

IN THE MATTER between **Tulita Housing Association**, Applicant, and **Marlene Menacho**, 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, regarding a rental premises located within the **Hamlet of Tulita in the Northwest Territories**.

BETWEEN:

TULITA HOUSING ASSOCIATION

Applicant/Landlord

- and -

MARLENE MENACHO

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent must pay rental arrears in the amount of \$11,384 (eleven thousand three hundred eighty-four dollars).
2. Pursuant to section 41(4)(c) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as Unit #0078 in Tulita, Northwest Territories, is terminated effective December 8, 2013.

DATED at the City of Yellowknife in the Northwest Territories this 2nd day of December 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Tulita Housing Association**, Applicant, and **Marlene Menacho**, Respondent.

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BETWEEN:

TULITA HOUSING ASSOCIATION

Applicant/Landlord

-and-

MARLENE MENACHO

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

The application to a rental officer made by the Tulita Housing Association as the applicant/landlord against Marlene Menacho as the respondent/tenant was received and filed by the Rental Office on August 28, 2013. The applicant served a copy of the filed application on the respondent by registered mail, which was signed for by the respondent September 30, 2013.

The applicant alleges the tenant has rental arrears and is seeking an order for payment of the rental arrears, termination of the tenancy agreement, and eviction. Evidence submitted in support of the allegation is listed in Appendix A attached to this order.

A hearing was scheduled for November 29, 2013. Both parties were served with notices of hearing by registered mail sent November 5, 2013. Ms. Helen Squirrel appeared representing the Applicant. Ms. Marlene Menacho was deemed served November 12, 2013, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act). Ms. Menacho did not appear at hearing and there was no one else present to represent her. The hearing proceeded in her absence.

Ms. Squirrel submitted testimony and evidence at hearing indicating Ms. Menacho had rental arrears of \$11,384. These arrears had accumulated since 2004. A previous Rental Officer Order No. 20-7669 issued January 9, 2004, required payment of rental arrears of \$1,401 and that future rent be paid on time. Ms. Squirrel confirmed the ordered arrears had been paid and were not included in the current rental arrears alleged.

The arrears of \$11,384 include the application of \$1,445 market rent for the months of August, September, October, and November 2013. Ms. Menacho resides in subsidized public housing for which monthly rent is assessed based on reported monthly income. Reporting monthly income is an additional obligation required under the tenancy agreement for subsidized public housing. Ms. Squirrel testified that Ms. Menacho has not reported her monthly income for these months and therefore has been charged the market rent for the rental premises.

The last payment Ms. Menacho has paid against her account was on August 14, 2012, – more than 15 months ago – in the amount of \$4,000. The payment brought Ms. Menacho's balance to \$2,768, which remained a substantial amount when one considers her average assessed rent was usually between \$30 and \$70 per month at the time. No further payments have been received from Ms. Menacho to date.

Several attempts have been made to communicate with Ms. Menacho, requesting payments be made against her account and giving her multiple notices to terminate the tenancy if payments were not made. Ms. Menacho has not responded. Ms. Squirrel testified she has not seen or heard from Ms. Menacho since June 14, 2013, which is when Ms. Menacho reported her monthly income for April and May 2013.

Ms. Squirrel reiterated the Tulita Housing Association's request for an order for payment of rental arrears, termination of the tenancy agreement, and eviction.

Tenancy Agreement

Two residential tenancy agreements were submitted into evidence reflecting an agreement for subsidized public housing between the parties for Unit #0078 in Tulita, Northwest Territories, commencing October 7, 2008. Testimony by Ms. Squirrel and Rental Officer Order No. 20-13705 establishes the tenancy originally began prior to 2003 and has been continuous. I am satisfied a valid tenancy agreement exists.

Rental Arrears

The tenant ledger cards are the landlord's accounting of the rent assessments and payments made by the tenant. I am satisfied it is an accurate representation of Ms. Menacho's rent account with the Tulita Housing Association.

Ms. Menacho is obligated to report her monthly income to the Tulita Housing Association so they can assess her rent. Failure to report her monthly income results in the application of full market rent for the unit. I am satisfied Ms. Menacho has failed to report her monthly income for the months of August through November 2013 and the application of market rent is appropriate. I find Ms. Menacho has rental arrears as of November 29, 2013, in the amount of \$11,384.

Termination of the tenancy agreement and eviction

The rental arrears of \$11,384 represent approximately 7.75 months rent when calculated based on the monthly market rent of \$1,445. The tenant ledgers reflect an ongoing and consistent pattern of failing to pay rent, which has accumulated over the years to a substantial amount owing, even when one does not include the rent charged for August through November 2013. I find termination of the tenancy agreement and eviction are justified.

An order will issue requiring the tenant to pay rental arrears in the amount of \$11,384 and terminating the tenancy agreement effective December 8, 2013.

An eviction order effective December 9, 2013, will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Tenant Ledger Cards for April 30, 2012, 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 August 2012 to July 2013
- Exhibit 6: Applicant's Outstanding Rental Arrears - 45 Days correspondence to respondent dated May 27, 2013
- Exhibit 7: Applicant's Report Income and Pay Rent correspondence to respondent dated April 24, 2013
- Exhibit 8: Applicant's Report Income for March 2013 correspondence to respondent dated March 20, 2013
- Exhibit 9: Lease Balance Statement for April 1, 2012, to February 1, 2013
- Exhibit 10: Lease Balance Statement for March 27, 2012, to October 1, 2012
- Exhibit 11: Applicant's Rent Adjustments correspondence to respondent dated September 21, 2012
- Exhibit 12: Respondent's notice of extended absence from unit correspondence to applicant dated September 4, 2012
- Exhibit 13: Residential Tenancy Agreement - Fixed Term Lease dated October 1, 2012
- Exhibit 14: Residential Tenancy Agreement - Fixed Term Lease dated October 7, 2008
- Exhibit 15: Applicant's Report Income August, 2013 to October, 2013, correspondence to respondent dated October 17, 2013
- Exhibit 16: Tenant Ledger Card for April 23 to November 13, 2013