

IN THE MATTER between **Fort Resolution Housing Authority**, Applicant, and **Robert (Bobby) Beaulieu**, 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 community of Fort Resolution in the Northwest Territories**.

BETWEEN:

FORT RESOLUTION HOUSING AUTHORITY

Applicant/Landlord

- and -

ROBERT (BOBBY) BEAULIEU

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 \$7,655 (seven thousand six hundred fifty-five dollars).
2. Pursuant to section 54(4) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Unit #4-06 in Fort Resolution, Northwest Territories, is terminated effective February 2, 2014.

3. Pursuant to sections 63(4)(b) and 67(4) of the *Residential Tenancies Act*, the respondent must compensate the applicant for use and occupation of the rental premises known as Unit #4-06 in Fort Resolution, Northwest Territories, in the amount of \$6,180 (six thousand one hundred eighty dollars) for the months of February to May 2014, plus \$50.79 (fifty dollars seventy-nine cents) per day for each day the respondent remains in the rental premises after May 31, 2014.

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

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Fort Resolution Housing Authority**, Applicant, and **Robert (Bobby) Beaulieu**, 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.

BETWEEN:

FORT RESOLUTION HOUSING AUTHORITY

Applicant/Landlord

-and-

ROBERT (BOBBY) BEAULIEU

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	May 20, 2014
<u>Place of the Hearing:</u>	Fort Resolution, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Elizabeth Ann McKay, representing the applicant
<u>Date of Decision:</u>	May 20, 2014

REASONS FOR DECISION

The Fort Resolution Housing Authority, the applicant/landlord, made an application to a rental officer against Robert (Bobby) Beaulieu, the respondent/tenant, regarding a residential tenancy agreement for the rental premises known as Unit #4-06 in Fort Resolution, Northwest Territories. The application was filed by the Rental Office February 6, 2014. The applicant served a copy of the filed application on the respondent by registered mail signed for February 19, 2014.

The applicant alleged the respondent had accumulated rental arrears, that the tenancy agreement had been terminated in accordance with the Act, and the respondent remained in the rental premises as an overholding tenant. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for May 20, 2014. Ms. Elizabeth Ann McKay appeared at hearing representing the applicant. Mr. Robert (Bobby) Beaulieu was served with a notice of attendance by registered mail signed for May 5, 2014. Mr. Beaulieu did not appear at hearing; the hearing proceeded in his absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

At hearing it was clarified that although the application to a rental officer identified the respondent as Robert (Paul) Bobby Beaulieu the residential tenancy agreement was written out to Robert (Bobby) Beaulieu and Ms. McKay confirmed that the respondent's full name is Robert Paul Beaulieu and he was commonly called Bobby. It was agreed to amend the application to reflect the respondent's name as it appears on the residential tenancy agreement, Robert (Bobby) Beaulieu.

Ms. McKay testified that Mr. Beaulieu had been a tenant in subsidized public housing with the landlord since December 18, 2012. He had carried rental arrears since the start of the tenancy, but was successful at bringing his account to a zero balance on June 14, 2013. Between June 2013 and January 2014 Mr. Beaulieu made no additional payments. In September 2013 Mr. Beaulieu ceased providing household income reports, resulting in the landlord's inability to calculate Mr. Beaulieu's rent subsidy; the landlord therefore began to apply the full economic rent of \$1,545 per month for September 2013 to January 2014.

On January 2, 2014, Mr. Beaulieu was successfully served with a notice of termination by the landlord, terminating his tenancy effective February 2, 2014, pursuant to section 54(1)(g) of the Act for failing to pay the full amount of rent. Mr. Beaulieu was requested in that notice to vacate the rental premises on or before February 2, 2014; he remains in overholding tenancy of the rental premises as of this hearing date. As Mr. Beaulieu has yet to provide any household income reports since September 2013, the landlord is claiming overholding rent for the months of February, March, April, and May for the full economic amount of \$1,545 per month, totalling \$6,180.

Ms. McKay confirmed the applicant is not interested in renewing Mr. Beaulieu's tenancy agreement and are requesting an order evicting him from the rental premises and requiring him to compensate the landlord for use and occupation of the rental premises.

Tenancy agreement

Residential tenancy agreements entered into evidence by the applicant, along with supporting testimony, establish that Mr. Beaulieu has held a continuous tenancy agreement for subsidized public housing in the rental premises known as Unit #4-06 in Fort Resolution, Northwest Territories, since December 18, 2012.

Rental arrears

The lease balance statements submitted into evidence by the applicant are the landlord's accounting of monthly rent and payments made between December 18, 2012, and May 1, 2014. I am satisfied the lease balance statements accurately reflect payments received by the respondent as of May 1, 2014.

Section 6 of the residential tenancy agreement specifies the obligation of the tenant to provide monthly household income reports from which the landlord calculates subsidized rent. Monthly rent calculation forms were submitted into evidence for January to August 2013, suggesting a prior consistency in Mr. Beaulieu's reporting of household income up to that date, and also revealing a fluctuation in his monthly income. This fluctuation resulted in different amounts of subsidized rent being applied to Mr. Beaulieu's account. By no longer providing a report of his household income, Mr. Beaulieu made it unreasonably difficult for the landlord to accurately calculate his rent subsidy, resulting in the landlord's application of full economic rent for the months of September 2013 to January 2014. I find Mr. Beaulieu has failed to comply with his obligation to report his monthly income and I am satisfied that the landlord's application of full economic rent for the months of September 2013 to January 2014 is appropriate. .../4

Ms. McKay has testified that the balance of \$8,455 as of January 31, 2014, less the \$800 payment received March 17, 2014, result in rental arrears accumulated during the tenancy totalling \$7,655, and I am satisfied this amount is accurate.

Termination of tenancy agreement

A copy of a notice of termination issued by the applicant against Mr. Beaulieu was submitted into evidence, along with a copy of a confirmation of service by registered mail reflecting that Mr. Beaulieu signed for the notice on January 2, 2014. The notice advised Mr. Beaulieu that his tenancy agreement was being terminated by the landlord on February 2, 2014, in accordance with section 54(1)(g) of the Act as a result of his repeated failure to pay rent.

Section 54(1)(g) of the Act specifies that a landlord may at any time give a tenant a notice of termination of at least 10 days where the tenant has repeatedly failed to pay the full amount of the rent. Section 55(3) of the Act specifies the required contents of a notice of termination by a landlord as: it must be in writing, signed by the landlord or agent, identify the rental premises, state the tenancy's termination date, and state the reason for termination of the tenancy. Section 71(1)(b) of the Act specifies registered mail as an acceptable method of service of notices. I am satisfied the requirements of each of these three sections of the Act have been satisfied.

Section 54(4) of the Act requires a landlord to file an application to a rental officer after giving a notice of termination under section 54(1) of the Act, from which a Rental Officer may make an order terminating the tenancy. Having been satisfied that Mr. Beaulieu has in fact failed to pay the full amount of his rent and carries substantial arrears, I find the landlord's notice to terminate the tenancy valid and confirm the tenancy was terminated February 2, 2014.

Overholding rent

As Mr. Beaulieu remains in possession of the rental premises, and having confirmed that his tenancy agreement was terminated February 2, 2014, I find Mr. Beaulieu is in overholding occupancy of the rental premises and is liable for overholding rent for the months of February to May 2014.

Mr. Beaulieu has failed to provide household income reports for the months of February to May 2014, in addition to the previously identified months of September 2013 to January 2014. At the termination of the tenancy agreement on February 2, 2014, Mr. Beaulieu ceased to be a tenant of subsidized public housing and thus was technically no longer eligible for a rent subsidy. As an overholding tenant Mr. Beaulieu's rent would be applied at the full economic amount of \$1,545. Ms. McKay confirmed that the applicant would be prepared to re-assess the rent subsidy for any of the outstanding months that Mr. Beaulieu might submit his income reports, including the overholding months. As it is, the applicant's claim for overholding rent based on the full economic rent for the months of February to May 2014 is not unreasonable in this instance and I find Mr. Beaulieu has accumulated overholding rental arrears in the total amount of \$6,180.

Eviction and compensation for use and occupation

Ms. McKay has requested an order evicting Mr. Beaulieu from the rental premises. Having established that Mr. Beaulieu has repeatedly failed to honour his tenancy agreement, that his tenancy has been terminated in accordance with the Act, and that Mr. Beaulieu remains in possession of the rental premises, I find an eviction order is justified.

Mr. Beaulieu has already been assessed rent for the months of February to May 2014 as an overholding tenant. I find that compensation to the landlord for use and occupation of the rental premises for each day Mr. Beaulieu remains in the rental premises after May 31, 2014, is justified, and the daily rate to be applied will be calculated based on the full economic rent of \$1,545.

An order will issue terminating Mr. Beaulieu's tenancy agreement February 2, 2014, evicting Mr. Beaulieu from the rental premises June 2, 2014, and requiring Mr. Beaulieu to pay rental arrears in the amount of \$7,655, to pay overholding rent in the amount of \$6,180, and to pay compensation for use and occupation of the rental premises at a rate of \$50.79 for each day he remains in the rental premises after May 31, 2014. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Applicant's notice of termination - Residential Tenancies Act s. 54(1) correspondence to respondent dated January 2, 2014, and proof of service of registered mail signed for January 2, 2014
- Exhibit 2: Lease balance statement for rent from December 18, 2012, to January 1, 2014
- Exhibit 3: Applicant's correspondence to respondent dated November 11, 2013
- Exhibit 4: Applicant's correspondence to respondent dated August 30, 2013
- Exhibit 5: Applicant's outstanding rental arrears - 45 days correspondence to respondent dated June 11, 2013
- Exhibit 6: Applicant's outstanding rental arrears - 30 days correspondence to respondent dated May 7, 2013
- Exhibit 7: Applicant's outstanding rental arrears correspondence to respondent dated February 25, 2013
- Exhibit 8: Residential tenancy agreement - fixed term lease dated June 28, 2013
- Exhibit 9: Residential tenancy agreement - fixed term lease dated April 1, 2013
- Exhibit 10: Monthly rent calculation forms for January to August 2013
- Exhibit 11: Lease balance statement for December 18, 2012, to May 1, 2014