

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Richard Yakienna and Georgina Yakienna**, 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 Behchoko in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

RICHARD YAKIENNA and GEORGINA YAKIENNA

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 84(3) and 41(4)(a) of the *Residential Tenancies Act*, Rental Officer order number 10-12277 dated September 23, 2011, is hereby rescinded and replaced with this order that the respondents must pay to the applicant rental arrears in the amount of \$16,778.43 (sixteen thousand seven hundred seventy-eight dollars forty-three cents).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents must pay their rent on time in the future.

DATED at the City of Yellowknife in the Northwest Territories this 12th day of June 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Richard Yakienna and Georgina Yakienna**, 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 CORPORATION

Applicant/Landlord

-and-

RICHARD YAKIENNA and GEORGINA YAKIENNA

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	May 29, 2014
<u>Place of the Hearing:</u>	Behchoko, Northwest Territories
<u>Appearances at Hearing:</u>	Michael Keohane, representing the applicant Therese Migwi, representing the applicant Richard Yakienna, respondent Sheila Lamouelle, respondent's translator/representative
<u>Date of Decision:</u>	May 29, 2014

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Richard Yakienna and Georgina Yakienna as the respondents/tenants was filed by the Rental Office April 4, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit #740 in Behchoko, Northwest Territories. The applicant served a copy of the filed application on the respondents by personal service April 11, 2014.

The applicant alleged the respondents had accumulated rental arrears and failed to pay monthly installments towards rental arrears in compliance with Rental Officer order number 10-12271. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for May 29, 2014. Mr. Michael Keohane and Ms. Therese Migwi appeared representing the applicant. Mr. Richard Yakienna and Ms. Sheila Lamouelle appeared representing the respondents; Ms. Lamouelle also acted as translator for Mr. Yakienna.

Mr. Keohane testified that the respondents have been tenants with the applicant since April 26, 2005, under their supported lease program. The respondents initially occupied Unit #307 in Behchoko. On September 20, 2011, a rental officer found the respondents had accumulated rental arrears of \$12,216.32 and issued Rental Officer order number 10-12271 requiring the rental arrears be paid in monthly installments of \$120 and that future rent be paid on time. This order was honoured until February 2013, after which no further payments were received against the respondents' rent account until the applicant started garnishing Mr. Yakienna's wages in March 2014. In January 2014 the applicant sent a letter to the respondents detailing changes to their supported lease program agreement, advising them that their monthly subsidized rent would be stabilized as of April 1, 2014, at \$375, and informing them of their accumulated rental arrears. As of May 29, 2014, the rental arrears had accumulated to an amount of \$16,778.43.

Mr. Keohane and Mr. Yakienna agreed that since 2010 there had been complaints regarding water accumulation in the rental premises crawl space. In the spring of 2012 maintenance attended the residence to evaluate the issue and confirmed there were serious problems. Over the following two years there were no other rental premises available to transfer the respondents to.

It was eventually determined that the issues with the water accumulation at Unit #307 could not be remedied without major construction work, which would not be performed until the summer of 2014. On January 13, 2014, the respondents were transferred to newly renovated Unit #740.

Mr. Yakienna testified that the payments reflected in the lease ledger between August 21, 2012, and February 1, 2013, were made by deductions directly from his pay cheques with Tli Cho Construction. He stopped the deductions after February 2013, intending to re-initiate them after one month, however they were never re-initiated. Mr. Yakienna stated he does not recall receiving the January 2014 letter from the applicant and was not aware that his current monthly subsidized rent is \$375, which is substantially lower than his historical monthly subsidized rent. He conceded this would be an easier amount for him to pay each month while his wages were also being garnished to pay down his accumulated rental arrears. He did not dispute the amount of accumulated rental arrears being claimed by the applicant.

Tenancy agreement

The applicant submitted into evidence a supported lease program agreement between the parties signed April 26, 2005, and a residential tenancy agreement for subsidized public housing between the parties for a fixed-term tenancy from September 1, 2006, to August 31, 2008. The tenancy agreement includes an addendum recording the transfer of the tenants from Unit #307 to Unit #740 on January 13, 2014. Neither party disputed the validity of the tenancy agreement and I am satisfied a valid agreement is in place.

Rental arrears

The statement of account and lease ledgers submitted into evidence by the applicant are the landlord's accounting of assessed monthly rent and payments received. Mr. Yakienna did not dispute the accuracy of these records. I find the respondents have accumulated rental arrears as of May 29, 2014, in the amount of \$16,778.43, including the arrears identified in Rental Officer order number 10-12271.

An order will issue rescinding Rental Officer order number 10-12271, requiring the respondents to pay rental arrears in the amount of \$16,778.43, and requiring the respondents to pay their rent on time in the future.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Statement of account as of March 31, 2012

Exhibit 2: Lease ledger for rent from April 1, 2012, to March 3, 2014

Exhibit 3: Residential tenancy agreement for fixed term from September 1, 2006, to August 31, 2008

Exhibit 4: Supported lease program agreement signed April 26, 2005, for fixed term from May 1, 2005, to April 30, 2007

Exhibit 5: Rental officer order #10-12271 dated September 23, 2011

Exhibit 6: Lease ledger for rent from April 1, 2012, to May 1, 2014

Exhibit 7: Applicant's supported lease program correspondence to respondents dated January 29, 2014