

IN THE MATTER between **Deline Housing Association**, Applicant, and **Esther Sewi and Alfred Betsidea**, Respondents;

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 Deline in the Northwest Territories**.

BETWEEN:

DELINE HOUSING ASSOCIATION

Applicant/Landlord

- and -

ESTHER SEWI and ALFRED BETSIDEA

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 84(3), 41(4)(a), and 67(4) of the *Residential Tenancies Act*, previous rental officer orders #20-11639 and #20-12007 are hereby rescinded and the respondents must pay to the applicant rental arrears and overholding rent in the total amount of \$37,183.97 (thirty-seven thousand one hundred eighty-three dollars ninety-seven cents).

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

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Deline Housing Association**, Applicant, and **Esther Sewi and Alfred Betsidea**, Respondents.

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:

DELINE HOUSING ASSOCIATION

Applicant/Landlord

-and-

ESTHER SEWI and ALFRED BETSIDEA

Respondents/Tenants

REASONS FOR DECISION

Date of the Hearing: April 24, 2014

Place of the Hearing: Deline, Northwest Territories, via teleconference

Appearances at Hearing: Phebie Kenny, representing the applicant

Date of Decision: April 24, 2014

REASONS FOR DECISION

An application to a rental officer made by Deline Housing Association as the applicant/landlord against Esther Sewi and Alfred Betsidea as the respondents/tenants was filed by the Rental Office December 18, 2013. The application was made regarding a residential tenancy agreement for subsidized public housing at the rental premises known as Unit #0098 in Deline, Northwest Territories. The applicant served a copy of the filed application package on the respondents by personal service January 8, 2014.

The applicant alleged in the application the tenants had failed to comply with previous rental officer orders #20-11639 and #20-12007 by failing to pay rental arrears and overholding rent arrears and failing to vacate the rental premises, and had accumulated additional overholding rent arrears. Evidence submitted is listed in Appendix A attached to this order.

A hearing was originally scheduled for February 27, 2014, to which Ms. Phebie Kenny and the rental officer appeared in person. Neither Ms. Esther Sewi nor Mr. Alfred Betsidea appeared at hearing, however, Ms. Kenny was uncertain whether Ms. Sewi was in the community at the time and had learned that morning that Mr. Betsidea had called in sick to work. In the interest of fairness and in consideration of the seriousness of the allegations and potential consequences, the hearing was adjourned *sine die* to ensure Mr. Betsidea and Ms. Sewi were given full opportunity to appear at hearing.

The hearing was re-scheduled to April 24, 2014. Ms. Phebie Kenny appeared representing the applicant. Ms. Esther Sewi and Mr. Alfred Betsidea were served notices of attendance by registered mail signed for April 4, 2014. Neither Ms. Sewi nor Mr. Betsidea appeared at hearing, nor did anyone appear on their behalf. Ms. Kenny had not heard from either party. The hearing proceeded in their absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Ms. Kenny testified the respondents had been tenants with the Deline Housing Association since November 1993. The respondents have a history of applications filed against them. The oldest rental officer order #20-3351 dated October 5, 1994, ordered payment of rental arrears in the amount of \$2,938.00 and was complied with. Subsequent rental officer order #20-11089 dated December 2, 2009, ordered payment of rental arrears in the amount of \$27,479.53 in monthly installments of \$50.00; it was not complied with and the applicant filed a new application in

2010 which resulted in rental officer order #20-11639 dated October 20, 2010. Rental officer order #20-11639 rescinded rental officer order #20-11089 and ordered the payment of rental arrears in the amount of \$38,174.53 and termination of the tenancy agreement November 30, 2010, unless the rental arrears were paid in full; this order was not complied with, effecting the termination of the tenancy November 30, 2010, after which the tenants have remained in the rental premises as overholding tenants. The rental arrears ordered paid in rental officer #20-11089 represented outstanding rent to October 14, 2010. Rental officer order #20-12007 dated June 11, 2011, was issued ordering the payment of rental arrears for October and November 2010 in the amount of \$1,737.00 and payment of compensation for overholding rent for December 1, 2010, to August 31, 2011, in the amount of \$14,885.70.

Since the issuance of the above orders the respondents have remained overholding tenants in the rental premises. The applicant began garnishing the respondents' income with rental officer order #20-11639 in September 2013; the payments reflected in the tenant ledger cards between September 23, 2013, and April 15, 2014, are the results of the garnishee order. The last three payments made directly by the respondents were recorded: November 16, 2012, for \$210; August 28, 2011, for \$300; and June 30, 2010, for \$100.

Although the respondents have not been paying their rent (overholding or otherwise) they did eventually provide reports of their household income as required by their subsidized public housing tenancy agreement. In the previous rental officer applications the rent for July, August, and September 2010 and the overholding rents were calculated at full economic rent; however, with the receipt of household income reports the applicant was able to assess the rent and overholding rent based on monthly income, which has reduced the total rental arrears: the rent arrears to November 30, 2010, after the application of all payments received since that date, are \$29,060.97; the overholding rent arrears as of April 24, 2014, are \$8,123. The total rental and overholding rental arrears are \$37,183.97.

Ms. Kenny requested an order rescinding rental officer orders #20-11639 and #20-12007 and replacing them with one order reflecting the total amount of arrears of \$37,183.97. In light of the significant arrears and the failure of the respondents to make reasonable efforts resolve the matter, and recognizing that the tenancy agreement was effectively terminated November 30, 2010, Ms. Kenny also requested an order evicting the respondents from the rental premises. She expressed regret that the matter had to come to the point of eviction, being cognizant that the respondents are elders within the community, however she could not countenance the continuation of the tenancy with the arrears as they are.

Rental arrears and overholding tenancy

The previous rental officer orders and the testimony of the applicant satisfy me that the tenancy agreement with the respondents was effectively terminated November 30, 2010, and the tenants have remained in overholding occupancy of the rental premises since that date. The previous orders are not in dispute. The request to rescind rental officer orders #20-11089 and #20-12007 to merge the amount of arrears to be paid into one order to my mind is appropriate and administratively efficient.

The tenant ledger cards entered into evidence are the landlord's accounting of assessed rent and payments made. I am satisfied they accurately reflect the status of the respondent's rent account. I find the respondents have accumulated rental arrears and overholding rent arrears as of April 24, 2014, in the total amount of \$37,183.97.

Eviction

Having determined that the tenancy agreement between the parties was terminated November 30, 2010, in accordance with the Act, and having determined that the respondents have not vacated the rental premises to date, and considering the significant amount of rental arrears, I am satisfied an order evicting the respondents from the rental premises is justified.

An order will issue rescinding rental officer orders #20-11089 and #20-12007, requiring the respondents to pay rental arrears in the amount of \$37,183.97, and evicting the respondents from the rental premises on May 12, 2014. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: History of rental officer orders attached to application
- Exhibit 2: Residential tenancy agreement - indeterminate lease dated August 24, 2009
- Exhibit 3: Rent calculation forms for April 2012 to September 2013
- Exhibit 4: Household income forms for June 2010 to March 2012
- Exhibit 5: Applicant's application to the rental officer correspondence to respondent dated November 25, 2013
- Exhibit 6: Applicant's final notice - 60 days - outstanding rental arrears correspondence to respondent dated October 30, 2013
- Exhibit 7: Applicant's third notice - 45 days - outstanding rental arrears correspondence to respondent dated October 11, 2013
- Exhibit 8: Applicant's second notice - 30 days - outstanding rental arrears correspondence to respondent dated September 19, 2013
- Exhibit 9: Applicant's first notice - two weeks - outstanding rental arrears correspondence to respondent dated September 3, 2013
- Exhibit 10: Tenant ledger cards for rent from October 29, 1993, to November 25, 2013
- Exhibit 11: Rental officer order #20-12007 dated June 11, 2011
- Exhibit 12: Rental officer order #20-11639 dated October 20, 2010
- Exhibit 13: Rental officer order #20-11089 dated December 2, 2009
- Exhibit 14: Tenant ledger cards for rent from April 17, 2013, to April 15, 2014