

IN THE MATTER between **Hamlet of Fort Liard Social Housing**, Applicant, and **Rob Berreault**, 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 hamlet of Fort Liard in the Northwest Territories**.

BETWEEN:

**HAMLET OF FORT LIARD SOCIAL HOUSING**

Applicant/Landlord

- and -

**ROB BERREAUULT**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$9,156.67 (nine thousand one hundred fifty-six dollars sixty-seven cents).
2. 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 #812, 145 Caragana Circle, in Fort Liard, Northwest Territories, is terminated May 30, 2014, and the respondent must vacate the rental premises on or before that day.

DATED at the City of Yellowknife in the Northwest Territories this 6th day of May 2014.

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Adelle Guigon  
Deputy Rental Officer

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-and-

**ROB BERREAUULT**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** April 25, 2014

**Place of the Hearing:** Fort Liard, Northwest Territories, via teleconference

**Appearances at Hearing:** Ellen McLeod, representing the applicant

**Date of Decision:** April 25, 2014

### **REASONS FOR DECISION**

An application to a rental officer made by Hamlet of Fort Liard Social Housing as the applicant/landlord against Samantha Timbre and Rob Berreault was filed by the Rental Office December 12, 2013. The application was made regarding a residential tenancy agreement for subsidized public housing for the rental premises known as #812, 145 Caragana Circle, in Fort Liard, Northwest Territories. The applicant served a copy of the filed application on the respondents by registered mail signed for January 17, 2014.

The applicant alleged in the application the tenants had repeatedly failed to comply with their obligation to report monthly income, had repeatedly failed to pay rent on time, and had accumulated rental arrears. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for February 12, 2014, for which notices of attendance were sent to all parties. The hearing was cancelled on February 11, 2014, upon learning of Ms. Samantha Timbre's unexpected death. The hearing was rescheduled for April 25, 2014. Ms. Ellen McLeod appeared representing the applicant. Mr. Rob Berreault was served a notice of attendance by registered mail signed for April 21, 2014. Mr. Berreault did not appear at the hearing, nor did anyone appear on his behalf. The hearing proceeded in his absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Ms. McLeod requested the formal withdrawal of Ms. Timbre's name from the application, which was granted under the circumstances. This file and any corresponding order will reflect Mr. Berreault as the sole respondent/tenant.

Ms. McLeod testified that Mr. Berreault has been a tenant in subsidized public housing with the applicant since March 2012. Mr. Berreault has carried a balance owing on his rent account since the commencement of the tenancy, with payments made being of insufficient amount to cover the assessed monthly rent and payments consistently being received late each month. The current accumulated rental arrears are \$9,156.67.

Mr. Berreault was obligated as a condition of his tenancy agreement to provide monthly household income reports. Ms. McLeod testified Mr. Berreault had failed to consistently provide these reports on time. The accumulated rental arrears include the application of full economic rent for the months of February, March, and April 2014, due to Mr. Berreault's failure to report household income for the months of January, February, and March 2014.

Ms. McLeod requested an order for payment of the rental arrears, termination of the tenancy agreement, and eviction. She justified her request for termination and eviction based on Mr. Berreault's pattern of behaviour respecting his obligations to pay rent and report his income since the commencement of the tenancy. Ms. McLeod advised Mr. Berreault has never attended to or communicated directly with the applicant, always sending someone else in on his behalf, and has made no effort to remedy the situation. Ms. McLeod confirmed Mr. Berreault is employed, although he may have taken bereavement leave recently.

*Tenancy agreement*

The residential tenancy agreement entered into evidence by the applicant is for subsidized public housing for a fixed-term from April 1, 2012, to March 31, 2014, after which it automatically renewed as a month-to-month tenancy pursuant to section 49(1) of the Act. I am satisfied a valid tenancy agreement is in place.

*Rental arrears and obligation to report household income*

Section 6 of the residential tenancy agreement outlines the obligation of the tenant to report household income as and when requested by the applicant's agent. Section 45(1) of the Act requires a tenant to comply with additional obligations included in a written tenancy agreement. Evidence has been presented that reporting of household income was requested and expected on a monthly basis. Evidence has been presented supporting the allegation that Mr. Berreault has repeatedly failed to report his household income on a monthly basis. I find Mr. Berreault has repeatedly breached his obligation to report his household income.

Schedule A of the residential tenancy agreement specifies the maximum monthly rent (i.e. unsubsidized or economic rent) is \$1,545. Section 7 of the residential tenancy agreement specifies the tenant's eligibility for a rent subsidy upon receiving a report of the household income; the full economic rent is applied until the household income report is received, at which time the rent is retroactively re-assessed.

The lease balance statement is the landlord's summarized accounting of applied monthly rent and payments made. I am satisfied the lease balance statement accurately reflects monthly rent assessed based on reported household income and accurately reflects payments made against the rent account. The rents for February, March, and April 2014 are reflected at the full economic rent of \$1,545 each; Ms. McLeod has testified the full economic rent was applied due to Mr.

Berreault's failure to report his household income for the months of January, February, and March 2014. Should Mr. Berreault report his income for those months the rent amount will be reassessed based on his income; until then, he remains liable for the full economic rent. I find Mr. Berreault has accumulated rental arrears as of April 25, 2014, in the amount of \$9,156.67.

*Termination of the tenancy agreement and eviction*

Ms. McLeod has evidenced a pattern of behaviour throughout the short tenancy reflecting repeatedly late submissions of reports of household income and repeatedly late payments of rent. Although Mr. Berreault does not have a history of orders from the rental officer, the extent of the identified breaches justifies the termination of the tenancy agreement. Mr. Berreault's further failure to effectively communicate with the applicant or to make any reasonable effort to remedy the situation raises questions regarding the likelihood he will voluntarily vacate the rental premises as of any termination date. I am satisfied an eviction order is justified.

An order will issue requiring Mr. Berreault to pay rental arrears in the amount of \$9,156.67, terminating the tenancy agreement May 30, 2014, and evicting Mr. Berreault from the rental premises June 1, 2014. The eviction order will follow under separate cover.

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Adelle Guigon  
Deputy Rental Officer

## APPENDIX A

### Exhibits

- Exhibit 1: Applicant's summary of application dated November 28, 2013
- Exhibit 2: Applicant's tenant monthly notice - 2012 correspondence to respondents dated April 18, 2012
- Exhibit 3: Applicant's tenant notice - 2012 correspondence to respondents dated November 28, 2012
- Exhibit 4: Applicant's outstanding rental arrears - 2013 correspondence to respondents dated February 19, 2013
- Exhibit 5: Applicant's notice of overdue rent to respondents dated February 21, 2013
- Exhibit 6: Applicant's declare income - 2013 correspondence to respondents dated March 6, 2013
- Exhibit 7: Applicant's rent payment and arrears - 2013 second notice correspondence to respondents dated March 18, 2013
- Exhibit 8: Applicant's outstanding rental arrears - 2013 correspondence to respondents dated April 29, 2013
- Exhibit 9: Applicant's outstanding rental arrears - 2013 correspondence to respondents dated May 27, 2013
- Exhibit 10: Applicant's outstanding damage deposit/rental arrears - second notice - 2013 correspondence to respondents dated June 26, 2013
- Exhibit 11: Applicant's outstanding damage deposit/rental arrears - second notice - 2013 correspondence to respondents dated July 19, 2013
- Exhibit 12: Applicant's tenant notice - 2013 correspondence to respondents dated August 23, 2013
- Exhibit 13: Applicant's outstanding damage deposit/rental arrears - second notice - 2013 correspondence to respondents dated August 26, 2013
- Exhibit 14: Applicant's outstanding damage deposit/rental arrears - second notice - 2013 correspondence to respondents dated October 24, 2013
- Exhibit 15: Applicant's home visit - 2013 correspondence to respondents dated October 30, 2013
- Exhibit 16: Home Visit Report Form dated November 1, 2013
- Exhibit 17: Applicant's outstanding damage deposit/rental arrears - third notice - 2013 correspondence to respondents dated November 19, 2013
- Exhibit 18: A/R customer transactions report for March 1, 2012, to November 1, 2013
- Exhibit 19: Applicant's calculation of interest on security deposit to November 29, 2013
- Exhibit 20: Lease balance statement for April 1, 2012, to August 2, 2013
- Exhibit 21: Residential tenancy agreement - fixed term lease dated March 2, 2012
- Exhibit 22: Applicant's application summary update correspondence dated April 23, 2014
- Exhibit 23: Lease balance statement for rent from April 1, 2012, to April 1, 2014