

IN THE MATTER between **Ulukhaktok Housing Association**, Applicant, and **Betty Ann Koplomik**, 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 -

BETTY ANN KOPLOMIK

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 \$5,116.00 (five thousand one hundred sixteen dollars).
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 comply with her obligation to report 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 061 in Ulukhaktok, Northwest Territories, will terminate March 31, 2015, unless the rents for December 2014 to March 2015 are paid on time and the household income is reported for the months of October 2014 to March 2015.

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

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Ulukhaktok Housing Association**, Applicant, and **Betty Ann Koplomik**, 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-

BETTY ANN KOPLOMIK

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 Betty Ann Koplomik 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 061 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. Betty Ann Koplomik was sent a notice of attendance by registered mail October 27, 2014, which was returned to sender and received in the Rental Office November 20, 2014. However, Ms. Joss personally spoke with Ms. Koplomik on November 24, 2014, provided her with a copy of the notice of attendance, and verbally confirmed the hearing information. Ms. Joss verified Ms. Koplomik understood the information given to her. I am satisfied Ms. Koplomik was aware of the reasons for the application and of her opportunity to speak to the matter at this hearing. The hearing proceeded in Ms. Koplomik's absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

At hearing, the applicant confirmed the spelling of the respondent's last name on the application form was incorrect. They requested the respondent's last name be amended from 'Koplumik' to 'Koplomik'. The style of cause for this matter will reflect the amended spelling.

The applicants testified Ms. Koplomik has been a tenant in subsidized public housing since February 2010. She began accumulating the current rental arrears in January 2013. The amount of the arrears have fluctuated over the term of the tenancy due to repeatedly late reporting of household income, from which monthly rent subsidies are calculated. The rent account has never had a zero balance. The last payment received from the respondent was made on October 8,

2014, for \$350. The last time household income was reported was on September 23, 2014, for the months of June to September 2014. The applicant testified the household income has always been required and expected to be reported on a monthly basis. The current rental arrears claimed are in the amount of \$5,116.

In the application package information was included regarding a former tenancy agreement of which Ms. Koplomik was a joint tenant. That tenancy ended in March 2008, the applicant did receive an order for payment of rental arrears at the time, and has commenced garnishee of wages for recovery of those rental arrears. The tenant ledger cards entered into evidence included an entry of the rental arrears accumulated under the previous tenancy; that amount was deducted from the accumulated rental arrears claimed in the current tenancy at hearing.

The applicant requested an order for payment of the current rental arrears and amended their application such that they would be satisfied with a conditional order for termination of the tenancy.

Tenancy agreement

The residential tenancy agreement entered into evidence was made between the parties starting April 1, 2012. It was signed by both parties and Schedule A to the tenancy agreement identified Unit 061 as the assigned rental premises. Section 7 of the tenancy agreement identifies it as an agreement for subsidized public housing. I am satisfied a valid tenancy agreement is in place between the parties for subsidized public housing in accordance with the Act.

Rental arrears and reporting of household income

Section 6 of the tenancy agreement specifies the tenant is required to report household income as often as and whenever requested by the landlord. Section 7 of the tenancy agreement specifies the tenant may be eligible for a rent subsidy if they are in compliance with the terms of the tenancy agreement. The applicant verified the household income is expected to be reported monthly and that the respondent is aware of that obligation. The applicant confirmed reporting of household income is required to assess any rent subsidy for which the tenant might be eligible. If the tenant does not report their income in a given month the maximum monthly rent is applied to the rent account until the household income is reported. Failing to report the household income monthly constitutes a breach of section 6 of the tenancy agreement and potentially invalidates any rent subsidy for which the tenant might have been eligible for under section 7 of the tenancy agreement.

The tenant ledger cards entered into evidence reflect the landlord's accounting of monthly assessed rent, rent subsidies, and payments applied against the respondent's rent account. After deducting the rental arrears from the previous tenancy which ended in March 2008, I am satisfied the accounting for the period of the current tenancy is accurately represented.

The tenant ledger cards substantiate the applicant's claim that the respondent has repeatedly failed to report her household income when required as the applicable subsidies have been entered for the respective months on the date the household income was reported for those months. It appears the respondent's habit has been to wait several months at a time before reporting those months' household income all at once. The values of the subsidies applied suggests the monthly household income has varied. I find the respondent has failed to comply with her obligation to report household income when required.

The tenant ledger cards further substantiate the claimed amount of rental arrears (less that from the previous tenancy). The respondent's payments against her rent account have been sporadic, inconsistent, and of amounts which do not meet the full amounts of rent owing or substantially pay down the accumulated rental arrears. I find the respondent has accumulated rental arrears in the amount of \$5,116.

Termination of the tenancy agreement

In consideration of the amount of rental arrears owing and the respondent's repeated failure to comply with her obligation to report household income, I do find justification for termination of the respondent's tenancy agreement. However, I keep in mind the applicant's request for a conditional termination order in this instance, and in my opinion the respondent should be given the opportunity to resolve the issues that have occurred throughout her tenancy. As such I find a conditional termination order appropriate.

An order will issue requiring Ms. Betty Ann Koplomik to pay rental arrears in the amount of \$5,116; to pay her rent on time in the future; to comply with her obligation to report household income; and terminating the tenancy agreement March 31, 2015, unless the rents for December 2014 to March 2015 are paid on time and the household income is reported for the months of October 2014 to March 2015.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Residential tenancy agreement fixed term lease dated April 1, 2012
- Exhibit 2: Agreement to pay \$175 per month towards rental arrears starting January 2012 signed by respondent January 12, 2012
- Exhibit 3: Applicant's rental arrears correspondence to respondent dated August 21, 2012
- Exhibit 4: Applicant's NWTPC - non payment of power correspondence to respondent dated June 30, 2014
- Exhibit 5: Tenant ledger cards for rent from January 2008 to August 2014
- Exhibit 6: Applicant's outstanding rental arrears correspondences to respondent dated: September 8 and September 24, 2014
- Exhibit 7: Email from Lorraine Hewlett to Sheila Nasogaluak dated September 29, 2014, and attached copy of cover page of rental officer order number 20-9659
- Exhibit 8: Email from Lorraine Hewlett to Sheila Nasogaluak dated October 15, 2014, and attached garnishee summons, affidavit in support of garnishee summons, certificate of subsisting executions, and writ of execution
- Exhibit 9: Northwest Territories Housing Corporation's service of garnishee summons correspondence to Office of the Sheriff dated October 20, 2014
- Exhibit 10: Tenant ledger cards for rent from April to September 2014