

IN THE MATTER between **NWT Housing Corp.**, Applicant, and **Belinda Blackduck and Ryan Chocolate**, 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 Gameti in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORP.

Applicant/Landlord

- and -

BELINDA BLACKDUCK and RYAN CHOCOLATE

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents must pay to the applicant rental arrears in the amount of \$5,714.49 (five thousand seven hundred fourteen dollars forty-nine cents).

DATED at the City of Yellowknife in the Northwest Territories this 20th day of June 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corp.**, Applicant, and **Belinda Blackduck and Ryan Chocolate**, 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:

NWT HOUSING CORP.

Applicant/Landlord

-and-

BELINDA BLACKDUCK and RYAN CHOCOLATE

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	June 18, 2014
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Michael Keohane, representing the applicant Gerry Cheezie, representing the applicant Belinda Blackduck, respondent
<u>Date of Decision:</u>	June 18, 2014

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corp. as the applicant/landlord against Belinda Blackduck and Ryan Chocolate as the respondents/tenants was filed in the Rental Office February 17, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as House #14 in Gameti, Northwest Territories. The applicant served a copy of the filed application on the respondents by personal service May 8, 2014.

The applicant alleged the respondents had accumulated rental arrears. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for June 18, 2014. Mr. Michael Keohane and Mr. Gerry Cheezie appeared representing the applicant. Ms. Belinda Blackduck and Mr. Ryan Chocolate were served notices of attendance by registered mail signed for May 27, 2014. Ms. Blackduck appeared at hearing as scheduled; Mr. Chocolate did not appear at hearing. The hearing proceeded in Mr. Chocolate's absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Mr. Keohane testified the respondents had been in a tenancy agreement for subsidized public housing under the Homeownership Entry Level Program (HELP) with the applicant starting September 1, 2011. Under the agreement the respondents were responsible, among other things, for providing annual income verification forms and for the utilities to the rental premises. The fuel tank to the rental premises was full when the respondents moved in.

During the summer of 2013 the applicant repeatedly attempted to contact the respondents to discuss a payment plan for the resolution of accumulated rental arrears and to obtain outstanding income verification forms. In April 2013 the applicant calculated the monthly assessed rent based on 2011 reported household income and notified the respondents of the resulting change to their monthly rent amount.

On August 30, 2013, the applicant was informed by neighbours that the respondents had left Gameti to attend college in Fort Smith and they were no longer resident in the rental premises. The applicant had not been given notice of termination of the tenancy agreement in accordance with the Act. The applicant attended the rental premises on that day and confirmed the respondents were no longer occupying it; they reclaimed possession of the rental premises as abandoned by the respondents.

A check-out condition rating report was completed, during which several major deficiencies were noted in the rental premises; however, due to the applicant's inability to locate an entry inspection report against which to verify the condition of the rental premises at the time the respondents took possession, the applicant did not pursue a claim for repair costs of tenant damages.

During the investigation on August 30, 2013, it was discovered the fuel tank was empty. Arrangements were made that same day to have the tank filled, for which the applicant provided an invoice from Petroleum Products Division in the amount of \$1,227.95.

The applicant also provided a lease balance statement reflecting rental arrears in the amount of \$4,987. The security deposit (including interest) of \$500.46 is also recorded in the lease balance statement, reducing the rental arrears to \$4,486.54.

The applicant is requesting an order for payment of rental arrears in the amounts of \$4,486.54 plus \$1,227.95 totalling \$5,714.49.

Ms. Blackduck testified that the respondents had attempted to contact the applicant prior to vacating the rental premises to negotiate a sublet while they attended college in Fort Smith, which was denied. The HELP agreement specifically prohibits subletting. Ms. Blackduck argued they did make the applicant aware they were intending to leave, but acknowledged the respondents did not give written notice in accordance with the Act. As the applicant is not seeking loss of future rent, whether or not notification was appropriately made is a mute point; the parties agree the rental premises was vacated as of August 30, 2013. Ms. Blackduck did not dispute the amount claimed for rental arrears of \$4,486.54.

Ms. Blackduck disputed the respondents' requirement to pay the full amount for filling the fuel tank, stating she believed at the time they took occupancy Mr. Cheezie had told her the applicant would fill \$500 worth of fuel in the tank at the beginning of the tenancy and the respondents would only have to pay \$500 or fill the fuel tank to \$500 worth at the end of the tenancy. Mr. Cheezie denied this assertion and Ms. Blackduck was not able to provide evidence to support it.

Tenancy agreement

The Homeownership Entry Level Program (HELP) agreement and the residential lease agreement entered into evidence by the applicant are both signed September 1, 2011. The validity of the agreements was not disputed by either party and I am satisfied a valid tenancy agreement was in place between them.

The Homeownership Entry Level Program (HELP) is designed to assist approved applicants with the opportunity to assume the responsibilities of homeownership prior to purchasing a home. The contract requires the tenant to be directly responsible for the utilities for the rental unit while assessing subsidized rent based on the income of the tenant. The HELP contract also requires the tenant to provide verification of income annually, when household income changes, and when requested by the Corporation.

The residential lease agreement for subsidized public housing is for the rental premises known as House #14 in Gameti, Northwest Territories. This agreement reiterates the tenants' obligation to provide verification of income, to pay rent each month, and to pay utilities.

Rent is defined in the Act as including charges for services and facilities, which in turn are defined as including utilities. I find the respondents responsible for the costs of filling the fuel tank at the end of their tenancy in the amount of \$1,227.95.

The lease balance statement represents the landlord's accounting of assessed monthly rent and payments made. Ms. Blackduck did not dispute the accuracy of the lease balance statement, nor did she dispute the amount of the rental arrears claimed. I am satisfied the lease balance statement accurately reflects the assessed rent and payments made.

The security deposit (including interest) as reflected in the lease balance statement in the amount of \$500.46 was applied against the rental arrears in accordance with the Act.

An order will issue requiring the respondents to pay rental arrears in the total amount of \$5,714.49, representing the rent of \$4,987 plus the fuel of \$1,227.95 less the security deposit of \$500.46.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Applicant's HELP assessment April 2013 correspondence to respondents dated August 20, 2013

Exhibit 2: Lease balance statement for rent from April 1, 2012, to December 2, 2013

Exhibit 3: Petroleum Products Division fuel delivery invoice number 501009 dated August 30, 2013

Exhibit 4: Homeownership entry level program agreement signed September 1, 2011

Exhibit 5: Residential lease agreement for fixed term from September 1, 2011, to February 29, 2012