

IN THE MATTER between **Fort Simpson Housing Authority**, Applicant, and **Jasmine Hardisty**, 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 village of Fort Simpson in the Northwest Territories**.

BETWEEN:

FORT SIMPSON HOUSING AUTHORITY

Applicant/Landlord

- and -

JASMINE HARDISTY

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 84(3) of the *Residential Tenancies Act*, rental officer order #10-13592 is rescinded and the respondent must pay to the applicant rental arrears in the amount of \$29,929.43 (twenty-nine thousand nine hundred twenty-nine dollars forty-three cents).

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

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Fort Simpson Housing Authority**, Applicant, and **Jasmine Hardisty**, Respondent.

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BETWEEN:

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-and-

JASMINE HARDISTY

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	November 12, 2014
<u>Place of the Hearing:</u>	Fort Simpson, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Kathy Konisenta, representing the applicant
<u>Date of Decision:</u>	November 12, 2014

REASONS FOR DECISION

An application to a rental officer made by Fort Simpson Housing Authority as the applicant/landlord against Jasmine Hardisty as the respondent/tenant was filed by the Rental Office June 2, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit 33, Lot 5-19, Plan 316, in Fort Simpson, Northwest Territories.

The applicant alleged in the application the respondent had accumulated rental arrears, had failed to report household income in accordance with her tenancy agreement, and had failed to comply with rental officer order number 10-13592. The applicant sought an order for full payment of rental arrears and termination of the tenancy agreement. Evidence submitted is listed in Appendix A attached to this order.

A hearing was originally scheduled for August 19, 2014, in Fort Simpson. Ms. Kathy Konisenta appeared representing the applicant. Personal service of the notice of attendance was attempted on Ms. Jasmine Hardisty. At hearing, Ms. Konisenta advised she had just learned Ms. Hardisty had vacated the rental premises. Under those circumstances the hearing was adjourned *sine die* pending confirmation from Ms. Konisenta of Ms. Hardisty's current service address. On September 23, 2014, I received confirmation from Ms. Konisenta that Ms. Hardisty was in fact still residing in Fort Simpson and that her mailing address remained the same at the box number provided in the application.

The hearing was rescheduled to November 12, 2014, in Fort Simpson. Ms. Kathy Konisenta appeared representing the applicant. Ms. Jasmine Hardisty was served a notice of attendance by registered mail she signed for October 28, 2014. Ms. Hardisty 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 *Residential Tenancies Act* (the Act).

Ms. Konisenta testified that she personally served the filed application on Ms. Hardisty the end of July last. At that meeting Ms. Hardisty had agreed to provide her household income information for the previous eight months in accordance with her tenancy agreement; she did not do this as promised. The household income reports are required in order to assess any rent

subsidy the tenant may be eligible for. Failing to report the household income resulted in the application of the maximum monthly rent, in this case in the amount of \$1,625, for the months of January to July inclusive. There has been no communication from Ms. Hardisty since serving her with the application package in July. The rental arrears claimed to date are \$29,929.43

In September 2013 rental officer order number 10-13592 was issued requiring Ms. Hardisty to pay rental arrears in the amount of \$16,371.21 in minimum monthly installments of \$100 and to pay her future rent on time. Since the issuance of that order only one payment has been received on December 13, 2013, in the amount of \$650. The current rental arrears claimed of \$29,929.43 include the amount identified in rental officer order number 10-13592.

In mid-August Ms. Konisenta learned Ms. Hardisty had vacated the rental premises without notice. The applicant reclaimed possession of the rental premises at that time, negating the necessity for an order terminating the tenancy agreement.

Tenancy agreement

The applicant testified to the respondent's tenancy in subsidized public housing and submitted into evidence a residential tenancy agreement dated April 1, 2012. The rental officer order number 10-13592 further substantiates the tenancy agreement between the parties. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the Act.

Rental arrears and reporting of household income

The customer aged detail entered into evidence by the applicant reflects the landlord's accounting of monthly assessed rent and payments received against the respondent's rent account. I am satisfied it accurately reflects the payments received from the respondent.

Section 6 of the residential tenancy agreement specifies the requirement for the tenant to report household income in the prescribed form whenever and as often as required by the landlord. The applicant has testified the respondent has failed to report the household income for the months of December 2013 to June 2014 as required. I find the respondent has failed to comply with their obligation to report household income in accordance with her tenancy agreement.

Section 7 of the residential tenancy agreement specifies the tenant may be eligible for a rent subsidy if they are not in breach of any of the terms of the tenancy agreement. Failing to report household income in accordance with section 6 of her tenancy agreement is a breach of the tenancy agreement. Any subsidy for which the tenant might have been eligible is calculated based on reported household income. Having found the respondent in breach of her obligation to report household income, I also find the application of the maximum monthly rent of \$1,625 for the months of January to July 2014 appropriate. I find the respondent has accumulated rental arrears of \$29,949.43.

Rental officer order number 10-13592

The terms of rental officer order number 10-13592 were made pursuant to sections 41(4)(b), 41(4)(c), and 84(2) of the Act and required the respondent to pay her future rent on time and to pay her rental arrears in the amount of \$16,371.21 in minimum monthly installments of \$100. That order was issued September 13, 2013. The respondent failed to make any payments after that date until December 2013, and then no further payments were made. I find the respondent has breached rental officer order number 10-13592 and in accordance with section 84(3) of the Act I will rescind that order to replace it with this one.

An order will issue rescinding rental officer order number 10-13592 and requiring Ms. Jasmine Hardisty to pay rental arrears in the amount of \$29,949.43.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Customer aged detail as at May 13, 2014

Exhibit 2: Residential tenancy agreement - indeterminate lease dated April 1, 2012

Exhibit 3: Customer aged detail as at August 19, 2014

Exhibit 4: Customer aged detail as at November 10, 2014