

IN THE MATTER between **BEHCHOKO KO GHA K'AODEE**, Applicant, and
MARIE LAMOUELLE, Respondent;

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

AND IN THE MATTER of a Hearing before, **HAL LOGSDON**, Rental Officer,
regarding the rental premises at **BEHCHOKO, NT.**

BETWEEN:

BEHCHOKO KO GHA K'AODEE

Applicant/Landlord

- and -

MARIE LAMOUELLE

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent shall report the full and accurate household income to the applicant for the months of July, 2013 to present.
2. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent shall pay the applicant rent arrears in the amount of sixty three thousand three hundred sixty four dollars (\$63,364.00).

DATED at the City of Yellowknife, in the Northwest Territories this 22nd day of April,
2014.

Hal Logsdon
Rental Officer

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MARIE LAMOUELLE, 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 **Hal Logsdon**, Rental Officer.

BETWEEN:

BEHCHOKO KO GHA K'AODEE

Applicant/Landlord

-and-

MARIE LAMOUELLE

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: December 3, 2013

Place of the Hearing: Behchoko, NT

Appearances at Hearing: Michael Keohane, representing the applicant
Marie Lamouelle, respondent

Date of Decision: April 22, 2014

REASONS FOR DECISION

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent and sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement and evicting the respondent. The premises are subsidized public housing.

This application was filed on March 8, 2013 and served on the respondent on March 13, 2013.

The matter was set for hearing on May 23. At the hearing, the applicant alleged that the respondent owed rent of \$87,010.80 but acknowledged that the respondent had recently filed household income information which had not yet been considered in the calculation of rents. The matter was adjourned and the applicant directed to complete the rent assessments.

The applicant filed a revised ledger on July 18 and served a copy on the respondent. The revised ledger contained 51 credit entries dated July 16 resulting in a revised balance of \$66,098.49. The matter was set for hearing on October 1. At that hearing, the applicant was unable to reconcile the ledger to a previous order (file #10-10047, filed on July 18, 2008) and the matter was again adjourned and the applicant directed to demonstrate what rents and payments had been made since the issuance of the previous order.

When the hearing resumed on December 3, 2013 the applicant provided a statement of assessed rents and payments made from August 1, 2008 to October 1, 2013. That statement indicates that since the last order was issued \$90,726 of new rent had been assessed, \$33,835.51 had been paid

in rent and \$23,102 of credit adjustment had been made. Starting from the balance of rent determined at the October 1, 2013 hearing, the current balance should be \$68,894.11 calculated as follows:

| | |
|--------------------------------------|--------------------|
| Balance as per previous order | \$35,105.62 |
| plus rents assessed since last order | 90,726.00 |
| less adjustments to rents | (23,102.00) |
| less payments made | <u>(33,835.51)</u> |
| Balance | \$68,894.11 |

However the tenant ledger cards, provided in evidence by the applicant, show a balance owing as at October 1, 2013 of \$70,633.49. The difference of \$1739.38 was acknowledged by the applicant but could not be explained.

Referring to the tenant ledger cards, the applicant stated that the rents for August, September, October and November, 2013 were assessed as the full unsubsidized rate of \$1545. The applicant stated that the respondent had provided her income information but had failed to provide the information for other household members. The applicant stated that if the rents were calculated on the income information provided, the rents for those months would be \$75.

The respondent had considerable difficulty responding to the accuracy, or lack thereof, of the rent calculations. In that regard she was not alone, as the applicant was unable to reconcile the various balances put forward. It is difficult to decipher the applicant's accounting.

The respondent is the sole tenant, a 58 year old single head of the household. Her two adult sons and adult daughter live with her as well as nine grandchildren. The applicant pays rent on a

reasonably consistent basis but stated that her dependents did not often share in the rent payments. It appears that the other household members do not regularly report their income or share in the rent obligations. The respondent's income accounts for only 36% of the total household income. It appears from the ledger and the rent assessments that the respondent would not be burdened with these extraordinary rent arrears if her family shared in the responsibility to pay rent in accordance with their income.

The applicant stated that they would be willing to transfer Ms Lamouelle to a smaller unit and restrict the number of occupants, preventing her adult independent children from living with her. The respondent stated that she would agree to such an arrangement. In my opinion, the eviction of Ms Lamouelle is not a reasonable solution to the problem at hand.

With regard to the amount of rent that is owing, I first find that the application of the full unsubsidized rent for the months of August to December to be tantamount to a penalty. The rent should be calculated on the reported household income regardless of whether it is deemed to be incomplete or inaccurate. I find the rent arrears to be \$64,574.11 calculated as follows:

| | |
|----------------------------------|--------------------|
| Balance as per previous order | \$35,105.62 |
| Rent since order to July, 2013 | 86,091.00 |
| Aug - December rent @ \$75/month | 375.00 |
| less pmts to Oct 1/13 | (33,835.51) |
| Pmt October 18/13 | (60.00) |
| Less rent adjustments | <u>(23,102.00)</u> |
| Total | \$64,574.11 |

I find an unsatisfied balance of the previous order of \$1210.11 calculated as follows:

| | |
|---------------------|--------------------|
| Previous order | \$35,105.62 |
| Paid since order | <u>(33,895.51)</u> |
| Unsatisfied balance | \$1210.11 |

Taking into consideration the unsatisfied balance of the previous order, an order shall issue requiring the respondent to pay the applicant \$63,364 and to report the total, accurate household income for the months of July, 2013 to present. The termination of the tenancy agreement and eviction are denied.

Hal Logsdon
Rental Officer