

IN THE MATTER between **Ulukhaktok Housing Association**, Applicant, and **Jamie Notaina**, 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 Ulukhaktok in the Northwest Territories**.

BETWEEN:

**ULUKHAKTOK HOUSING ASSOCIATION**

Applicant/Landlord

- and -

**JAMIE NOTAINA**

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 \$7,225.00 (seven thousand two hundred twenty-five dollars).
2. Pursuant to section 41(4)(c) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as Unit 078 in Ulukhaktok, Northwest Territories, will terminate January 31, 2015, 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 \$47.51 for each day the respondent remains in the rental premises after January 31, 2015.

DATED at the City of Yellowknife in the Northwest Territories this 1st day of December 2014.

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Adelle Guigon  
Deputy Rental Officer



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BETWEEN:

**ULUKHAKTOK HOUSING ASSOCIATION**

Applicant/Landlord

-and-

**JAMIE NOTAINA**

Respondent/Respondent

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>November 25, 2014</b>
<b><u>Place of the Hearing:</u></b>	<b>Ulukhaktok, Northwest Territories, by teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>Sheila Nasogaluak, representing the applicant Sadie Joss, representing the applicant</b>
<b><u>Date of Decision:</u></b>	<b>November 25, 2014</b>



### **REASONS FOR DECISION**

An application to a rental officer made by Ulukhaktok Housing Association as the applicant/landlord against Jamie Notaina as the respondent/tenant was filed by the Rental Office August 19, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premise known as Unit 078 in Ulukhaktok, Northwest Territories. The applicant personally served a copy of the filed application on the respondent October 16, 2014.

The applicant alleged in the application the respondent had accumulated rental arrears and sought an order for payment of rental arrears and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for November 25, 2014, in Ulukhaktok, Northwest Territories. Ms. Sheila Nasogaluak and Ms. Sadie Joss appeared representing the applicant. Mr. Jamie Notaina was sent a notice of attendance by registered mail sent November 7, 2014; it was deemed served November 14, 2014, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act). Ms. Joss testified she personally notified Mr. Notaina on November 24, 2014, of the scheduled hearing by giving him a photocopy of the notice of attendance she received, which specified the date, time, and place of the hearing. Mr. Notaina 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 Act.

The applicant testified the respondent has been a tenant in subsidized public housing continuously since March 2006. Since then, Mr. Notaina has been brought before the rental officer four times resulting in orders issued against him as follows: 20-10351 dated October 7, 2008, required payment of rental arrears and future rent on time; 20-11999 dated May 11, 2011, required payment of rental arrears, future rent on time, and compliance with the obligation to report household income; 20-12874 dated August 2, 2012, requiring payment of rental arrears, compensation for repairs costs, and termination of the tenancy conditional on reporting of household income; and 20-13675 dated August 26, 2014, requiring payment of rental arrears and compliance with the obligation to pay utilities. All except the last one have been satisfied.



In subsidized public housing tenancies the tenants are required to report their total household income; it is from this figure that any subsidy the tenants might be eligible for is calculated and applied against the maximum monthly rent. If the household income is not reported for a given month then the maximum monthly rent is applied. Mr. Notaina has not reported his household income since September 2012, therefore the maximum monthly rent of \$1,445 has been applied each month since October 2012. Further, Mr. Notaina has not made any payments against his rent account since August 31, 2012, that being in the amount of \$30. The total current rental arrears are \$38,742.

Rental officer order number 20-13675 speaks also to Mr. Notaina's failure to pay his electricity bill, ordering him to comply with his obligation to pay this bill. The applicant testified Mr. Notaina still has not paid this bill and the landlord has transferred the electricity account to their head office and had the power restored to the rental premises in order to prevent any damages from occurring.

The applicant testified Mr. Notaina has actively avoided contact with Ulukhaktok Housing Association employees. He has been notified in writing on several occasions of his obligations and rental arrears, with no response. Even when successfully approached in person by housing association employees, Mr. Notaina does not effectively respond to the issues raised. The applicant reiterated their request for an order for payment of rental arrears, termination of the tenancy agreement, and eviction.

#### *Tenancy agreement*

The residential tenancy agreement entered into evidence is dated July 22, 2011, signed by both parties, and for subsidized public housing at the rental premises known as Unit 078 in Ulukhaktok, Northwest Territories. The tenant ledger cards entered into evidence include reference to tenancy start dates and transfers between rental premises within the context of the tenancy agreement. Between the tenant ledger cards information and the applicant's testimony, I am satisfied a tenancy agreement for subsidized public housing between the parties commenced in March 2006 and has been continuous to date in accordance with the Act.



*Rental arrears*

The tenant ledger cards entered into evidence represent the landlord's accounting of monthly assessed rent and payments received on the rent account. I am satisfied these cards accurately reflect the current rental arrears.

Rental officer order number 20-13675 dated August 26, 2014, requires the payment of rental arrears in the amount of \$31,517. No payments have been received against any rental arrears since the issuance of that order. As it remains enforceable I am deducting the amount of \$31,517 from the current rental arrears of \$38,742; I find the respondent has accumulated additional rental arrears since the issuance of rental officer order number 20-13675 in the amount of \$7,225.

*Termination, eviction, and compensation for use and occupation*

In light of the respondent's substantial breach of his tenancy agreement and the Act by failing to pay his rent when it is due, failing to comply with his obligation to report household income as required, and failing to comply with an order of the rental officer, I find justification for terminating the tenancy agreement and evicting the respondent from the rental premises.

An order will issue requiring Mr. Jamie Notaina to pay rental arrears in the amount of \$7,225, terminating his tenancy agreement January 31, 2015, evicting him from the rental premises February 1, 2015, and to compensate the applicant for use and occupation of the rental premises at a rate of \$47.51 for each day he remains in the rental premises after January 31, 2015.

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Adelle Guigon  
Deputy Rental Officer



APPENDIX A

Exhibits

- Exhibit 1: Residential tenancy agreement fixed term lease dated July 22, 2011
- Exhibit 2: Applicant's NWTPC - non payment of power correspondence to respondent dated June 30, 2014
- Exhibit 3: Applicant's rental officer hearing correspondence to respondent dated June 30, 2014
- Exhibit 4: Applicant's no subsidy done, no payment made, arrears building up correspondence to dated August 6, 2014
- Exhibit 5: Tenant ledger cards for rent from March 2006 to August 2014
- Exhibit 6: Applicant's outstanding rental arrears correspondences to respondent dated: September 8 and September 24, 2014;
- Exhibit 7: Respondent's notice to applicant of medical escort travel dated September 25, 2014
- Exhibit 8: Applicant's outstanding amount owing - 3<sup>rd</sup> notice (45 days) correspondence to respondent dated October 2, 2014
- Exhibit 9: Tenant ledger card for rent from April to November 2014