

IN THE MATTER between **Fort Resolution Housing Authority**, Applicant, and **Jamie Fabien**, 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 hamlet of Fort Resolution in the Northwest Territories**.

BETWEEN:

**FORT RESOLUTION HOUSING AUTHORITY**

Applicant/Landlord

- and -

**JAMIE FABIEN**

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 \$5,797.00 (five thousand seven hundred ninety-seven dollars).
2. Pursuant to sections 41(4)(c) and 43(3)(d) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Plan 2343, Lot 153, 0004-05, in Fort Resolution, Northwest Territories, will terminate November 30, 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 use and occupation of the rental premises at a rate of \$50.79 for each day the respondent remains in the rental premises after November 30, 2014.

DATED at the City of Yellowknife in the Northwest Territories this 5th day of November 2014.

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Adelle Guigon  
Deputy Rental Officer

IN THE MATTER between **Fort Resolution Housing Authority**, Applicant, and **Jamie Fabien**, 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:

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Applicant/Landlord

-and-

**JAMIE FABIEN**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>October 30, 2014</b>
<b><u>Place of the Hearing:</u></b>	<b>Fort Resolution, Northwest Territories, by teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>Darrin Holmes, representing the applicant</b>
<b><u>Date of Decision:</u></b>	<b>October 30, 2014</b>

**REASONS FOR DECISION**

An application to a rental officer made by Fort Resolution Housing Authority as the applicant/landlord against Jamie Fabien as the respondent/tenant was filed by the Rental Office August 5, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Plan 2343, Lot 153, 0004-05, in Fort Resolution, Northwest Territories. The applicant served a copy of the filed application on the respondent by registered mail signed for September 24, 2014.

The applicant alleged in the application the respondent had accumulated rental arrears and repeatedly disturbed other tenants' and the landlord's quiet enjoyment of the rental premises, and sought an order for payment of rental arrears, termination of the tenancy agreement, and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for October 30, 2014, in Fort Resolution, Northwest Territories. Mr. Darrin Holmes appeared representing the applicant. Mr. Jamie Fabien was served a notice of attendance by registered mail signed for October 17, 2014. Mr. Fabien did not appear at hearing, nor did anyone appear on his behalf. The hearing proceeded in his absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Mr. Holmes testified that Mr. Fabien has been a tenant in subsidized public housing since October 2012. Since November 2012, Mr. Fabien has been in constant rental arrears, failing to pay the full amount of his rent when it is due. A feature of subsidized public housing is the requirement for the tenant to report total monthly household income, which Mr. Fabien has failed to do for the months of January to September 2014 inclusive thereby necessitating the application of the maximum monthly rent of \$1,545 for the months of July to October 2014 inclusive. Although Mr. Fabien has attended the office each month since February 2014 and made minimal payments towards his rent, since July he has not remained long enough to report his household income as required. The current rental arrears are claimed at \$5,797, for which the applicant requested an order for payment.

Mr. Holmes also testified that he has received several complaints from Mr. Fabien's neighbours regarding disturbances emanating from Mr. Fabien's residence. These disturbances have occurred throughout the tenancy, however they only recently have been supported by written complaints, including correspondence from the local RCMP detachment confirming the details of call outs over two days in July. Documented disturbances occurred in March, May, June, and July of this year. Mr. Fabien was notified of the complaints and the possible consequences should he continue causing disturbances. Mr. Holmes testified that Mr. Fabien was spoken to directly prior to the first formal letter, at which time Mr. Fabien assured Mr. Holmes things would "calm down"; they did not.

Mr. Holmes reiterated the applicant's request for an order terminating Mr. Fabien's tenancy, evicting him from the rental premises, and requiring Mr. Fabien to compensate the applicant for each day he remains in possession of the premises after the termination date. He argued justification for these orders was made out by the combined offences of failing to pay the full amount of rent when it is due, failing to comply with the obligation to report household income in accordance with the tenancy agreement, and repeatedly disturbing the quiet enjoyment of the rental premises.

#### *Tenancy agreement*

The residential tenancy agreement entered into evidence is between the parties for subsidized public housing at the rental premises known as Plan 2343, Lot 153, 0004-05, in Fort Resolution, Northwest Territories. The agreement is for a fixed-term from October 11, 2012, to June 30, 2014, after which it automatically renewed as a monthly periodic tenancy pursuant to section 49(1) of the Act. The agreement was signed by both parties. I am satisfied a valid tenancy agreement for subsidized public housing is in place between the parties in accordance with the Act.

#### *Rental arrears and obligation to report household income*

Section 6 of the tenancy agreement specifies the tenant's obligation to report household income whenever and as often as the landlord requests it and in the prescribed form. Mr. Holmes has testified the household income reporting was established on a monthly basis since

commencement of the tenancy and repeated requests for outstanding reports for June to September 2014 have not been responded to. I find the respondent has failed to comply with his obligation to report his monthly household income in accordance with section 6 of the tenancy agreement.

Section 7 of the tenancy agreement specifies the tenant will be eligible for a rent subsidy as long as the tenant is not in breach of any of the terms of the agreement. Being found in breach of section 6 of the tenancy agreement, the respondent is not eligible for a rent subsidy for the months he has failed to report his household income. The application of the maximum monthly rent of \$1,545 for the months of July to October 2014 is appropriate.

The lease balance statement entered into evidence by the applicant represents the landlord's accounting of monthly assessed rent and payments received on the respondent's rent account. I am satisfied this statement accurately reflects payments received on the respondent's rent account. I find Mr. Fabien has accumulated rental arrears to date in the amount of \$5,797.

#### *Disturbances*

The correspondences submitted into evidence regarding complaints of disturbances include complaints from neighbours, notices to the respondent from the applicant, and a RCMP letter detailing two call outs in two days in July 2014. These complaints span occurrences taking place between March and July 2014, referring specifically to five different events. The applicant's attempts to request compliance from the respondent appear to have been ignored. Section 43(1) of the Act specifies a tenant shall not disturb the landlord's or other tenants' possession or enjoyment of the rental premises or residential complex. Section 12(c) of the tenancy agreement specifies a tenant shall conduct himself in a manner that will not disturb the landlord's or other tenants' possession or enjoyment of the premises or residential complex. I am satisfied the evidence and testimony establish the respondent's failure to comply with his obligation not to disturb others' quiet enjoyment of the premises and complex.

*Termination of the tenancy agreement, eviction, and compensation for use and occupation*

Under the circumstances, I agree with Mr. Holmes justification for termination of the tenancy agreement and eviction. Mr. Fabien has repeatedly failed to pay his rent on time, has carried accumulated rental arrears throughout the tenancy, and has repeatedly disturbed the quiet enjoyment of the rental premises and complex.

An order will issue requiring Mr. Jamie Fabien to pay rental arrears in the amount of \$5,797, terminating Mr. Fabien's tenancy agreement on November 30, 2014, evicting Mr. Fabien from the rental premises December 1, 2014, and requiring Mr. Fabien to compensate the applicant in the amount of \$50.79 for each day he remains in the rental premises after November 30, 2014. The eviction order will follow under separate cover.

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Adelle Guigon  
Deputy Rental Officer

## APPENDIX A

### Exhibits

- Exhibit 1: Residential tenancy agreement fixed term lease dated April 1, 2014
- Exhibit 2: Lease balance statement dated July 28, 2014
- Exhibit 3: RCMP Jamie Fabien - 1303 A Old Road, Fort Resolution, NT, correspondence to applicant dated July 25, 2014
- Exhibit 4: Written complaint against Jamie Fabien dated July 25, 2014
- Exhibit 5: Applicant's unit number 0004-05 correspondence to respondent dated June 13, 2014
- Exhibit 6: Written complaint against Jamie Fabien dated June 13, 2014
- Exhibit 7: Applicant's outstanding rental arrears correspondence to respondent dated June 3, 2014
- Exhibit 8: Applicant's unit number 0004-05 correspondence to respondent dated May 28, 2014
- Exhibit 9: Written complaint against Jamie Fabien dated May 21, 2014
- Exhibit 10: Applicant's correspondence to respondent dated April 10, 2014
- Exhibit 11: Applicant's correspondence to respondent dated January 6, 2014
- Exhibit 12: Applicant's correspondence to respondent dated November 29, 2013
- Exhibit 13: Applicant's outstanding rental arrears - 30 days correspondence to respondent dated November 11, 2013
- Exhibit 14: Applicant's correspondence to respondent dated August 30, 2013
- Exhibit 15: Applicant's correspondence to respondent dated August 30, 2013
- Exhibit 16: Applicant's outstanding rental arrears - 45 days correspondence to respondent dated January 2, 2013
- Exhibit 17: Lease balance statement dated October 28, 2014