

IN THE MATTER between **Tulita Housing Association**, Applicant, and **Clayton MacCauley**, 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 Hamlet of Tulita in the Northwest Territories**.

BETWEEN:

TULITA HOUSING ASSOCIATION

Applicant/Landlord

- and -

CLAYTON MACCAULEY

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 \$15,027 (fifteen thousand twenty-seven dollars).
2. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent must comply with his obligation to report his monthly income to the applicant as requested.
3. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent must pay his rent on time in the future.

4. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Unit #0069 in Tulita, Northwest Territories, is terminated on February 28, 2014, unless payments have been made towards the rental arrears.

DATED at the City of Yellowknife, in the Northwest Territories this 13th day of December 2013.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Tulita Housing Association**, Applicant, and **Clayton MacCauley**, 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:

TULITA HOUSING ASSOCIATION

Applicant/Landlord

-and-

CLAYTON MACCAULEY

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: November 29, 2013

Place of the Hearing: Tulita, Northwest Territories, via Teleconference

Appearances at Hearing: Helen Squirrel, representing the Applicant

Date of Decision: November 29, 2013

REASONS FOR DECISION

An application to a rental officer made by Tulita Housing Association as the applicant/landlord against Clayton MacCauley as the respondent/tenant was filed by the Rental Office August 28, 2013. The applicant served a copy of the filed application package on the respondent by registered mail deemed served September 20, 2013, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act).

The application was regarding a tenancy agreement for the rental premises known as Unit #0069 in Tulita, Northwest Territories. The applicant alleged the respondent had accumulated rental arrears. Evidence submitted regarding this application is listed in Appendix A attached to this order.

A hearing was scheduled for November 29, 2013. Notices of attendance were sent to the parties by registered mail sent November 5, 2013. Ms. Helen Squirrel appeared representing the applicant. Mr. Clayton MacCauley's notice was deemed served September 20, 2013, pursuant to section 71(5) of the Act. I left a message for Mr. MacCauley at his workplace November 28, 2013, regarding the scheduled hearing, to which no reply was received. The hearing proceeded in Mr. MacCauley's absence pursuant to section 80(2) of the Act.

Ms. Squirrel stated at hearing that Mr. MacCauley had rental arrears in the amount of \$15,027 as of November 29, 2013. The tenancy agreement with Mr. MacCauley was entered into May 26, 2006, for subsidized public housing for which rent is assessed based on reported monthly income. Mr. MacCauley works for the local hamlet and historically has always reported his monthly income on time. He has had rental arrears since July 2006. Mr. MacCauley has made semi-regular payments, although never of enough substance to satisfy the assessed monthly rents. To Ms. Squirrel's dismay, the last time the applicant saw Mr. MacCauley was in April 2013 when he made a payment of \$800. Since then they have received neither monies for rent nor monthly income reports. As a result, the monthly rent applied for July to November 2013 has been the market rent of \$1,445. Several attempts had been made by the applicant to communicate with Mr. MacCauley, with no response from him.

Ms. Squirrel indicated the applicant was seeking an order for payment of rental arrears, that the respondent comply with his obligation to report monthly income, that the respondent pay his future rent on time, and that the tenancy agreement be terminated on February 28, 2014, unless payments have been received towards the arrears.

Tenancy Agreement

Four residential tenancy agreements between the parties were submitted by the applicant establishing a continuous tenancy from May 26, 2006, to present on a month-to-month basis for subsidized public housing. I am satisfied that a valid tenancy agreement is in place.

Rental Arrears

Tenant ledger cards submitted by the applicant represent the landlord's accounting of assessed monthly rent and payments made by the respondent from May 30, 2006, to November 13, 2013. I am satisfied these cards accurately reflect payments made by the respondent towards his rent account.

There are five pieces of correspondence from the applicant to the respondent dated between July 17, 2012, and July 31, 2013, submitted into evidence by the applicant. These letters advise Mr. MacCauley of his rental arrears and request payments. I am satisfied Mr. MacCauley is aware of his rental arrears. I find Mr. MacCauley has accumulated rental arrears of \$15,027 as of November 29, 2013.

The tenant ledger cards also reflect the assessment of market rent for the months of July to November 2013, corroborating Ms. Squirrel's indication that Mr. MacCauley has not reported his monthly income for those months. A letter from the applicant to the respondent dated October 17, 2013, requests that Mr. MacCauley report his monthly income for July to October 2013. Section 6 of the residential tenancy agreement requires the tenant to report his monthly income to the landlord whenever and as often as requested in order to assess monthly rent. Section 45(1) of the Act requires a tenant to comply with additional obligations undertaken in a written tenancy agreement. I find Mr. MacCauley in breach of his obligation to report his monthly income.

Termination of the Tenancy Agreement

Ms. Squirrel indicated at hearing that if Mr. MacCauley made any attempt to communicate with the applicant and to make any payment towards the rental arrears they would not be opposed to continuing the tenancy with Mr. MacCauley and negotiating a suitable payment plan to satisfy the arrears. In light of the substantial amount of rental arrears that exist and the unusual failure of Mr. MacCauley to communicate with the landlord regarding the status of the tenancy, I find conditional termination of the tenancy agreement is justified.

An order will issue requiring the tenant to: pay rental arrears in the amount of \$15,027; comply with his obligation to report his monthly income; pay his future rent on time; and terminating the tenancy agreement on February 28, 2014, unless payments have been made towards the rental arrears.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Tenant Ledger Cards for May 30, 2006, to July 18, 2013
- Exhibit 2: Applicant's Outstanding Rental Arrears - 45 Days correspondence to respondent dated July 31, 2013
- Exhibit 3: Applicant's Outstanding Rental Arrears - 30 Days correspondence to respondent dated July 31, 2013
- Exhibit 4: Applicant's Outstanding Rental Arrears correspondence to respondent dated July 31, 2013
- Exhibit 5: Applicant's Rent Calculations for April 2012 to July 2013
- Exhibit 6: Applicant's Outstanding Rental Arrears - 45 Days correspondence to respondent dated May 31, 2013
- Exhibit 7: Residential Tenancy Agreement - Indeterminate Lease dated April 19, 2013
- Exhibit 8: Applicant's Rental Arrears correspondence to respondent dated July 17, 2012
- Exhibit 9: Residential Tenancy Agreement - Indeterminate Lease dated April 19, 2012
- Exhibit 10: Household Income Forms for June 2010 to March 2012
- Exhibit 11: Agreement to Pay Rental Arrears - Current Tenants between applicant and respondent dated October 24, 2011
- Exhibit 12: Residential Tenancy Agreement - Indeterminate Lease dated April 29, 2011
- Exhibit 13: Public Housing Subsidy Summary Reports for May 2006 to May 2010
- Exhibit 14: Residential Tenancy Agreement - Indeterminate Lease dated May 26, 2006
- Exhibit 15: Tenant Ledger Card for April 19 to November 13, 2013
- Exhibit 16: Applicant's Report Income July - October 2013 correspondence to respondent dated October 17, 2013