

IN THE MATTER between **Tulita Housing Association**, Applicant, and **Albert Bernarde**, 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 -

ALBERT BERNARDE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) and 42(3)(e) of the *Residential Tenancies Act*, the respondent must pay rental arrears and compensation for repairs of tenant damages to the applicant in the amount of \$11,917.00 (eleven thousand nine hundred seventeen 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 #0061 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

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BETWEEN:

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-and-

ALBERT BERNARDE

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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 was made by the Tulita Housing Association as the applicant/landlord against Albert Bernarde as the respondent/tenant regarding the rental premises known as Unit #0061 in Tulita, Northwest Territories. The application package was received and filed by the Rental Office August 28, 2013. The applicant served a copy of the filed application package on the respondent by registered mail, which the respondent signed for September 17, 2013.

The applicant alleged the tenant had accumulated rental arrears. Evidence submitted in support of the allegation is listed in Appendix A attached to this order.

A hearing was scheduled for November 29, 2013. Notices of attendance were sent to both parties by registered mail. Ms. Helen Squirrel appeared at hearing representing the Applicant. Mr. Albert Bernarde signed for his notice of attendance on November 14, 2013. He failed to appear at hearing. The hearing proceeded in his absence.

Ms. Squirrel provided evidence and testimony at hearing. She showed that Mr. Bernarde had accumulated rental arrears of \$11,809 since the commencement of his tenancy, not having had a zero balance on his account since July 8, 2003. Mr. Bernarde had entered into a tenancy agreement with the Tulita Housing Association for subsidized public housing on April 30, 2003. Over the years Mr. Bernarde's payments have been inconsistent, with some years reflecting regular payments of varying amounts and other years reflecting as little as one payment.

Ms. Squirrel testified that in April 2009 they had entered into a payment plan with Mr. Bernarde for the rental arrears that had accumulated as of that time. Mr. Bernarde did not comply with the payment plan.

Market rent of \$1,445 per month was applied for June and July 2013. Mr. Bernarde failed to report his income for those months. In order to be assessed subsidized rent, tenants are obligated to report their monthly income. As Mr. Bernarde did not do this for June and July, he was assessed the full market rent.

There was a charge of \$108 from April 9, 2009, for tenant damages being claimed. Ms. Squirrel confirmed this was for the replacement of a damaged door knob.

Ms. Squirrel reiterated the Tulita Housing Association's request for an order for payment of the rental arrears and tenant damages, termination of the tenancy agreement, and eviction, citing Mr. Bernarde's lengthy history of non-payment and resulting considerable rental arrears.

Tenancy agreement

Eight residential tenancy agreements for subsidized public housing were submitted into evidence reflecting a continuous tenancy between the parties commencing March 27, 2003. I am satisfied a valid tenancy agreement is in place.

Rental arrears

The tenant ledger cards submitted into evidence are the landlord's accounting of assessed rent and payments made by the tenant. I am satisfied the tenant ledger cards accurately reflect Mr. Bernarde's payments to date. I find Mr. Bernarde owes the applicant rental arrears in the amount of \$11,809.

Tenant damages

The applicant's correspondence of April 6, 2009, regarding tenant damage invoice #1269 and Ms. Squirrel's confirmation the charge of \$108 was for the replacement of a damaged door knob satisfy me this is a valid and reasonable claim. I find Mr. Bernarde owes the applicant compensation for the repair of tenant damages in the amount of \$108.

Termination of the tenancy agreement and eviction

The rental arrears of \$11,809 represents approximately eight months of market rent. In this context alone the rental arrears are substantial. When one considers that Mr. Bernarde's average subsidized rent is usually \$70 per month the amount of rental arrears become even more substantial. The tenant ledger cards do reflect periods where it is obvious Mr. Bernarde had made efforts to pay his rent, however, the arrears have not at any time decreased by any significant amount. I find termination of the tenancy agreement and eviction is justified.

An order will issue for the payment of rental arrears and tenant damages in the total amount of \$11,917 and termination of the tenancy agreement effective December 8, 2013.

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

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Tenant Ledger Cards for April 30, 2003, 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 1, 2012, to July 2013
- Exhibit 6: Residential Tenancy Agreement - Fixed Term Lease dated April 1, 2013 (front page only)
- Exhibit 7: Household Income Forms for March 2003, May 2003, April 2004, April 2005, and June 2010 to March 2012
- Exhibit 8: Public Housing Subsidy Summary Reports for April to December 2006, March to May 2007, and July 2007 to May 2010
- Exhibit 9: Residential Tenancy Agreement - Fixed Term Lease dated April 24, 2009
- Exhibit 10: Applicant's Relocation correspondence to respondent dated April 16, 2009
- Exhibit 11: Applicant's Relocation correspondence to respondent dated April 8, 2009
- Exhibit 12: Applicant's Tenant Damaged Invoice #1269 Amount of \$108 correspondence to respondent dated April 6, 2009
- Exhibit 13: Residential Tenancy Agreement - Fixed Term Lease dated April 2, 2009
- Exhibit 14: Residential Tenancy Agreement - Fixed Term Lease dated November 5, 2008
- Exhibit 15: Residential Tenancy Agreement - Indeterminate Lease dated April 8, 2008
- Exhibit 16: Residential Tenancy Agreement - Indeterminate Lease
- Exhibit 17: Residential Tenancy Agreement - Indeterminate Lease dated April 27, 2006
- Exhibit 18: Residential Tenancy Agreement dated March 27, 2003
- Exhibit 19: Applicant's Adjustments correspondence to respondent dated November 19, 2013
- Exhibit 20: Tenant Ledger Card for April 23 to November 19, 2013
- Exhibit 21: Applicant's Report Income - June 2013 to October 2013 correspondence to respondent dated October 17, 2013