

IN THE MATTER between **Fort Resolution Housing Authority**, Applicant, and **Lacey Rose Biscaye**, 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 -

LACEY ROSE BISCAYE

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 \$8,068.00 (eight thousand sixty-eight dollars).
2. Pursuant to sections 41(4)(c) and 54(4) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Plan 58, Lot 72/73, D-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 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.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Fort Resolution Housing Authority**, Applicant, and **Lacey Rose Biscaye**, 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:

FORT RESOLUTION HOUSING AUTHORITY

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-and-

LACEY ROSE BISCAYE

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REASONS FOR DECISION

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

REASONS FOR DECISION

An application to a rental officer made by Fort Resolution Housing Authority as the applicant/landlord against Lacey Rose Biscaye as the respondent/tenant was filed by the Rental Office August 20, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Plan 58, Lot 72/73, D-05, in Fort Resolution, Northwest Territories. The applicant served a copy of the filed application on the respondent by registered mail signed for September 10, 2014.

The applicant alleged in the application the respondent had accumulated rental arrears 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. Ms. Lacey Rose Biscaye was served a notice of attendance by registered mail signed for October 16, 2014. Ms. Biscaye did not appear at the 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).

Mr. Holmes testified that Ms. Biscaye has been a tenant in subsidized public housing since April 2010. Ms. Biscaye has continuously carried rental arrears since October 2010. Payments received throughout the tenancy have largely failed to be either for the full amount of rent for the month or of sufficient amount to reduce or eliminate the rental arrears. There have been several months in which no payments were received, including most recently between February and June 2014. As of this hearing date, Ms. Biscaye has also failed to report her household income for the month of September 2014 in accordance with her tenancy agreement resulting in the application of the maximum monthly rent of \$1,545 for October 2014. All previous monthly rents have been assessed a subsidy based on reported household income. The current rental arrears claimed by the applicant is \$8,068, for which the applicant is requesting an order for payment.

Mr. Holmes justified the applicant's request for termination of the tenancy agreement and eviction on the respondent's repeated failure to pay the full amount of rent when it is due. He indicated three notices were given to Ms. Biscaye – one each in April, May, and June 2014 – advising her of her rental arrears and the consequences for failing to resolve the issue, with no

response from the respondent. On July 4, 2014, the applicant sent by registered mail a notice terminating the tenancy agreement August 5, 2014, in accordance with section 54(1)(g) of the Act. Ms. Biscaye attended the office on July 9th and August 19th to make payments of \$300 and \$600 respectively, at which times Mr. Holmes spoke with Ms. Biscaye explaining the termination notice and the amount of her rental arrears, to which Ms. Biscaye did not otherwise respond; her rents for July and August were assessed at \$845 each. She remains in occupation of the rental premises. Mr. Holmes also requested an order for compensation for use and occupation of the rental premises post-termination.

Tenancy agreement

The residential tenancy agreement entered into evidence by the applicant is between the parties for a fixed-term from July 1, 2012, to June 30, 2014. The agreement is for subsidized public housing and is signed by both parties. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the Act.

Rental arrears

The tenant ledger cards and lease balance statements entered into evidence by the applicant represent the landlord's accounting of monthly assessed rent and payments received against the respondent's rent account. I am satisfied these statements accurately reflect the payments received against the respondent's rent account. I find the respondent has accumulated rental arrears to date in the amount of \$8,068.

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

Section 41(1) of the Act specifies the requirement for a tenant to pay rent on the dates specified in the tenancy agreement. Schedule A of the tenancy agreement specifies the rent is due the first of the month. It is clear from the statements provided into evidence the respondent has repeatedly and continuously failed to comply with her obligation to pay the full amount of her rent when it is due.

Section 54(1)(g) of the Act permits a landlord to give a tenant a notice of termination of at least 10 days where the tenant has repeatedly failed to pay the full amount of the rent or to pay the rent on the dates specified in the tenancy agreement. Section 54(4) of the Act requires a landlord who has given a notice to a tenant pursuant to section 54(1)(g) to make an application to a rental

officer for an order to terminate the tenancy agreement. The landlord gave the tenant a notice pursuant to section 54(1)(g) of the Act on July 4, 2014, terminating the tenancy on August 5, 2014. The landlord complied with section 54(4) of the Act by making application to the rental officer when the tenant failed to vacate the rental premises in accordance with the termination notice. I am satisfied termination of the tenancy agreement and eviction are justified under the circumstances, as is an order for the respondent to compensate the applicant for use and occupation of the rental premises post-termination.

An order will issue requiring Ms. Lacey Rose Biscaye to pay rental arrears in the amount of \$8,068, terminating Ms. Biscaye's tenancy agreement on November 30, 2014, evicting Ms. Biscaye from the rental premises on December 1, 2014, and requiring Ms. Biscaye to compensate the applicant for use and occupation at a rate of \$50.79 for each day she remains in the rental premises after November 30, 2014. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Lease balance statement dated August 7, 2014
- Exhibit 2: Applicant's notice of termination - Residential Tenancy Act s. 54(1) correspondence to respondent sent by registered mail dated July 4, 2014
- Exhibit 3: Applicant's outstanding rental arrears - 45 days correspondence to respondent dated June 3, 2014
- Exhibit 4: Applicant's outstanding rental arrears - 30 days correspondence to respondent dated May 8, 2014
- Exhibit 5: Applicant's outstanding rental arrears correspondence to respondent dated April 11, 2014
- Exhibit 6: Agreement to pay rental arrears dated June 11, 2014
- Exhibit 7: Residential tenancy agreement fixed term lease dated April 1, 2014
- Exhibit 8: Tenant ledger cards for rent from April 20, 2010, to March 31, 2014
- Exhibit 9: Lease balance statements dated October 28, 2014