

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Paul Catholique and Bernice Marlowe**, 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 Lutselk'e in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

PAUL CATHOLIQUE and BERNICE MARLOWE

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 \$11,932.00 (eleven thousand nine hundred thirty-two dollars).
2. Pursuant to section 84(2) of the *Residential Tenancies Act*, the respondents must make minimum monthly installments of \$150.00 (one hundred fifty dollars) to the applicant starting in October 2014 to be applied against the total combined rental arrears ordered of \$25,905.28 (twenty-five thousand nine hundred five dollars twenty-eight cents) until the total combined rental arrears are paid in full.

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3. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents must pay their rent on time in the future.
4. Pursuant to section 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as Unit 237 in Lutselk'e, Northwest Territories, will terminate March 31, 2015, unless the minimum monthly payments and rents for October 2014 to March 2015 are paid on time.

DATED at the City of Yellowknife in the Northwest Territories this 26th day of September 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Paul Catholique and Bernice Marlowe**, 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-

PAUL CATHOLIQUE and BERNICE MARLOWE

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	September 23, 2014
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Jessica Relucio, representing the applicant
<u>Date of Decision:</u>	September 23, 2014

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Paul Catholique and Bernice Marlowe as the respondents/tenants was filed by the Rental Office July 15, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit 237 in Lutselk'e, Northwest Territories. The applicant served a copy of the filed application on the respondents by registered mail signed for July 18, 2014.

The applicant alleged in the application the respondents had accumulated rental arrears and had failed to comply with rental officer order #10-12507. They requested an order for payment of rental arrears, conditional termination of the tenancy agreement, and eviction.

A hearing was scheduled for September 23, 2014, by teleconference. Ms. Jessica Relucio appeared representing the applicant. Mr. Paul Catholique and Ms. Bernice Marlowe were personally served notices of attendance on September 18, 2014. Neither Mr. Catholique nor Ms. Marlowe appeared at the hearing, nor did anyone appear on their behalf. The hearing proceeded in their absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Ms. Relucio testified that the respondents have been tenants in subsidized public housing under the Supported Lease Program since November 10, 2006. On February 16, 2012, a rental officer order was issued requiring the respondents to pay rental arrears in the amount of \$13,973.28, to report their household income in accordance with the tenancy agreement, and to pay future rent on time. Since the issuance of that order the respondents have failed to make any payments towards their rent account, resulting in additional accumulated rental arrears of \$11,932. The rental arrears have now accumulated to a total of \$25,905.28 as of September 18, 2014.

Regular communication has been made with the respondents, including a meeting in March 2014 at which the respondents were reminded of their obligations. A subsequent meeting between the parties on September 15, 2014, resulted in the respondents agreeing to pay an additional \$150 per month to go towards their rental arrears starting September 18, 2014. Unfortunately, the banking information provided to the applicant was incorrect and the applicant was unable to start the agreed upon automatic withdrawals.

Ms. Relucio requested that an order for payment of rental arrears incorporating minimum monthly installments be made and that future rent be paid on time. She further requested an order terminating the tenancy agreement unless the rental arrears were paid and eviction.

Tenancy agreement

A residential tenancy agreement entered into evidence by the applicant is for subsidized public housing between the parties for the rental premises known as Unit 237. It is signed by all parties and is for a fixed-term from January 1, 2009, to June 30, 2009. The respondents have been in continuous occupation of the rental premises since January 1, 2009. Section 49(1) of the Act specifies a fixed-term tenancy is deemed renewed on the last day of the fixed-term as a monthly tenancy. There are no subsequent written fixed-term tenancies to supercede the automatic renewal of the 2009 tenancy agreement. I am satisfied a valid tenancy agreement is in place between the parties for the rental premises known as Unit 237 in Lutselk'e, Northwest Territories, in accordance with the Act.

Rental arrears and compliance with rental officer order

The statement of account and lease balance statement entered into evidence represent the landlord's accounting of monthly subsidized rent and payments received on the respondents' rent account since November 10, 2006. I am satisfied these statements accurately represent the status of the respondents' rent account. The balance owing as reflected on these statements is \$25,905.28.

Rental officer order #10-12507 dated February 21, 2012, defines the decision rendered by the rental officer at a hearing held February 16, 2012. It orders the respondents to pay rental arrears in the amount of \$13,973.28, to comply with their obligation to report household income in accordance with their tenancy agreement, and to pay future rent on time.

The statements indicate – and Ms. Relucio's testimony confirms – that no payments have been received on the respondents' rent account since March 2009. I find the respondents have failed to comply with an order of the rental officer by failing to pay their rental arrears and failing to pay their future rent on time.

An order for payment of rental arrears is necessary. The rental arrears claimed of \$25,905.28 include the amount ordered in rental officer order #10-12507. As that order remains in effect and enforceable, the order issued today will be for the amount accumulated since the issuance of rental officer order #10-12507, that being \$11,932.

Section 84(2) of the Act authorizes a rental officer to order compensation from a tenant to a landlord to be paid in specified amounts over a specified period of time. In light of the total accumulated rental arrears of \$25,905.28 ordered paid between both rental officer order #10-12507 and this order and the tenants having entered into a payment plan agreement with the landlord agreeing to pay \$150 per month towards their rental arrears, I find it reasonable to include an order for the respondents to pay minimum monthly installments of \$150 towards their total accumulated rental arrears.

Termination of tenancy agreement

In considering the lack of any payments forthcoming from the respondents towards their rent account since March 2009, including their subsequent failure to comply with a rental officer order, a termination order is justified. The applicant's request for a conditional termination order is generous under the circumstances, but stems from recent communications the applicant has had with the respondents and I will respect that. An eviction order will not be granted due to the variable nature of conditional termination orders.

An order will issue requiring Mr. Paul Catholique and Ms. Bernice Marlowe to pay rental arrears in the amount of \$11,932; to pay minimum monthly installments of \$150 towards their total rental arrears of \$25,905.28 starting in October 2014 until the total rental arrears are paid in full; to pay future rent on time; and terminating the tenancy agreement March 31, 2015, unless the minimum monthly installments and rents for the months of October 2014 to March 2015 are paid on time.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Statement of account as of March 31, 2012
- Exhibit 2: Lease balance statement dated July 11, 2014
- Exhibit 3: Applicant's correspondence to respondents dated July 10, 2014
- Exhibit 4: Applicant's SLP - rent arrears correspondence to respondents dated February 27, 2014
- Exhibit 5: Applicant's outstanding rental arrears correspondence to respondents dated February 27, 2014
- Exhibit 6: Applicant's payment change correspondence to respondents dated February 27, 2014
- Exhibit 7: Applicant's outstanding rental arrears correspondence to respondents dated January 17, 2014
- Exhibit 8: Applicant's payment change correspondence to respondents dated November 14, 2013
- Exhibit 9: Rental officer order #10-12507 dated February 21, 2012
- Exhibit 10: Residential lease agreement signed by all parties
- Exhibit 11: Homeownership Entry Level Program (SLP) agreement signed by all parties December 17, 2008
- Exhibit 12: Supported lease program agreement signed by respondents November 10, 2006
- Exhibit 13: Residential tenancy agreement signed by all parties
- Exhibit 14: Lease balance statement dated September 30, 2014
- Exhibit 15: Automatic withdrawal authorization signed by the respondent September 15, 2014