

IN THE MATTER between **Ulukhaktok Housing Association**, Applicant, and **Sandra Oloakyok**, 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, regarding a rental premises located within the **hamlet of Ulukhaktok in the Northwest Territories**.

BETWEEN:

ULUKHAKTOK HOUSING ASSOCIATION

Applicant/Landlord

- and -

SANDRA OLOAKYOK

Respondent/Tenant

AMENDED ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 84(2) of the *Residential Tenancies Act*, the respondent must pay to the applicant minimum monthly installments of \$80.00 (eighty dollars) starting in December 2014 and each month thereafter until all rental arrears are paid in full.
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent must pay her rent on time in the future.

3. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent must report to the applicant her household income for the months of September to November 2014, and must comply with her obligation to report her household income in accordance with section 6 of her tenancy agreement.
4. Pursuant to sections 41(4)(c), 45(4)(e), and 83(2) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as Unit 04 in Ulukhaktok, Northwest Territories, will terminate March 31, 2015, unless the minimum monthly installments and rents for December 2014 to March 2015 are paid on time and the household income for the months of September 2014 to March 2015 are reported to the applicant.

DATED at the City of Yellowknife in the Northwest Territories this 5th day of December 2015.

Adelle Guigon
Deputy Rental Officer

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BETWEEN:

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Applicant/Landlord

-and-

SANDRA OLOAKYOK

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 Sandra Oloakyok, respondent
<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 Sandra Oloakyok 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 04 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. Ms. Sandra Oloakyok appeared as respondent.

The applicant testified Ms. Oloakyok has been a tenant in subsidized public housing since April 1, 2010. Rental officer order number 20-13680 dated September 5, 2014, established Ms. Oloakyok had accumulated rental arrears as of June 18, 2014, in the amount of \$27,528.91; of that total, \$5,780 represented the maximum monthly rent assessed for March to June 2014 due to the respondent's failure to report household income for those months. On June 27, 2014, Ms. Oloakyok reported her household income for March to June 2014 which resulted in a re-assessment of her rent for those months and reduced her rental arrears to \$22,098.91.

Since then, Ms. Oloakyok has reported her household income for July and August; the household income reports remain outstanding for the months of September to November, for which months the maximum monthly rent has again been assessed. Ms. Oloakyok has made two small payments against her account since the last hearing before a rental officer: \$112.50 on August 20th and \$210 on August 25th. Her current rental arrears are now \$26,321.41.

The applicant originally applied for an order for payment of rental arrears, termination of the tenancy agreement, and eviction. At hearing, the applicant reiterated this request citing the respondent's continued failure to make any payments towards her rental arrears and her failure to report her household income as required.

Ms. Oloakyok did not dispute the amount of rental arrears claimed. She explained she is a stay-at-home mother making very little income and that her common-law spouse no longer resides with her. She pointed out that the majority of arrears have accumulated during the period her former spouse resided with her and his income was included in the reported household income during that time; unfortunately he failed to assist with paying the rent. She acknowledged and accepted her responsibility as sole tenant.

Upon further discussion at hearing, Ms. Oloakyok confirmed she understood her obligation to report her household income, even if her income doesn't change, and to pay her rent each and every month. She stated she could afford to pay an additional \$80 per month towards her rental arrears in addition to her monthly assessed rent; the applicant estimated based on historically reported household income the applicant's assessed rent per month would likely be between \$70 and \$140.

Tenancy agreement

The residential tenancy agreement was made between the parties for subsidized public housing on a monthly basis starting April 1, 2012. The applicant testified the tenancy naming the respondent as sole tenant began April 1, 2010. The respondent did not dispute either the start date of the tenancy or the terms of the tenancy agreement. I am satisfied a valid tenancy agreement for subsidized public housing is in place between the parties in accordance with the *Residential Tenancies Act* (the Act).

Rental arrears and reporting of household income

The tenant ledger cards entered into evidence reflect the landlord's accounting of monthly assessed rent and payments made against the respondent's rent account. The respondent did not dispute the accuracy of the tenant ledger cards. I am satisfied the tenant ledger cards accurately reflect the current status of the respondent's rent account.

The tenant ledger cards include an entry March 4, 2010, for rental arrears in the amount of \$8,204 from the respondent's mother's rent account. This inappropriately accounted amount was deducted from the calculated rental arrears in rental officer order number 20-13680, resulting in the ordered amount of rental arrears of \$27,528.91 as of June 18, 2014.

The tenant ledger cards corroborate the new current rental arrears (less the \$8,204 from the respondent's mother's account) of \$26,321.41. This amount is in fact less than the rental arrears ordered to be paid in rental officer order number 20-13680. I find the respondent does still have rental arrears but that the previous rental officer order – which has not as yet been enforced – covers the amount currently owing. No order for additionally accumulated rental arrears is necessary.

The tenant ledger cards also corroborate the applicant's claim that the respondent has failed to report her household income as required. The respondent did not dispute this claim. Section 6 of the tenancy agreement requires the tenant to report her household income as often and whenever requested by the landlord. The applicant and respondent agreed the household income was expected to be reported monthly. Rental officer order number 20-13680 required the respondent to comply with her obligation to report her household income and not breach that obligation again. I find the respondent has failed to comply with her obligation to report household income in accordance with section 6 of her tenancy agreement and has failed to comply with a rental officer order.

Termination of the tenancy agreement

Under the circumstances of this case I do find justification for termination of the tenancy agreement, however, I am of the opinion that an opportunity should be given to the respondent to prove she is able to comply with her obligations. This is only the second time she has been brought before the rental officer, and that very recently after the first time. The respondent also was not present at the hearing in June to hear and understand the complaints and potential consequences. She was present at this hearing and hopefully now understands the possibility of losing her home should she continue to breach her obligations. I believe conditionally terminating the respondent's tenancy unless she pays minimum monthly installments and monthly rent on time and reports her income as required could be a significant motivator for the respondent.

An order will issue requiring Ms. Sandra Oloakyok to pay minimum monthly installments of \$80 starting in December 2014 towards her rental arrears; to pay her future rent on time; to report her household income for September to November 2014 and comply with her obligation to report her household income; and terminating her tenancy agreement March 31, 2015, unless the minimum monthly installments and rents for December 2014 to March 2015 are paid on time and her household income is reported for the months of September 2014 to March 2015.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Residential tenancy agreement indeterminate lease dated May 26, 2014
- Exhibit 2: Agreement to pay \$112.50 per month towards arrears starting July 2014 signed by respondent June 27, 2014
- 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 2008 to August 2014
- Exhibit 6: Applicant's outstanding amount owing - 3rd notice (45 days) correspondence to respondent dated October 2, 2014
- Exhibit 7: Applicant's outstanding rental arrears correspondences to respondent dated: September 8 and September 24, 2014
- Exhibit 8: Tenant ledger cards for rent from April 2014 to November 2014