

IN THE MATTER between **Ulukhaktok Housing Association**, Applicant, and **Peter Palvik**, 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 -

PETER PALVIK

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 \$4,430.03 (four thousand four hundred thirty dollars three cents).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent must pay his rent on time in the future.
3. Pursuant to sections 45(4)(a) and 45(4)(b) of the *Residential Tenancies Act*, the respondent must comply with his obligation to report household income in accordance with section 6 of his tenancy agreement and must not breach that obligation again.

4. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent must comply with his obligation to pay for all utilities provided to the rental premises.
5. Pursuant to sections 41(4)(c) and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as Unit 097 in Ulukhaktok, Northwest Territories, will terminate January 31, 2015, unless the rental arrears of \$4,430.03 (four thousand four hundred thirty dollars three cents) are paid in full, the household income for the months of October 2014 to January 2015 are reported to the applicant, and the rents for December 2014 and January 2015 are paid on time.
6. Pursuant to sections 63(4)(b) and 83(2) of the *Residential Tenancies Act*, if the tenancy agreement between the parties terminates January 31, 2015, the respondent must compensate the applicant for use and occupation of the rental premises known as Unit 097 in Ulukhaktok, Northwest Territories, at a rate of \$47.51 (forty-seven dollars fifty-one cents) 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.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Ulukhaktok Housing Association**, Applicant, and **Peter Palvik**, 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:

ULUKHAKTOK HOUSING ASSOCIATION

Applicant/Landlord

-and-

PETER PALVIK

Respondent/Tenant

REASONS FOR DECISION

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

REASONS FOR DECISION

An application to a rental officer made by Ulukhaktok Housing Association as the applicant/landlord against Peter Palvik 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 premises known as Unit 097 in Ulukhaktok, Northwest Territories. The applicant personally served a copy of the filed application on the respondent September 9, 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. Peter Palvik was served a notice of attendance by registered mail signed for October 31, 2014. Mr. Palvik 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).

The applicant testified respondent has been a subsidized public housing tenant continuously since April 2008. He began accumulating rental arrears in November 2012 and had failed to report his household income since December 2012. The last actual payment received against Mr. Palvik's account was on December 11, 2012, in the amount of \$360. The maximum monthly rent of \$1,445 had been applied against Mr. Palvik's account since December 2012, resulting in accumulated rental arrears as of the filing of this application to a rental officer in the amount of \$30,345.03. In apparent response to receiving his copy of this filed application, Mr. Palvik delivered his income statements for the months of December 2012 to September 2014 to the Ulukhaktok Housing Association office without further comment and without offering any payments. After extensive review of the information provided, the applicant applied the appropriate subsidies against Mr. Palvik's rent account. Mr. Palvik's income has not been reported for the months of October or November 2014, therefore the maximum monthly rent has been applied for those months. Mr. Palvik has still not made any payments against his rent account. Due to the application of the aforementioned subsidies only, Mr. Palvik's rental arrears have effectively been reduced substantially to \$4,430.03 as of this hearing date.

The applicant testified Mr. Palvik is responsible for paying the utilities for his rental unit, as defined under section 8 of his tenancy agreement. In June 2014 the applicant received notification from the Northwest Territories Power Corporation that Mr. Palvik had failed to pay his electricity bill and his power would be cut off. Mr. Palvik was notified by the applicant of this occurrence and asked to resolve the matter as was his obligation. He failed to do so to date and in the mean time the applicant has assured the protection of the rental premises by transferring the electricity account to their Yellowknife head office and reconnecting the power supply.

The applicant testified to several unsuccessful attempts to communicate with Mr. Palvik, including advising him when he attended in September to submit his income information to return to make payments. No effort has been made by Mr. Palvik beyond the recently induced submission of household income to either communicate with his landlord or comply with his obligation to pay rent. The applicant has no confidence that Mr. Palvik will report his income going forward as required by his tenancy agreement, nor that he will make any payments towards his rent or arrears. The applicant reiterated their request for an order to pay rental arrears, termination of the tenancy agreement, and eviction.

Tenancy agreement

The residential tenancy agreement entered into evidence is for a monthly tenancy for subsidized public housing between the parties starting April 1, 2010. The applicant's testimony and the tenant ledger cards entered into evidence indicate the current tenancy agreement originally commenced April 1, 2008, and has been continuous since that date. I am satisfied a valid tenancy agreement between the parties for subsidized public housing is in place in accordance with the Act.

Rental arrears, reporting of household income, and payment of utilities

The tenant ledger cards entered into evidence reflect the landlord's accounting of monthly rent and payments received against the respondent's rent account since April 1, 2008. I am satisfied the accounting in these cards is accurately represented. I find the respondent has accumulated rental arrears in the amount of \$4,430.03.

The applicant's testimony is substantiated by the tenant ledger cards, indicating the respondent has repeatedly failed to report his household income monthly and has failed to pay the full amount of rent owing when it is due throughout his tenancy. The cards corroborate the testimony that the respondent has in fact failed to make any payments towards his rent since December 2012 and only reported his income for the months of December 2012 to September 2014 in September 2014. Section 6 of the residential tenancy agreement specifies the respondent must report total household income whenever and as often as requested by the landlord. The applicant testified the respondent has been made aware regularly throughout his tenancy that the reporting of household income was required monthly. The tenant ledger cards further substantiate this claim as the maximum monthly rent has always been applied until the household income is reported for the relevant month. Schedule A of the residential tenancy agreement specifies the rent is due the first of each month. I find the respondent has failed to comply with his obligations to report household income and has failed to pay the full amount of rent when it is due.

The applicant testified to and provided a copy of a letter that was sent to the respondent regarding the non-payment of the electricity bill in June 2014. In testimony, the applicant confirmed the respondent had still not paid the electricity bill and that in the interest of protecting the property from potential damage – especially heading into the winter months – the applicant had taken the initiative to transfer the electricity account to their head office to deal with separately and had the power reconnected to the rental premises. Section 8 of the residential tenancy agreement specifies the tenant's obligation to pay the utility bills for the rental premises, including for electricity. I find the respondent has breached his obligation to pay the utility bills.

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

The respondent's failure to report his household income and to pay his rent amount to a substantial breach of the tenancy agreement and the Act. Termination of the tenancy in light of the respondent's lack of effort to resolve these issues is justified. However, in consideration that this is the first time the respondent has been brought before a rental officer for this tenancy, and in discussion with the applicant, in my opinion it is appropriate to permit the respondent an opportunity to make efforts to resolve the issues by imposing a termination order conditional on the payment of the rental arrears, reporting of household income, and payment of rent on time.

Further in recognition of the respondent's lack of effort to resolve the issues stated and having little confidence the respondent will comply with the conditions of this order, the issuance of an eviction order and compensation for use and occupation conditional on the termination of the tenancy are justified.

An order will issue requiring Mr. Peter Palvik to pay rental arrears in the amount of \$4,430.03; to pay his rent on time in the future; to report his household income in accordance with section 6 of his tenancy agreement; to comply with his obligation to pay utilities; terminating his tenancy agreement January 31, 2015, unless the rental arrears are paid in full, his household income is reported for October 2014 to January 2015, and the rents for December 2014 and January 2015 are paid on time; evicting him from the rental premises on February 1, 2015, if the tenancy terminates January 31, 2015; and to 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, if the tenancy terminate January 31, 2015. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Residential tenancy agreement indeterminate lease dated April 1, 2010
- Exhibit 2: Agreement to pay \$100 biweekly starting September 6, 2011, towards acknowledged arrears of \$509.89 signed by respondent August 30, 2011
- Exhibit 3: Applicant's NWTPC - non payment of power correspondence to respondent dated June 30, 2014
- Exhibit 4: Applicant's no subsidy done, no payment made, arrears building up correspondence dated August 6, 2014
- Exhibit 5: Tenant ledger cards for rent from April 1, 2008, to August 11, 2014
- Exhibit 6: Applicant's outstanding rental arrears correspondences to respondent dated: September 8 and September 24, 2014
- Exhibit 7: Applicant's correspondence to respondent dated September 24, 2014
- Exhibit 8: Tenant ledger cards for rent from April 30 to October 19, 2014