

IN THE MATTER between **Harvey Hamilton**, Applicant, and **Crystal King**,
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:

HARVEY HAMILTON

Applicant/Landlord

- and -

CRYSTAL KING

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 67(4) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$4,255.73 (four thousand two hundred fifty-five dollars seventy-three cents).
2. Pursuant to section 54(4) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as 18-61 Woodland Drive in Hay River, Northwest Territories, was terminated effective January 31, 2014, and the respondent must immediately vacate the rental premises.

3. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, the respondent must pay to the applicant compensation for each day the respondent remains in the rental premises after March 31, 2014, at a rate of \$39.45 (thirty-nine dollars forty-five cents) per day.

DATED at the City of Yellowknife in the Northwest Territories this 24th day of March 2014.

Adelle Guigon
Deputy Rental Officer

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AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter
R-5 (the "Act");

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BETWEEN:

HARVEY HAMILTON

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-and-

CRYSTAL KING

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	March 19, 2014
<u>Place of the Hearing:</u>	Hay River, Northwest Territories, via teleconference
<u>Appearances at Hearing:</u>	Harvey Hamilton, Applicant
<u>Date of Decision:</u>	March 19, 2014

REASONS FOR DECISION

An application to a rental officer made by Harvey Hamilton as the applicant/landlord against Crystal King as the respondent tenant was filed by the Rental Office January 22, 2014. The application was made regarding a residential tenancy agreement for the rental premises known as 18-61 Woodland Drive in Hay River, Northwest Territories. The applicant served a copy of the filed application package on the respondent by personal service February 1, 2014.

The applicant alleged the respondent had accumulated rental arrears and failed to comply with a previous rental officer order to pay future rent on time. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for March 19, 2014. The applicant was served notice of attendance by registered mail signed for March 4, 2014; Mr. Harvey Hamilton appeared representing himself as the applicant. The respondent was served notice of attendance by personal service March 5, 2014; Ms. Crystal King did not appear at hearing, nor did anyone appear on her behalf. Having been given sufficient notice, the hearing proceeded in Ms. King's absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Mr. Hamilton testified that Ms. King had failed to comply with two previous rental officer orders. Order number 10-13474 dated June 17, 2013, required Ms. King to pay her rent on time in the future; order number 10-13642 dated August 26, 2013, required Ms. King to pay rental arrears in the amount of \$1,069.01. To date, Ms. King had only paid \$798.08 towards the ordered arrears owing. It was established at both of the previous hearings that the parties had entered into a periodic tenancy agreement for rent of \$1,200 per month plus utilities.

Ms. King had testified at the hearing on August 16, 2013, regarding file number 10-13642 that she had transferred all the utilities to her name. At this March 19, 2014, hearing, Mr. Hamilton provided a water bill for the amount of \$49.54 for Ms. King's water usage prior to the transfer of the water utility account to her name; Ms. King did not pay this bill when requested. Mr. Hamilton further testified that Ms. King had in fact not transferred the fuel utility account to her own name, which he learned of when reconciling his credit card account and discovering charges from the fuel company for deliveries to the rental premises. Mr. Hamilton requested payment of these bills from Ms. King. Fuel was delivered to the rental premises five times since November

2013, none of which have been paid by Ms. King: one in November for \$303.46, one in December for \$375.05, two in January for \$553.53 and \$292.83, and one in February for \$412.31, for a total fuel bill owing of \$1,937.18. Mr. Hamilton further testified that Ms. King had failed to pay the full amount of her rent for February and March. The total amount of rental arrears including utilities owed by Ms. King as of March 19, 2014, is \$4,255.73; at hearing Mr. Hamilton claimed a total of \$4,256.73, however a calculation of the amounts as evidenced by receipts and invoices confirms the \$1 discrepancy.

Mr. Hamilton gave into evidence a copy of a notice of termination of the tenancy agreement dated January 21, 2014, made pursuant to section 54 of the Act, effectively terminating the tenancy January 31, 2014. He requested an order for payment of the rental arrears, confirmation of termination of the tenancy, and eviction of Ms. King from the premises.

Tenancy agreement

The validity of the verbal tenancy agreement between the parties regarding the rental premises known as 18-61 Woodland Drive was established at the two previous rental hearings and I am satisfied it has remained in effect. I am further satisfied based on Mr. Hamilton's testimony that Ms. King remains in occupancy of the rental premises.

Rental arrears

As established at the previous hearings, "rent" is defined as including utilities for which it is agreed the tenant is responsible. The tenancy agreement between the parties identified the tenant in this case as being responsible for all utilities plus \$1,200 in rent per month. Mr. Hamilton has provided evidence supporting his allegation that Ms. King has not only failed to pay previously identified rental arrears in full but also has not paid for utilities bills accumulated since the previous hearing. Ms. King also has not paid the full amount \$1,200 in rent for the months of February and March. Mr. Hamilton's receipts and invoices support his claim and I find Ms. King has accumulated rental arrears of \$4,255.73. The following table clarifies the amounts applied:

Outstanding arrears from Rental Officer order number 10-13642	\$269.01
Town of Hay River water bill for July 2013	\$49.54
Midnight Petroleum fuel delivery bill dated November 6, 2013	\$303.46
Midnight Petroleum fuel delivery bill dated December 2, 2013	\$375.05
Midnight Petroleum fuel delivery bill dated January 4, 2014	\$553.53
Midnight Petroleum fuel delivery bill dated January 28, 2014	\$292.83
Midnight Petroleum fuel delivery bill dated February 25, 2014	\$412.31
Rent for January, February, and March 2014 (\$1,200 x3)	\$3,600.00
LESS Payments received January 22, 23, and 27, 2014	(\$1,600.00)
Total rental arrears owing	<u>\$4,255.73</u>

Termination of the tenancy agreement

Section 54(1)(g) of the Act speaks to the early termination of a tenancy agreement where the tenant has repeatedly failed to pay the full amount of the rent or to pay it on time. Mr. Hamilton has served Ms. King with a notice to terminate the tenancy agreement in accordance with this section, effectively terminating the tenancy January 31, 2014. He has further complied with the requirements of the Act by filing an application to a rental officer for an order to terminate the tenancy agreement pursuant to section 54(4). Ms. King's repeated failure to pay the full amount of her rent having been established, I find the termination of the tenancy agreement on January 31, 2014, to be justified. Ms. King has therefore been in an overholding tenancy situation since February 1, 2014, and the rental arrears accumulated since that date are due and payable pursuant to section 67(1) of the Act.

Eviction

Ms. King currently remains in the rental premises, even after having received notice from the landlord to vacate. She was still in the rental premises as of this hearing date. Having established that the tenancy agreement was terminated in accordance with the Act on January 31, 2014, and Ms. King is in an overholding tenancy, I find an eviction order is justified.

An order will issue for Ms. King to pay rental arrears in the amount of \$4,255.73, terminating the tenancy January 31, 2014, and requiring Ms. King to vacate the rental premises immediately, for Ms. King to compensate Mr. Hamilton for each day she remains in the rental premises after March 31, 2014, at a rate of \$39.45 per day, and evicting Ms. King on April 1, 2014, or as soon thereafter as is practicable. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Applicant's reasons for application
- Exhibit 2: Town of Hay River water bill dated July 31, 2013
- Exhibit 3: Photocopy of two Imperial Oil fuel delivery bills dated November 6, 2013, and December 2, 2013
- Exhibit 4: Applicant's notice of early termination by landlord correspondence to respondent dated January 21, 2014
- Exhibit 5: Applicant's update to status of account dated February 1, 2014
- Exhibit 6: Photocopy of three receipts issued to Crystal King dated January 22, January 23, and January 27, 2014
- Exhibit 7: Photocopy of two Esso Imperial Oil - Midnight Petroleum invoices issued to Harvey Hamilton for deliveries to 18 Rowe's Trailer Court dated January 4 and January 28, 2014
- Exhibit 8: Applicant's update to status of account dated March 19, 2014
- Exhibit 9: Midnight Petroleum statement number 1627 dated February 28, 2014
- Exhibit 10: Photocopy of Esso Imperial Oil - Midnight Petroleum invoice issued to Harvey Hamilton for a delivery to 18 Rowe's Trailer Court dated February 25, 2014