

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Alestine Nitsiza**, 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 community of Whati in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

ALESTINE NITSIZA

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 41(4)(a) and 84(2) of the *Residential Tenancies Act*, the respondent must pay to the applicant rental arrears in the amount of \$15,340.00 (fifteen thousand three hundred forty dollars) in minimum monthly installments of \$300.00 (three hundred dollars) starting in March 2015 and each month thereafter until the 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 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 705B in Whati, Northwest Territories, will terminate August 31, 2015, unless the minimum monthly installments and the monthly rents for March to August 2015 have been paid on time.

DATED at the City of Yellowknife in the Northwest Territories this 4th day of March 2015.

Adelle Guigon
Deputy Rental Officer

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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:

NWT HOUSING CORPORATION

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-and-

ALESTINE NITSIZA

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	February 24, 2015
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Jessica Relucio, representing the applicant Alestine Nitsiza, respondent
<u>Date of Decision:</u>	February 24, 2015

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Alestine Nitsiza as the respondent/tenant was filed by the Rental Office December 9, 2014. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit 705B in Whati, Northwest Territories. The applicant served a copy of the filed application on the respondent by registered mail deemed served December 23, 2014, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act).

The applicant alleged the respondent had accumulated rental arrears and repeatedly failed to pay the full amount of rent when due. They sought an order for payment of the rental arrears, that future rent be paid on time, termination of the tenancy agreement, and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for February 24, 2015, by teleconference. Ms. Jessica Relucio appeared representing the applicant. Ms. Alestine Nitsiza appeared as respondent.

The parties agreed that a residential tenancy agreement for subsidized public housing was in place between them for the rental premises known as Unit 705B in Whati, Northwest Territories.

Ms. Relucio testified that Ms. Nitsiza's payments for rent have been minimal, sporadic, and of insufficient amount to cover the monthly rent and accumulated rental arrears. Ms. Nitsiza has carried rental arrears since throughout the tenancy and currently has accumulated rental arrears in the amount of \$15,340. Ms. Relucio stated there have been numerous unsuccessful attempts to communicate with Ms. Nitsiza regarding the arrears, including signing promissory notes for payments for which Ms. Nitsiza has not been compliant and issuing several written notices to terminate the tenancy if the identified rental arrears were not paid. For a time between August and October 2014 payments had been arranged through electronic funds transfers (EFT); one of five scheduled withdrawals was successful. The last successful payment received against Ms. Nitsiza's rent account was made September 4, 2014, in the amount of \$500.

Ms. Nitsiza did not dispute the allegations made by the applicant. She acknowledged the amount of rental arrears and that she has not done her part to comply with her obligations as a tenant. Ms. Nitsiza advised that she is now working full time, but she is the only person in the household who is working. Due to her full-time employment she is no longer eligible for income support. She anticipates receiving monies from her income tax return and expects to put that money down on the rental arrears. Ms. Nitsiza confirmed she could afford to pay \$300 per month in addition to her monthly assessed rent towards her rental arrears and requested an opportunity to show she could comply with her monthly payment obligations.

Ms. Relucio was receptive to incorporating a payment plan into an order for payment and requested that an order for payment of future rent on time also be considered. She further requested that an order for termination of the tenancy and eviction be conditional on the successful monthly payments of the payment plan and rents. Ms. Relucio offered a generous period of time for Ms. Nitsiza to prove she could comply with her obligations and suggested a conditional termination date of August 31, 2015.

Tenancy agreement

The residential tenancy agreements entered into evidence establish an agreement between the parties for subsidized public housing for the rental premises identified as Unit 705B in Whati, Northwest Territories, beginning June 1, 2009. The parties did not dispute the validity of the tenancy agreement. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the Act.

Rental arrears

The lease balance statements entered into evidence represent the landlord's accounting of monthly assessed rents and payments received against the respondent's rent account. The respondent did not dispute the accuracy of the accounting. I am satisfied the lease balance statements accurately reflect the status of the respondent's rent account. I find the respondent has failed to pay the full amount of monthly rent when due and has accumulated rental arrears in the amount of \$15,340.

The respondent's submission and applicant's agreement to incorporate a monthly payment plan into an order for payment of the rental arrears is reasonable and will be included.

Termination of the tenancy agreement and eviction

In consideration of the substantial amount of rental arrears and the clear evidence of the respondent's repeated failure to make regular payments against her rent account, I am satisfied termination of the tenancy agreement and eviction is justified. However, I find it reasonable after hearing the parties' testimonies to permit the respondent the opportunity to prove she can comply with her obligations and will order the termination and eviction conditional on the monthly installment and rent payments.

An order will issue requiring Ms. Alestine Nitsiza to pay rental arrears in the amount of \$15,340 in minimum monthly installments of \$300 starting in March 2015 and each month thereafter until the rental arrears are paid in full, to pay her monthly rent on time, terminating the tenancy August 31, 2015, unless the minimum monthly payments and monthly rents are paid on time, and evicting her from the rental premises September 1, 2015, if the tenancy terminates August 31, 2015, in accordance with this order. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Residential tenancy agreements dated June 1, 2009, and March 11, 2013

Exhibit 2: Applicant's reasons for application

Exhibit 3: Lease balance statement dated December 9, 2014

Exhibit 4: Email conversation between Jessica Relucio and Alestine Nitsiza dated October 23, 2014

Exhibit 5: Applicant's outstanding rental arrears correspondences to respondent dated: January 13, 2014; March 3, 2014; May 27, 2014;

Exhibit 6: Arrears payment agreement promissory note made by Alestine Nitsiza made December 11, 2013

Exhibit 7: Rent calculation forms for October 2013 to January 2014

Exhibit 8: Statement of account dated March 31, 2012

Exhibit 9: Lease balance statement dated February 23, 2015