

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Denise Simpson and Anthony Wetrade**, 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 Whati in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

DENISE SIMPSON and ANTHONY WETRADE

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 84(2) of the *Residential Tenancies Act*, the respondents must pay to the applicant rental arrears in the amount of \$39,499.00 (thirty-nine thousand four hundred ninety-nine dollars) in minimum monthly installments of \$50.00 (fifty dollars) starting in October 2014 until the rental arrears are paid in full.
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents must pay their rent on time in the future.
3. Pursuant to sections 45(4)(a) and 83(2) of the *Residential Tenancies Act*, the respondents must comply with their obligation to report household income in accordance with their tenancy agreement, and must report their household income for the months of December 2013 and April to October 2014 to the applicant no later than October 31, 2014.

3. Pursuant to sections 41(4)(c), 45(4)(e), and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as Unit 908 in Whati, Northwest Territories, will terminate March 31, 2015, unless the household income is reported to the landlord for the months of November 2014 to March 2015, and the minimum monthly installments and rents for October 2014 to March 2015 are paid on time.

DATED at the City of Yellowknife in the Northwest Territories this 3rd day of October 2014.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Denise Simpson and Anthony Wetrade**, Respondent.

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-

DENISE SIMPSON and ANTHONY WETRADE

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	September 24, 2014
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Jessica Relucio, representing the applicant Patricia Rabesca, representing the applicant Denise Simpson, respondent Anthony Wetrade, respondent
<u>Date of Decision:</u>	September 24, 2014

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Denise Simpson and Anthony Wetrade as the respondents/tenants was filed by the Rental Office June 19, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premise known as Unit 908 in Whati, Northwest Territories. The applicant served a copy of the filed application on the respondents by registered mail signed for July 7, 2014.

The applicant alleged in the application the respondents had accumulated rental arrears and requested an order for the payment of rental arrears, that future rent be paid on time, termination of the tenancy agreement, and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for September 24, 2014, by teleconference. Ms. Jessica Relucio and Ms. Patricia Rabesca appeared representing the applicant. Ms. Denise Simpson and Mr. Anthony Wetrade appeared as respondents.

Ms. Relucio testified the respondents have been tenants in subsidized public housing since May 1, 2006. During the course of the tenancy, the respondents repeatedly failed to report their household income as required under their tenancy agreement and have been sporadically making payments towards their rent account. The last payment for rent was received in March 2013. The last time household income was reported was in February 2014 resolving several months outstanding reports; household income reports have not been received since, resulting in the application of the maximum monthly rent of \$1,545 for the months of April to September 2014.

Ms. Relucio confirmed the applicant has been working with the respondents lately and would be satisfied with an order for payment of rental arrears in affordable monthly installments and conditional termination of the tenancy agreement. She emphasized the requirement as well for the reporting of household income for the months of December 2013 and April to September 2014.

Ms. Simpson acknowledged her and Mr. Wetrade's rental arrears and their failure to report household income when requested. She explained their family and financial difficulties. She admitted to some difficulty understanding big words and did not entirely appreciate the seriousness of the situation they were in until now. Ms. Simpson indicated she has had difficulty obtaining income support to assist with the rent payments. Their oldest daughter, who is now living with them, will also be requesting income support to supplement her child tax benefits income. Mr. Wetrade only works occasionally when work is available through the Development Corporation. Ms. Simpson confirmed the household income has not changed significantly since it was last reported to the applicant in February, but that they could afford to pay another \$50 in addition to the monthly assessed rent to go towards the rental arrears.

Tenancy agreement

The residential tenancy agreement entered into evidence by the applicant is for subsidized public housing starting May 1, 2006. The agreement was signed by all parties and the respondents have been in continuous occupation of the identified rental premises known as Unit 908 in Whati. There was no dispute between the parties regarding the tenancy agreement and I am satisfied a valid tenancy agreement is in place in accordance with the *Residential Tenancies Act* (the Act).

Rental arrears and reporting of household income

The lease balance statement submitted into evidence by the applicant represents the landlord's accounting of monthly assessed rent and payments made against the respondents' rent account. The respondents did not dispute the contents of the lease balance statement. I am satisfied the lease balance statement accurately reflects the payments received against the respondents' rent account.

The lease balance statement reflects, and Ms. Relucio confirmed, the application of the maximum monthly rent of \$1,545 for December 2013 and April to September 2014 as a result of the respondents' failure to report household income for those months. The respondents did not dispute that they have not as yet reported their household income for those months. Section 6 of the tenancy agreement specifies the tenants' responsibility to report total household income whenever and as often as is requested by the landlord or the landlord's agent. Ms. Relucio testified and Ms. Simpson confirmed a meeting was scheduled in June to facilitate the reporting of outstanding household income to which the respondents failed to attend. I find the respondents

have failed to comply with their obligation to report household income in accordance with section 6 of their tenancy agreement. In light of the respondents' repeated failure to report their household income during their tenancy, it is not unreasonable to impose a due date for the reporting of household income for the months of December 2013 and April to October 2014.

Ms. Simpson testified that the household income for the outstanding months of December 2013 and April to September 2014 has not varied significantly from the months reported in February 2014. Ms. Relucio confirmed that should this be the case it is unlikely the monthly assessed rent for those months would vary greatly from previous months, although she could not commit to a specific dollar amount without the actual reports of household income. Acknowledging that the amounts may still be varied upon receipt of the outstanding household income reports, in my opinion it would not be unfair to apply for today's purposes an estimated assessed rent of \$75 per month for December 2013 and April to September 2014; this application results in a recalculation of the rental arrears from \$49,789 to \$39,499. I find the respondents have accumulated rental arrears in the amount of \$39,499. I also accept the respondents' commitment of \$50 per month towards the rental arrears and will incorporate this commitment into an order to pay.

Termination of the tenancy agreement

Justification for termination of the tenancy agreement has been made out by the determination of an excessive amount of rental arrears and repeated breaches of the tenancy agreement by the respondents. I am satisfied a conditional termination order will be effective in this instance.

An order will issue requiring Ms. Denise Simpson and Mr. Anthony Wetrade: to pay rental arrears in the amount of \$39,499 in minimum monthly installments of \$50 starting in October 2014 until the rental arrears are paid in full; to pay their future rent on time; to comply with their obligation to report their household income and to report their household income for the months of December 2013 and April to October 2014 no later than October 31, 2014; and terminating their tenancy agreement March 31, 2015 unless the household income is reported for November 2014 to March 2015, and the minimum monthly installments and rents for October 2014 to March 2015 are paid on time.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Lease balance statement dated May 27, 2014
- Exhibit 2: Applicant's notice of maximum rent adjustments correspondence to respondents dated January 14, 2009
- Exhibit 3: Statement of account dated November 3, 2009
- Exhibit 4: Applicant's correspondence to respondents dated February 21, 2012
- Exhibit 5: Applicant's outstanding rental arrears correspondence to respondents dated June 8, 2013
- Exhibit 6: Applicant's outstanding rental arrears correspondence to respondents dated February 6, 2014
- Exhibit 7: Applicant's outstanding rental arrears - 30 days correspondence to respondents dated March 3, 2014
- Exhibit 8: Applicant's outstanding rental arrears - 45 days correspondence to respondents dated May 27, 2014
- Exhibit 9: Residential tenancy agreement dated April 28, 2006
- Exhibit 10: Residential tenancy agreement dated March 11, 2013
- Exhibit 11: Lease balance statement dated September 22, 2014