

IN THE MATTER between **Behchoko Ko Gha Kaodee**, Applicant, and **Phoebe Ann Naedzo**, 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 community of Behchoko in the Northwest Territories**.

BETWEEN:

**BEHCHOKO KO GHA KAODEE**

Applicant/Landlord

- and -

**PHOEBE ANN NAEDZO**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$45,054.00 (forty-five thousand fifty-four dollars).
2. Pursuant to section 41(4)(c) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Unit 733B in Behchoko, Northwest Territories, will terminate October 31, 2014, and the respondent must vacate the rental premises on or before that date.

3. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, the respondent must compensate the applicant for the use and occupation of the rental premises known as Unit 733B in Behchoko, Northwest Territories, at a rate of \$50.79 for each day the respondent remains in the rental premises after October 31, 2014.

DATED at the City of Yellowknife in the Northwest Territories this 15th day of October 2014.

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Adelle Guigon  
Deputy Rental Officer

IN THE MATTER between **Behchoko Ko Gha Kaodee**, Applicant, and **Phoebe Ann Naedzo**, 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:

**BEHCHOKO KO GHA KAODEE**

Applicant/Landlord

-and-

**PHOEBE ANN NAEDZO**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>October 7, 2014</b>
<b><u>Place of the Hearing:</u></b>	<b>Behchoko, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>Michael Keohane, representing the applicant Therese Migwi, representing the applicant</b>
<b><u>Date of Decision:</u></b>	<b>October 7, 2014</b>

**REASONS FOR DECISION**

An application to a rental officer made by Behchoko Ko Gha Kaodee as the applicant/landlord against Phoebe Ann Naedzo as the respondent/tenant was filed by the Rental Office July 24, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit 733B in Behchoko, Northwest Territories. The applicant personally served a copy of the filed application on the respondent August 8, 2014.

The applicant alleged in the application the respondent had accumulated rental arrears, had failed to comply with their obligation to report household income, and had failed to comply with an order of the Rental Officer. They requested an order for payment of rental arrears, termination of the tenancy agreement, eviction, and compensation for use and occupation post-termination. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for October 7, 2014, in Behchoko, Northwest Territories. Mr. Michael Keohane and Ms. Therese Migwi appeared representing the applicant. Ms. Phoebe Ann Naedzo was sent a notice of attendance by registered mail deemed served September 23, 2014, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act). Ms. Naedzo 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.

The applicant's representatives testified that Ms. Naedzo had been ordered by a rental officer at a hearing on December 3, 2013, to pay rental arrears accumulated to April 2012 in the amount of \$8,100, to report household income from April 2012 to present in accordance with the tenancy agreement, and to pay future rent on time. The lease ledger submitted into evidence corroborates the applicant's assertion that, although Ms. Naedzo was present at the December 3, 2013, hearing and understood the order made against her, she has not in fact made any efforts whatsoever to pay her rental arrears or pay her rent on time. Ms. Migwi testified that there has been no successful communication with Ms. Naedzo, despite repeated attempts by Ms. Migwi to do so by phone and in person. Ms. Migwi further testified that no reports of household income have been received from Ms. Naedzo since the December 3, 2013, rental officer hearing.

Mr. Keohane confirmed the tenancy agreement between the parties includes a specification that if the tenant complies with the terms of the tenancy agreement a subsidy may be applied against the maximum monthly rent, thereby reducing the rent payable each month. As Ms. Naedzo has not reported her household income (1) the applicant is unable to calculate a rent subsidy and (2) the tenant is in breach of her tenancy agreement. The tenant is also in breach of her tenancy agreement by failing to pay her rent. The applicant as a result has no choice but to apply the maximum monthly rent of \$1,545 to Ms. Naedzo's account for every month since July 2012 (the applicant having assessed a subsidy for May and June 2012). The resulting accumulated rental arrears to date are \$53,154, including the amount ordered to be paid at the December 3, 2013, rental officer hearing.

The applicant reiterated their request under the circumstances for an order for payment of rental arrears, termination of the tenancy agreement, eviction, and compensation for use and occupation of the rental premises post-termination.

*Tenancy agreement*

The applicant testified to and Rental Officer Order #10-13816 determined that a valid tenancy agreement is in place between the parties for subsidized public housing for the rental premises known as Unit 733B in Behchoko in accordance with the Act. I am satisfied this is the case.

*Rental arrears, reporting of household income, and compliance with a rental officer order*

The lease ledger and lease balance statement submitted into evidence by the applicant represents the landlord's accounting of monthly assessed rent and payments received on the respondent's rent account. Rental Officer Order #10-13816 determined the rental arrears as of April 30, 2012, were at \$8,100, which is corroborated by these statements. I am satisfied these statements accurately reflect payments made against the respondent's rent account since April 30, 2012, which in this case there have been no payments made to date.

The statements also reflect the application of maximum monthly rents of \$1,545 since July 2012 which the applicant substantiates as necessary due to the respondent's failure to report household income as required under her tenancy agreement.

I find Ms. Naedzo has failed to comply with her obligation to report household income in accordance with her tenancy agreement. I am satisfied the application of maximum monthly rent is appropriate in this case.

I find Ms. Naedzo has failed to comply with her obligation to pay rent. I find Ms. Naedzo has total accumulated rental arrears as of this hearing date of \$53,154.

I find Ms. Naedzo has failed to comply with an order of a rental officer by failing to pay rental arrears accumulated as of April 30, 2012, in the amount of \$8,100, by failing to report her household income from April 2012 to present in accordance with her tenancy agreement, and by failing to pay her rent on time.

*Termination of the tenancy agreement and eviction*

Under the circumstances detailed above and in considering the complete failure of the respondent to at least communicate with the applicant regarding the matter, I am satisfied termination of the tenancy agreement and eviction are justified.

As Rental Officer Order #10-13816 unconditionally orders the payment of rental arrears accumulated to April 30, 2012, of \$8,100 remains in effect and enforceable, an order will issue requiring Ms. Phoebe Ann Naedzo to pay rental arrears accumulated since then in the amount of \$45,054. An order will also issue terminating Ms. Naedzo's tenancy agreement on October 31, 2014, evicting Ms. Naedzo from the rental premises November 1, 2014, and requiring Ms. Naedzo to compensate the landlord for use and occupation at a rate of \$50.79 for each day she remains in the rental premises after October 31, 2014. The eviction order will follow under separate cover.

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Adelle Guigon  
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Applicant's unit 733B, Rental Officer Order #10-13816 correspondence to respondent dated April 24, 2014

Exhibit 2: Lease balance statement dated July 23, 2014

Exhibit 3: Tenant ledger card for security deposit as of March 31, 2014

Exhibit 4: Rental Officer Order #10-13816 dated April 16, 2014

Exhibit 5: Lease ledger dated October 6, 2014