rental arrears of \$7,684.69. Ms. Conroy was satisfied with this, accepting that should the formal calculations result in a higher amount for arrears and Mr. Lafleur did not pay the difference she could re-apply for that difference. Mr. Lafleur did not dispute these calculations for rental arrears. I find Mr. Lafleur has accumulated rental arrears of \$7,684.69 and that he has been repeatedly late paying his rent.

Eligibility for Subsidized Public Housing

The core need income threshold (CNIT) report submitted by the applicant is the schedule implemented by the NWT Housing Corporation for social housing programs establishing maximum monthly income thresholds for subsidized public housing. The rental premises in question is a three-bedroom rental unit for which the maximum income threshold is set at \$5,250 per month.

The rent calculation forms submitted into evidence by the applicant are the landlord's determination of assessed rent based on reported income for each month. These forms reflect reported household income of between \$6,745 and \$7,522 during the period of March to August 2013. It has been confirmed on the record that Mr. Lafleur's current income has not changed significantly from these amounts based on the cheque stubs provided to Ms. Conroy today. I am satisfied Mr. Lafleur's monthly household income is greater than the maximum income threshold established for subsidized public housing. I find Mr. Lafleur is no longer eligible for subsidized public housing.

Termination of the Tenancy Agreement

Section 41(1) of the Act requires a tenant to pay rent on the dates specified by the tenancy agreement. Schedule A of the residential tenancy agreement identifies rent is due the first of the month. Section 41(4)(c) speaks to termination of the tenancy as one available remedy for this breach.

Section 54(1)(g) of the Act permits a landlord to terminate a tenancy with a minimum of 10 days written notice where the tenant has repeatedly failed to pay rent on time. The client aged detail reflects Mr. Lafleur has been repeatedly late paying his rent on time throughout the tenancy, and I have found him to be in breach of this obligation. The applicant provided Mr. Lafleur with a notice dated October 10, 2013, terminating the tenancy October 22, 2013, in accordance with Section 54(1) of the Act. Section 54(4) permits the tenancy agreement to be terminated by a rental officer where the breach has been made out.

Section 57(b) of the Act allows a rental officer to terminate a tenancy where a tenant of subsidized public housing has ceased to meet the requirement for occupancy of the rental premises. Mr. Lafleur has been found to be no longer eligible for subsidized public housing based on his monthly household income exceeding the maximum income threshold established by social housing policy.

I find termination of Mr. Lafleur's tenancy agreement with the Hay River Housing Authority is justified under all three sections: 41(4)(c), 54(4), and 57(b) of the Act.

Eviction

In light of Mr. Lafleur's acknowledgement of his situation with the applicant and his stated efforts to find alternate accommodations, I am not satisfied that eviction is justified at this time. Should Mr. Lafleur fail to vacate the premises when the tenancy is terminated the applicant may apply then for an eviction order.

An order will issue for Mr. Lafleur to pay rental arrears in the amount of \$7,684.69, and terminating the tenancy on January 31, 2014.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Applicant's Statement of Facts dated October 10, 2013
- Exhibit 2: Residential Tenancy Agreement - Fixed Term Lease dated May 20, 2010
- Exhibit 3: Statement of Account for May 1, 2013, to October 1, 2013
- Exhibit 4: Applicant's Outstanding Rental Arrears - 45 Days correspondence to respondent dated August 23, 2013
- Exhibit 5: Applicant's Outstanding Rental Arrears - 30 Days correspondence to respondent dated August 13, 2013
- Exhibit 6: Applicant's Account Arrears correspondence to respondent dated June 20, 2013
- Exhibit 7: Applicant's Overdue Account correspondence to respondent dated May 15, 2013
- Exhibit 8: Applicant's Overdue Account correspondence to respondent dated April 19, 2013
- Exhibit 9: Applicant's Overdue Account correspondence to respondent dated March 13, 2013
- Exhibit 10: Applicant's Account Arrears correspondence to respondent dated January 16, 2013
- Exhibit 11: Applicant's Overdue Account correspondence to respondent dated December 10, 2012
- Exhibit 12: Statement of Account for October 30, 2012, to December 1, 2012
- Exhibit 13: Applicant's Overdue Account correspondence to respondent dated November 16, 2012
- Exhibit 14: Statement of Account for September 1, 2012, to October 1, 2012
- Exhibit 15: Applicant's Overdue Account correspondence to respondent dated September 17, 2012
- Exhibit 16: Statement of Account for August 1, 2012, to September 1, 2012
- Exhibit 17: Applicant's Overdue Account correspondence to respondent dated August 21, 2012
- Exhibit 18: Statement of Account dated August 21, 2012
- Exhibit 19: Statement of Account for January 1, 2012, to June 1, 2012
- Exhibit 20: Statement of Account for January 1, 2012, to May 1, 2012
- Exhibit 21: Applicant's Notice of Termination of Tenancy correspondence to respondent dated May 7, 2012
- Exhibit 22: Statement of Account for January 1, 2012, to May 1, 2012
- Exhibit 23: Applicant's Rental Arrears correspondence to respondent dated April 24, 2012
- Exhibit 24: Statement of Account for January 1, 2012, to April 1, 2012
- Exhibit 25: Applicant's Account Arrears correspondence to respondent dated March 21, 2012
- Exhibit 26: Statement of Account for January 1, 2012, to March 1, 2012
- Exhibit 27: Applicant's Overdue Account correspondence to respondent dated February 21, 2012

- Exhibit 28: Statement of Account for January 1, 2012, to February 1, 2012
- Exhibit 29: Statement of Account for November 1, 2011, to January 1, 2012
- Exhibit 30: Applicant's Overdue Account correspondence to respondent dated December 21, 2011
- Exhibit 31: Statement of Account for November 1, 2011, to December 1, 2011
- Exhibit 32: Statement of Account dated November 22, 2011
- Exhibit 33: Statement of Account for May 1, 2011 to August 1, 2011
- Exhibit 34: Applicant's Note to File dated June 20, 2011
- Exhibit 35: Applicant's correspondence to respondent dated May 24, 2011
- Exhibit 36: Statement of Account for April 1, 2011, to May 1, 2011
- Exhibit 37: Applicant's correspondence to respondent dated April 28, 2011
- Exhibit 38: Statement of Account dated April 27, 2011
- Exhibit 39: Statement of Account for November 1, 2010, to February 1, 2011
- Exhibit 40: Applicant's correspondence to respondent dated January 20, 2010
- Exhibit 41: Statement of Account for November 1, 2010, to January 1, 2011
- Exhibit 42: Applicant's Rental Arrears correspondence to respondent dated December 20, 2010
- Exhibit 43: Statement of Account for November 1, 2010, to December 1, 2010
- Exhibit 44: Applicant's Account Arrears correspondence to respondent dated November 22, 2010
- Exhibit 45: Statement of Account for October 1, 2010, to November 1, 2010
- Exhibit 46: Statement of Account for September 1, 2010, to October 1, 2010
- Exhibit 47: Statement of Account for November 1, 2010, to February 1, 2011
- Exhibit 48: Applicant's correspondence to respondent dated July 20, 2010
- Exhibit 49: Statement of Account for June 1, 2010, to July 1, 2010
- Exhibit 50: Applicant's correspondence to respondent dated June 18, 2010
- Exhibit 51: Statement of Account for May 20, 2010, to June 1, 2010
- Exhibit 52: Statement of Account for May 1, 2013, to October 1, 2013
- Exhibit 53: Client Aged Detail for May 20, 2010, to October 1, 2013
- Exhibit 54: Rent Calculations for March to August 2013
- Exhibit 55: Core Need Income Threshold (CNIT) chart
- Exhibit 56: Applicant's Notice of Termination of Tenancy correspondence to respondent dated October 10, 2013
- Exhibit 57: Client Aged Detail for May 20, 2010, to December 1, 2013