

IN THE MATTER between **Fort Smith Housing Authority**, Applicant, and **Stephanie Mercredi**, 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 Fort Smith in the Northwest Territories**.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

- and -

STEPHANIE MERCREDI

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 \$2,240.17 (two thousand two hundred forty dollars seventeen cents).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent must pay her rent on time in the future.

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

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Fort Smith Housing Authority**, Applicant, and **Stephanie Mercredi**, Respondent.

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	March 19, 2014
<u>Place of the Hearing:</u>	Fort Smith, Northwest Territories, via teleconference
<u>Appearances at Hearing:</u>	Kevin Mageean, representing the applicant Stephanie Mercredi, respondent Mary Bishop, witness for the respondent
<u>Date of Decision:</u>	March 19, 2014

REASONS FOR DECISION

An application to a rental officer made by Fort Smith Housing Authority as the applicant/landlord against Stephanie Mercredi as the respondent/tenant was filed by the Rental Office January 23, 2014. The application was made regarding a subsidized public housing tenancy agreement for the rental premises known as Unit #0083, 08 Pickeral Crescent, in Fort Smith, Northwest Territories. The applicant served a copy of the filed application package on the respondent by registered mail signed for January 30, 2014.

The applicant alleged the respondent had accumulated rental arrears and the tenancy agreement had been terminated December 31, 2013, in accordance with the *Residential Tenancies Act* (the Act). Evidence submitted is listed in Appendix A attached to this order. The applicant is seeking an order for payment of the rental arrears and eviction.

A hearing was scheduled for March 19, 2014. Both parties were served with notices of attendance; Mr. Kevin Mageean appeared representing the applicant and Ms. Stephanie Mercredi appeared representing herself. Ms. Mary Bishop, acting social work supervisor, also attended in support of Ms. Mercredi.

Mr. Mageean testified that Ms. Mercredi had been a tenant with the housing authority since well before 2008, during which time she had been served with eight separate 30-day notices to terminate her tenancy for failure to pay rent. Ms. Mercredi has entered into several payments plans over the years which she has largely been compliant with. On August 6, 2013, Ms. Mercredi had signed a payment plan agreement to pay an additional \$50 per month towards her rental arrears, which at the time she acknowledged were \$2,150.17. She was successful at making two payments – one of \$50 on August 20th and one of \$100 on September 20th – after which no further additional payments were received. The payments which were received after September 20th were specifically for some of the assessed monthly rent.

On November 28, 2013, the applicant gave Ms. Mercredi a 30-day notice terminating her tenancy agreement effective December 31, 2013; this notice was given in accordance with section 51(3) of the Act as the parties held a fixed-term tenancy agreement for subsidized public housing with a term of April 1, 2012, to December 31, 2013. On December 18, 2013, the board for the Fort Smith Housing Authority confirmed the authority's termination date of December 31, 2013.

Ms. Mercredi has remained in the rental premises to date and the housing authority has assessed her rent for the overholding rental periods since January 1, 2014, based on Ms. Mercredi's reported household income. The accumulated rental arrears as of March 19, 2014, are at \$2,240.17.

Mr. Mageean testified the applicant was notified after the commencement of the rental officer application process that Ms. Mercredi had applied to the Homelessness Assistance Fund to help pay her arrears. On February 26, 2014, the board met again and agreed that if Ms. Mercredi was successful in her application for assistance and the rental arrears were paid the application to a rental officer would be withdrawn and the applicant could consider renewing Ms. Mercredi's tenancy agreement; as of this hearing those funds had not been received by the applicant.

Mr. Mageean argued, in light of Ms. Mercredi's lengthy history of rental arrears and the patience of the board during that time, unless Ms. Mercredi was able to secure the funding to pay her arrears an eviction order would be justified.

Ms. Mercredi acknowledged the rental arrears accumulated to date of \$2,240.17 and her failure to comply with her obligation to pay the rent and follow the payment plan she agreed to. She admitted to going through a lengthy period of struggles during which her only income has been her child tax benefits. Ms. Mercredi has four children to care for and has been trying to upgrade her own skills by attending school. She understands the importance of paying her rent, but has found herself in a financial situation where she often has to choose between buying food for her children and paying her rent.

Ms. Mercredi testified she had been notified by representatives of the Homelessness Assistance Fund that her application for payment of her full rental arrears was granted and was told the payment should have gone through by now. When she learned that housing had not received the monies she spoke with Ms. Mary Bishop, the acting social work supervisor, who attended this hearing on Ms. Mercredi's behalf. Ms. Bishop confirmed that Ms. Mercredi's application had been approved and Ms. Bishop had initiated an investigation into the status of the payment. She stated she would be directing her attention to this matter specifically upon her return to work the next day and that she could not give a reason why not to expect the transfer of funds to the applicant before March 31st.

Mr. Mageean was in agreement with a proposed conditional eviction order which would only come into effect if Ms. Mercredi's rental arrears were not paid by a specific date, but requested the eviction to be effective sooner rather than later as his history with Ms. Mercredi suggests the more time she is given to accomplish something the more likely she is to procrastinate about it. Ms. Mercredi did not oppose the suggestion that the rental arrears would have to be paid by March 31, 2014, if she wanted to avoid being evicted.

Tenancy agreement

Mr. Mageean testified that Ms. Mercredi had been in a tenancy agreement for subsidized public housing with the applicant since well before 2008; Ms. Mercredi did not dispute this assertion. A residential tenancy agreement submitted into evidence by the applicant establishes a fixed-term agreement for subsidized public housing starting April 1, 2012, and ending December 31, 2013. I am satisfied that the parties had a valid tenancy agreement.

Termination of the tenancy agreement

Correspondence sent from the applicant to the respondent dated November 28, 2013, was submitted by the applicant. This correspondence was the applicant's notice to the respondent that they were not renewing her tenancy agreement and were asking her to vacate the rental premises by December 31, 2013. Section 51(3) of the Act says that landlords of subsidized public housing with fixed-term tenancy agreements may give a tenant a notice of termination not later than 30 days before the last day of the fixed-term. I am satisfied the applicant has terminated the tenancy agreement on December 31, 2013, in accordance with the Act, and I find Ms. Mercredi is currently an overholding tenant.

Rental arrears

The lease balance statement submitted into evidence by the applicant is the landlord's accounting of assessed monthly rent and payments made by the respondent up to March 19, 2014. It supports the applicant's claim for rental arrears in the amount of \$2,240.17 and Ms. Mercredi does not dispute the claim for this amount. I am satisfied the lease balance statement accurately reflects the assessed rent and the payments made. I find Ms. Mercredi has accumulated rental arrears of \$2,240.17.

Eviction

Having established the tenancy agreement between the parties was terminated December 31, 2013, in accordance with the Act, and in light of Ms. Mercredi's recorded history with the applicant, I am satisfied an eviction order is justified. However, in consideration of the expectation that Ms. Mercredi's arrears will likely be covered by the Homelessness Assistance Fund and the applicant is not opposed to considering renewal of Ms. Mercredi's tenancy agreement should the arrears be paid by March 31, 2014, I am satisfied the eviction should be conditional on the failure to pay the rental arrears.

An order will issue requiring Ms. Mercredi to pay rental arrears in the amount of \$2,240.17, requiring Ms. Mercredi to pay her rent on time in the future, and evicting Ms. Mercredi from the rental premises on April 1, 2014, or as soon thereafter as is practicable, unless the rental arrears are paid in full by March 31, 2014. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Lease balance statement from April 1, 2012, to January 1, 2014

Exhibit 2: Applicant's correspondence to respondent dated December 19, 2013

Exhibit 3: Residential tenancy agreement - fixed term lease dated April 1, 2012

Exhibit 4: Applicant's correspondence to respondent dated November 28, 2013

Exhibit 5: Agreement to pay rental arrears - tenant dated August 6, 2013

Exhibit 6: Residential tenancy agreement - fixed term lease dated April 1, 2012

Exhibit 7: Lease balance statement from April 1, 2012, to March 11, 2014