

IN THE MATTER between **Ulukhaktok Housing Association**, Applicant, and **Shawn Alanak**, 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 -

**SHAWN ALANAK**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 67(4) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears and compensation for use and occupation of the rental premises known as Unit #060 in Ulukhaktok, Northwest Territories, in the total amount of \$5,148.00 (five thousand one hundred forty-eight dollars).

DATED at the City of Yellowknife in the Northwest Territories this 9th day of January 2015.

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Adelle Guigon  
Deputy Rental Officer

IN THE MATTER between **Ulukhaktok Housing Association**, Applicant, and **Shawn Alanak**, 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-

**SHAWN ALANAK**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>December 17, 2014</b>
<b><u>Place of the Hearing:</u></b>	<b>Yellowknife, 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>December 17, 2014</b>

**REASONS FOR DECISION**

An application to a rental officer made by Ulukhaktok Housing Association as the applicant/landlord against Shawn Alanak 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 #060 in Ulukhaktok, Northwest Territories. The applicant served a copy of the filed application on the respondent by registered mail to his last known address; the application was deemed served November 13, 2014, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act).

The applicant alleged 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 December 17, 2014, by teleconference. Ms. Sheila Nasogaluak and Ms. Sadie Joss appeared representing the applicant. Mr. Shawn Alanak was served a notice of attendance by registered mail deemed served December 1, 2014, pursuant to section 71(5) of the Act. Mr. Alanak did not appear at hearing, nor did anyone appear on his behalf. The hearing proceeded in his absence.

The applicant advised at hearing that Mr. Alanak and his family all had now vacated the rental premises and withdrew their request for an eviction order. Mr. Alanak had entered into a tenancy agreement for subsidized public housing and took occupancy of the rental premises known as Unit #060 in Ulukhaktok, Northwest Territories, on January 4, 2011. He has been repeatedly late reporting his monthly household income and has carried rental arrears throughout the tenancy. Mr. Alanak's parents and brothers have been approved occupants of the rental premises under his tenancy.

On June 17, 2014, Mr. Alanak gave written notice to the applicant that he was giving up his unit as of that date. The applicant testified they believe Mr. Alanak was moving to Inuvik, although no forwarding address was provided, and accepted the written notice to terminate the tenancy agreement July 31, 2014, in accordance with the Act. Mr. Alanak's family did not vacate the rental premises until October 22, 2014. As the tenancy had been terminated in accordance with the Act effective July 31, 2014, Mr. Alanak became responsible for the maximum monthly rent of \$1,445 for the rental premises for as long after that date as his family remained in occupancy as overholding tenants. The applicant applied a prorated amount for the month of October.

Mr. Alanak was obligated as a tenant in subsidized public housing to submit monthly total household income reports from which the applicant was assess any rent subsidies Mr. Alanak might be eligible for. These reports were not provided for the months of May, June, and July 2014. As such, the maximum monthly rent of \$1,445 was applied for each of those months.

Mr. Alanak was receiving financial support from Income Assistance, who was making payments against his rent on his behalf. The last payments received from Income Assistance were made on May 6<sup>th</sup> for \$210, August 19<sup>th</sup> for \$25, September 10<sup>th</sup> for \$225, October 22<sup>nd</sup> for \$25, and November 10<sup>th</sup> for \$25. The total rental and overholding arrears claimed by the applicant are \$32,168.32.

#### *Tenancy agreement and termination*

The residential tenancy agreement, tenant ledger cards, and the applicant's testimony establish a tenancy agreement between the parties for subsidized public housing began January 4, 2011, for the rental premises known as Unit #060 in Ulukhaktok, Northwest Territories. I am satisfied a valid tenancy agreement was in place between the parties in accordance with the Act.

The contents of the respondent's written notice to terminate his tenancy complied with the requirements of section 55 of the Act: it was in writing, it was signed by him, it identified the rental premises, and it stated the date on which he wished to terminate the tenancy – that being the date he wrote the notice, June 17, 2014. Section 52 of the Act permits a tenant to terminate a periodic tenancy on the last day of a period of the tenancy by giving the landlord 30 days written notice. A period of this tenancy is from the first to last day of a given month. As such, Mr. Alanak's written notice to terminate his tenancy can only effectively terminate the tenancy on July 31, 2014, as the applicant has acknowledged.

The continued occupancy of the rental premises by Mr. Alanak's named occupants after July 31<sup>st</sup> constitutes an overholding tenancy pursuant to section 67 of the Act. Mr. Alanak, as the sole tenant, was responsible for the rental premises and for ensuring his family vacated the premises as promised on or before July 31<sup>st</sup>. As this did not occur, the unit remained occupied and was not made available for the landlord to re-rent. As such, Mr. Alanak is responsible for compensating the applicant for use and occupation of the rental premises after the tenancy has been terminated.

#### *Rental arrears*

The tenant ledger cards entered into evidence by the applicant represent the landlord's accounting of monthly assessed rent and payments received against the respondent's rent account. Schedule A to the tenancy agreement specifies the maximum monthly rent for the rental premises as \$2,475, however, the applicant has testified to that amount having been reduced to \$1,445. Section 6 of the tenancy agreement sets out the tenant's obligation to report household income whenever and as often as requested. Section 7 of the tenancy agreement establishes the agreement as being for subsidized public housing and specifies that as long as the tenancy agreement is in place and the tenant does not breach any of his obligations he will be eligible for a rent subsidy.

The applicant has testified that the respondent has failed to report his total household income for the months of May, June, and July in accordance with section 6 of the tenancy agreement. The application of the maximum monthly rent for those months is appropriate.

Having found the tenancy agreement ended July 31, 2014, the respondent is no longer eligible for a rent subsidy after that date. The application of the maximum monthly rent for August to October 2014 as compensation for use and occupancy of the rental premises in an overholding tenancy is appropriate.

On June 19, 2014, a rental officer rendered a decision at hearing under Rental Officer File No. 20-13663 against the respondent to pay rental arrears accumulated as of that date in the amount of \$27,020.32. That order remains enforceable and therefore the amount ordered to be paid will be deducted from the rental arrears claimed in the current application. I find the respondent has accumulated rental arrears since July 1, 2014, in the amount of \$5,148.

An order will issue requiring Mr. Shawn Alanak to pay rental arrears in the amount of \$5,148.

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Adelle Guigon  
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Residential tenancy agreement dated April 1, 2012

Exhibit 2: Agreement to pay dated March 9, 2012

Exhibit 3: Applicant's notice of termination of fixed term lease for Unit #60 correspondence to respondent dated May 24, 2012

Exhibit 4: Applicant's notice of termination of fixed term lease for unit #60 correspondence to respondent dated June 12, 2012

Exhibit 5: Respondent's notice to applicant dated June 17, 2014

Exhibit 6: Applicant's no subsidy done, no payment made, arrears building up correspondence dated August 6, 2014

Exhibit 7: Tenant ledger cards for rent from January 4, 2011, to August 11, 2014

Exhibit 8: Tenant ledger card for rent from April 30 to November 10, 2014