

IN THE MATTER between **Lutsel K'e Housing Authority**, Applicant, and **PeteENZoe**,  
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 **community of Lutsek'e in the Northwest  
Territories**.

BETWEEN:

**LUTSEL K'E HOUSING AUTHORITY**

Applicant/Landlord

- and -

**PETE ENZOE**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 84(3) of the *Residential Tenancies Act*, rental officer order number 10-12985 is rescinded and the respondent must pay to the applicant rental arrears in the amount of \$59,426.00 (fifty-nine thousand four hundred twenty-six dollars).
2. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent must comply with his obligation to report his total household come and provide that information to the applicant up to and including April 15, 2014.

3. Pursuant to sections 41(4)(c) and 45(4)(e) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Unit #208, Sketch-97, in Lutselk'e, Northwest Territories is terminated April 15, 2014, and the respondent must vacate the rental premises on or before that date.
4. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, the respondent must compensate the applicant for the use and occupation of the rental premises known as Unit #208, Sketch-97, in Lutselk'e, Northwest Territories, for each day he remains in the rental premises after April 15, 2014, at a rate of \$47.51 (forty-seven dollars fifty-one cents) per day.

DATED at the City of Yellowknife in the Northwest Territories this 11th day of March 2014.

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Adelle Guigon  
Deputy Rental Officer

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Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>February 25, 2014</b>
<b><u>Place of the Hearing:</u></b>	<b>Lutselk'e, Northwest Territories, via teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>Michael Keohane, representing the applicant Mary Rose Casaway, witness for the applicant</b>
<b><u>Date of Decision:</u></b>	<b>February 25, 2014</b>

### **REASONS FOR DECISION**

An application to a rental officer made by Lutsel K'e Housing Authority as the applicant/landlord against PeteENZoe as the respondent/tenant was filed by the Rental Office December 13, 2013. The application was made regarding a tenancy agreement for the rental premises known as Unit #208, Sketch-97, in Lutselk'e, Northwest Territories. The applicant served a copy of the filed application on the respondent by personal service January 7, 2014.

The applicant alleged the tenant had accumulated rental arrears and failed to comply with his obligation to report his total household income. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for February 25, 2014. The applicant was served notice of attendance by registered mail signed for January 27, 2014; Mr. Michael Keohane appeared representing the applicant. The respondent was served notice of attendance by personal service February 11, 2014, substitutionally on Rebecca Broderick at the rental premises; Mr. PeteENZoe did not appear at the hearing, nor did anyone appear on his behalf. Having been given sufficient notice, the hearing proceeded in Mr. ENZoe's absence pursuant to section 83(2) of the *Residential Tenancies Act* (the Act).

Mr. Keohane testified that Mr. ENZoe is a tenant in subsidized public housing currently occupying the rental premises known as Unit #208, Sketch-97, in Lutselk'e, Northwest Territories. On October 3, 2012, rental officer order #10-12985 was issued requiring Mr. ENZoe to pay rental arrears in the amount of \$39,621 – representing rental arrears accumulated as of September 24, 2012, to pay future rent on time, and to report his household income as required by his tenancy agreement. Mr. ENZoe has continued failing to report his income, which is required by the landlord in order to assess his rent subsidy. The applicant has a mutual disclosure agreement with Income Support to share reported income amounts for mutual clients; Mr. ENZoe has not reported his income to either the applicant or Income Support since before April 1, 2012, except for the months of July, September, October, and November 2013 for which the rent was calculated based on the reported income. The remaining periods have been assessed the maximum monthly rent of \$1,445 per month. Further, Mr. ENZoe has not made any payments to the applicant. The rental arrears accumulated since September 24, 2012, equal \$19,805; the total rental arrears as of February 25, 2014, including the amount from rental officer order 10-12985, are \$59,426.

Mr. Keohane testified that numerous repeated attempts, both in person and by correspondence, were made to communicate the seriousness of Mr. Enzoë's situation and his obligations to pay rent and report his income. These are minimum conditions that must be met in order to remain eligible for subsidized public housing. Mr. Enzoë has continuously done nothing to remedy the situation and has lost any control he might have had on it. In light of the excessive amount of rental arrears, repeated failure to report household income, and Mr. Enzoë's failure to communicate with the applicant, Mr. Keohane requested that rental officer order #10-12985 be rescinded and replaced with an order for the payment of rental arrears, that outstanding income reports be submitted, termination of the tenancy agreement, eviction, and compensation for use and occupation of the rental premises after the effective termination date.

#### *Tenancy agreement*

The residential tenancy agreement submitted into evidence by the applicant defines an agreement for subsidized public housing between the parties on a month-to-month basis starting April 1, 2012. I am satisfied a valid tenancy agreement is in place.

#### *Obligation to report household income*

Section 6 of the residential tenancy agreement specifies the tenant's obligation to report his household income whenever and as often as requested by the landlord's subsidy agent. Mr. Keohane testified that Mr. Enzoë has consistently failed to comply with this obligation.

The lease balance statements and ledger cards entered into evidence reflect the landlord's accounting of monthly assessed rent, and in this instance reflect the repeated application of the full economic rent. Mr. Keohane testified that the monthly rent could not be assessed a subsidy with the reporting of household income. I find Mr. Enzoë has failed to comply with his obligation to report his household income as required.

#### *Rental arrears*

The lease balance statements and ledger cards entered into evidence reflect the landlord's accounting of monthly assessed rent and payments made by the tenant. I am satisfied these documents accurately reflect the payments made by the tenant; in this instance there have been no payments made by the tenant since prior to April 1, 2012. I find Mr. Enzoë has accumulated rental arrears from September 24, 2012, to February 25, 2014, of \$19,805.

*Compliance with previous rental officer order*

Rental officer order number 10-12985 directed the payment of accumulated rental arrears to September 24, 2012, of \$39,621, that future rent be paid on time, and that household income be reported. Mr. Keohane's testimony, the lease balance statements, and the ledger cards establish that none of these directions have been complied with. I find Mr. Enzoë in breach of rental officer order number 10-12985; however, I am satisfied the appropriate course of action is to rescind this order and replace it with a new one reflecting the requirement to pay the total amount of rental arrears as of February 25, 2014.

*Termination of the tenancy agreement and eviction*

The applicant has requested termination of the tenancy agreement, eviction of the tenant, and compensation from the tenant for the use and occupation of the rental premises for each day he remains in the rental premises after the effective date of termination of the tenancy agreement. Mr. Enzoë has had two previous rental officer orders made against him: 10-10235 issued July 19, 2008, and 10-12985 issued October 3, 2012; both orders consisted of the same requirements: to pay accumulated rental arrears, pay future rent on time, and report household income. The amount of the current accumulated arrears – \$59,426 – largely reflects the assessment of full economic rent due to Mr. Enzoë's failure to report his household income, as well as his failure to make any payments towards his rental arrears. This remains a substantial amount of money, and Mr. Enzoë's apparent unwillingness to take responsibility for his obligations has reached an intolerable level for the applicant. I am satisfied termination of the tenancy agreement is justified and eviction is warranted.

An order will issue rescinding rental officer order number 10-12985 and replacing it with an order for Mr. Enzoë to pay rental arrears in the amount of \$59,426, to report his household income up to and including April 15, 2014, terminating the tenancy agreement April 15, 2014, evicting Mr. Enzoë April 16, 2014, and requiring Mr. Enzoë to compensate the landlord for remaining in the rental premises after April 15, 2014, at a rate of \$47.51 per day. The eviction order will issue under separate cover.

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Adelle Guigon  
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Applicant's summary of requests dated December 13, 2013
- Exhibit 2: E-mail conversation between Mary-Rose Casaway and Lorraine Hewlett dated December 12, 2013
- Exhibit 3: Residential tenancy agreement - indeterminate lease dated March 20, 2013
- Exhibit 4: Residential tenancy agreement - indeterminate lease dated March 23, 2012
- Exhibit 5: Ledger cards for rent from October 2012 to December 2013
- Exhibit 6: Lease balance statement for rent from April 12, 2012, to December 1, 2013
- Exhibit 7: Lease ledger from April, 1, 2012, to December 2, 2013
- Exhibit 8: Rental Officer order number 10-12985 issued October 3, 2012
- Exhibit 9: Rental Officer order number 10-10235 issued July 19, 2008
- Exhibit 10: Applicant's unit #208, rental arrears \$55,516.00 as at August 19, 2013, correspondence to respondent dated August 19, 2013
- Exhibit 11: Lease balance statement for rent from April 1, 2012, to August 1, 2013
- Exhibit 12: Lease balance statement for rent from April 1, 2012, to February 1, 2014
- Exhibit 13: Lease ledger for rent from April 1, 2012, to February 13, 2014