

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Benita King**,  
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 charter community of Fort Good Hope in the  
Northwest Territories.**

BETWEEN:

**NWT HOUSING CORPORATION**

Applicant/Landlord

- and -

**BENITA KING**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to sections 45(3)(a) and 45(3)(b) of the *Residential Tenancies Act*, the respondent must comply with her obligation to report her total household income in accordance with section 6 of her residential tenancy agreement, and she must not breach this obligation again.
2. Pursuant to sections 45(3)(e) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Lot 251, Plan 3901, in Fort Good Hope, Northwest Territories, will terminate October 31, 2014, unless the total household income for the months of January 2007 to September 2014 are reported to the applicant.

3. Pursuant to sections 41(4)(a) and 83(2) of the *Residential Tenancies Act*, the respondent must pay rental arrears in the amount of \$216,286.00 (two hundred sixteen thousand two hundred eighty-six dollars) unless she complies with her obligation to report her total household income for the months of January 2007 to September 2014.

DATED at the City of Yellowknife in the Northwest Territories this 11th day of September 2014.

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Adelle Guigon  
Deputy Rental Officer

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-and-

**BENITA KING**

Respondent/Tenant

**REASONS FOR DECISION**

**Date of the Hearing:** September 11, 2014

**Place of the Hearing:** Yellowknife, Northwest Territories, by teleconference

**Appearances at Hearing:** Philip Bailey, representing the applicant  
Loretta Wiley, representing the applicant

**Date of Decision:** September 11, 2014

### **REASONS FOR DECISION**

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Benita King as the respondent/tenant was filed by the Rental Office June 27, 2014. The application was made regarding a subsidized public housing residential tenancy agreement regarding the rental premises known as Lot 251, Plan 3901, in Fort Good Hope, Northwest Territories. The applicant served a copy of the application package on the respondent by registered mail sent July 2, 2014; it was deemed served July 9, 2014, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act).

The applicant alleged the respondent had failed to provide income verification reports for January 2007 to August 2014 and has accumulated rental arrears. They have applied for an order requiring the respondent to provide income verification reports for January 2007 to August 2014, to pay rental arrears as adjusted retroactively based on the income verification reports for the period stated, termination of the tenancy agreement, and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for September 11, 2014, by teleconference. Mr. Philip Bailey and Ms. Loretta Wiley appeared representing the applicant. Ms. Benita King was served a notice of attendance by registered mail deemed served August 25, 2014, pursuant to section 71(5) of the Act. Ms. King did not appear at hearing, nor did anyone appear on her behalf; the hearing proceeded in her absence pursuant to section 80(2) of the Act.

Mr. Bailey testified that Ms. King has been a tenant in subsidized public housing under the Supported Lease Program (SLP) since December 2005. Under the terms of that tenancy agreement, the tenant is required to verify total household income, in this case on an annual basis, in order for the landlord to determine how much of a subsidy the tenant is eligible for. Ms. King did provide the verification of income information to December 2005, which was used to assess her monthly rent at \$344 until December 2006. She has not provided any subsequent verifications of income since and as a consequence the landlord applied the maximum economic rent of \$2,540 per month for January 2007 to March 2012 and \$2,275 per month for April 2012 to March 2014.

In April 2014 the applicant re-vamped their policies with respect to SLP and Homeownership Entry Level Program (HELP) tenancy agreements such that the monthly rents under these programs across the board would be assessed a flat rate based on non-market and market communities. In this instance, Ms. King's rent was established at \$300 per month, and this amount has been applied to her rent account since April 1, 2014. Mr. Bailey confirmed that should Ms. King attend the local housing office to sign a new tenancy agreement it would stipulate her monthly rent is \$300.

Mr. Bailey testified that Ms. King has failed to make any payments against her rent account since April 1, 2012, and that payment was returned as insufficient funds (NSF). The last payment received that was not returned NSF was made in November 2011. Under these circumstances, Ms. King's rental arrears have accumulated to \$216,286. Mr. Bailey reiterated that should Ms. King submit the required verification of income information for January 2007 to date her rent for the months of January 2007 to March 2014 would be re-assessed for any subsidies she might be eligible for based on her reported income; this could reduce her rental arrears substantially. However, until the verification of income information is received no subsidy can be assessed and the maximum monthly rent must be applied for the period of January 2007 to March 2014.

Mr. Bailey further testified that he and his staff have repeatedly attempted over the years to contact Ms. King to discuss her obligations and possible resolutions to the problem; five written requests for income verification forms were sent to Ms. King by registered mail between September 17, 2008, and September 6, 2013, and there are 13 notes to file documenting attempts to contact Ms. King, both by telephone and attending her place of work and home, between August 20, 2012, and June 18, 2014. None of the attempts to contact Ms. King have been successful. Mr. Bailey received confirmation from his staff in the community that Ms. King does still reside at the rental premises, and he personally confirmed during his last visit that Ms. King is employed in the community.

#### *Tenancy agreement*

The residential tenancy agreement entered into evidence by the applicant is between the parties under the Supported Lease Program for the rental premises known as Lot 251, Plan 3901, in Fort Good Hope, Northwest Territories, for a fixed-term period from December 13, 2005, to December 13, 2007. Mr. Bailey confirmed in his testimony that Ms. King has continuously occupied the rental premises to date. I am satisfied a valid tenancy agreement for subsidized public housing is in place in accordance with the Act.

*Additional obligations - reporting of household income*

Section 6 of the tenancy agreement specifies the requirement that the tenant provide verification of income annually, when the household income changes, and/or when requested by the Corporation or its Agent. Mr. Bailey testified the last time the landlord received verification of income from Ms. King was in December 2005, from which the rent was assessed a subsidy until December 2006. Evidence has been submitted supporting the claim that Ms. King has repeatedly been asked to verify her household income over the years, to no avail. I am satisfied that the verification of income information has not been forthcoming from Ms. King since January 2007. I find Ms. King in breach of section 6 of her tenancy agreement and section 45(1) of the Act by failing to provide verification of income annually or when requested by the Corporation or its Agent.

*Rental arrears*

The statement of account and lease balance statement entered into evidence by the applicant represents the landlord's accounting of assessed monthly rent and payments received on Ms. King's rent account between December 13, 2005, and August 1, 2014. I am satisfied these statements accurately reflect payments received against the account.

The statements corroborate testimony that Ms. King's last payment made April 1, 2012, was returned NSF, and the last payment received which was not returned NSF was made on November 1, 2011. Mr. Bailey testified that no additional payments have been received between August 1, 2014, and the date of hearing, and that the rent of \$300 for September 2014 should be added to the lease balance statement. I find Ms. King has accumulated rental arrears in the amount of \$216,286.

*Termination of tenancy agreement*

In light of Ms. King's repeated and continuous failure to report her household income, and her repeated and continuous failure to make any payments whatsoever against her rental arrears, termination of the tenancy to my mind is justified unless she provides the applicant with verification of her household income for January 2007 to September 2014.

In my opinion, termination of the tenancy agreement for failing to pay rental arrears within a specified period of time is not prudent when considering the substantial amount of current rental arrears against the possibility of a substantial reduction in the rental arrears should Ms. King report her income as required, and the inability to determine a reasonable period to expect repayment of an unconfirmed amount. Should Ms. King comply with her obligation to report income as ordered and her rental arrears are re-assessed, and she still does not make substantive payments towards those arrears, the applicant can still apply to a rental officer for an order terminating the tenancy agreement for failure to pay rent.

*Eviction*

The applicant has requested an order evicting Ms. King from the rental premises unless she complies with her obligation to report her income. In this case, while I am satisfied the Act has been complied with in regard to service of documents such that I can consider the breach of obligations and termination, I am not entirely assured that Ms. King is actually aware of the request for eviction. Had she appeared at hearing as scheduled I would have that assurance; as I do not have it I am not prepared at this time to grant the request for an eviction order. Should it occur that Ms. King does not comply with this order and her tenancy does terminate as a result, the applicant has leave to re-apply for an eviction order.

An order will issue requiring Ms. Benita King to comply with her obligation to report her total household income in accordance with section 6 of her tenancy agreement and not to breach that obligation again; terminating her tenancy agreement on October 31, 2014, unless she reports her total household income for the period of January 2007 to September 2014 by that date; and to pay rental arrears in the amount of \$216,286 unless she complies with her obligation to report her household income for January 2007 to September 2014.

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Adelle Guigon  
Deputy Rental Officer

## APPENDIX A

### Exhibits

- Exhibit 1: Applicant's summary
- Exhibit 2: Statement of account as of March 31, 2012
- Exhibit 3: Lease balance statement as of June 30, 2014
- Exhibit 4: Residential tenancy agreement signed by both parties
- Exhibit 5: SLP assessment results dated December 7, 2005
- Exhibit 6: Income verification summary dated December 6, 2005
- Exhibit 7: Applicant's verification of income requirement – follow up correspondence to respondent dated September 17, 2008
- Exhibit 8: Applicant's income verification request correspondence to respondent dated July 19, 2011
- Exhibit 9: Applicant's income verification request correspondence to respondent dated October 9, 2012  
- attempted registered mail
- Exhibit 10: Applicant's income verification and rental subsidy, supported lease program correspondence to respondent dated August 12, 2013
- Exhibit 11: Applicant's verification of income - 2<sup>nd</sup> request correspondence to respondent dated August 29, 2011 - attempted registered mail
- Exhibit 12: Applicant's income verification and rental subsidy, supported lease program - rescheduling of community visit correspondence to respondent dated September 6, 2013 – attempted registered mail
- Exhibit 13: Notes to file dated August 20, 2012, to June 18, 2014, all regarding unsuccessful attempts to contact respondent by telephone
- Exhibit 14: Lease balance statement for April 1, 2012, to August 1, 2014