

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Pauline Deneyoua and Gilbert Antoine**, Respondents;

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 village of Fort Simpson in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

PAULINE DENEYOUA and GILBERT ANTOINE

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, the respondents must pay to the applicant rental arrears in the amount of \$160.00 (one hundred sixty dollars).
2. Pursuant to section 57(b) of the *Residential Tenancies Act*, the tenancy agreement between the parties regarding the rental premises known as Lot 79, Plan 364, in Fort Simpson, Northwest Territories, will terminate May 30, 2015, and the respondents must vacate the rental premises on or before that date.

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

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Pauline Deneyoua and Gilbert Antoine**, Respondents.

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.

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	February 25, 2015
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Hilda Gerlock, representing the applicant Gilbert Antoine, respondent
<u>Date of Decision:</u>	March 4, 2015

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Pauline Deneyoua and Gilbert Antoine as the respondents/tenants was filed by the Rental Office January 15, 2015. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Lot 79, Plan 364, in Fort Simpson, Northwest Territories. The applicant served a copy of the filed application on the respondents separately by registered mail; Gilbert Antoine signed for his copy January 22, 2015, and Pauline Deneyoua signed for her copy January 23, 2015.

The applicant alleged the respondents had accumulated rental arrears and were no longer eligible for subsidized public housing. They sought an order for payment of rental arrears, termination of the tenancy agreement, and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for February 25, 2015, by teleconference. Ms. Hilda Gerlock appeared representing the applicant. Mr. Gilbert Antoine appeared as respondent. Ms. Pauline Deneyoua was served a notice of attendance by registered mail deemed served February 9, 2015, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act). A courtesy email was also sent to Ms. Deneyoua on February 23, 2015, confirming the hearing date, time, and method. Ms. Deneyoua did not appear at hearing. The hearing proceeded in her absence pursuant to section 80(2) of the Act.

Ms. Gerlock testified that the respondents are tenants in subsidized public housing under a Homeownership Entry Level Program (HELP) agreement starting January 28, 2008. Conditions of the HELP agreement include entering into a residential tenancy agreement in accordance with the Act. Eligibility for subsidized public housing under a HELP agreement is determined based on the total household income not exceeding a prescribed threshold. The HELP agreement also requires tenants to reside in the rental premises as their principal residence and to comply with the terms of the residential tenancy agreement.

The residential tenancy agreement entered into by the respondents specifies that the monthly rent is due and payable on the first of the month, and that as long as the tenants are not in breach of any of the terms of the residential tenancy agreement and the HELP agreement the tenants will be eligible for a subsidy against their monthly rent calculated based on reported household income.

Ms. Gerlock testified that until November 2014 the respondents had complied with their obligation to pay the full amount of rent each month. In October 2014, Mr. Antoine moved out of the rental premises, ending the relationship with Ms. Deneyoua. The full amount of rent for November, December, and January was not paid resulting in rental arrears in the amount of \$1,160 and the filing of this application. After receiving the filed application to a rental officer in January, Ms. Deneyoua made four payments to the rent account, reducing the rental arrears as of this hearing date to \$160.

Mr. Antoine's departure from the rental premises results in Ms. Deneyoua's sole income being considered against the requirements of the HELP agreement. Ms. Gerlock testified that Ms. Deneyoua's income is insufficient to qualify for housing under HELP; as such, the respondents are no longer eligible for subsidies under the HELP agreement. Ms. Gerlock requested an order for payment of rental arrears, termination of the tenancy agreement, and eviction.

Mr. Antoine confirmed he did move out of the rental premises in October 2014 and no longer wished to be part of the tenancy agreement with Ms. Deneyoua. He mentioned he is in the process of attempting to secure his own subsidized public housing, but is unable to do that while his name remains on the joint tenancy agreement with Ms. Deneyoua. He confirmed that Ms. Deneyoua is still residing in the rental premises.

HELP and tenancy agreements

The Homeownership Entry Level Program (HELP) is designed to assist approved applicants with the opportunity to assume the responsibilities of homeownership prior to purchasing a home. The contract requires the tenant to be directly responsible for the utilities for the rental unit while assessing subsidized rent based on the income of the tenant. A HELP contract was entered into evidence made between the parties on January 29, 2008, requiring the tenant to enter into six-month fixed-term leases beginning April 1, 2008, and continuing for a two-year period. At the expiration of the two-year period the tenancy agreements may be for either fixed-term or month-

to-month tenancies and the subsidized rent is assessed based on the income of the tenant and any occupants who are 19 years of age or older. The HELP contract also requires the tenant to provide verification of income annually, when household income changes, and when requested by the Corporation. I am satisfied a valid HELP agreement was entered into between the parties.

A residential tenancy agreement under HELP was submitted into evidence for subsidized public housing for the rental premises known as Lot 79, Plan 364, in Fort Simpson, Northwest Territories. This agreement was for a month-to-month tenancy starting April 1, 2014. I am satisfied a valid tenancy agreement between the parties is in place in accordance with the Act.

Rental arrears

The lease balance statements and lease ledgers entered into evidence represent the landlord's accounting of monthly assessed rent and payments received against the respondents' rent account. Mr. Antoine did not dispute accuracy of the applicant's claim for rental arrears. I am satisfied the ledgers accurately reflect the status of the respondents' rent account. I find the respondents have repeatedly failed to pay the full amount of rent when due and have accumulated rental arrears in the amount of \$160.

Termination of the tenancy agreement

Section 4 of the HELP agreement says in part that the tenants are not obligated to purchase the rental premises and may continue to rent the property so long as the tenants meet the requirements of the program.

Section 6 of the HELP agreement identifies the tenants as joint recipients of the program, and they shall be jointly and severally responsible for the fulfilment of all covenants and obligations of the HELP agreement.

Section 9(a) of the HELP agreement specifies the tenants' agreement to reside in and maintain the rental premises as their principal residence; section 9(e) specifies the tenants' agreement to comply with the terms of the residential tenancy agreement.

Section 7 of the residential tenancy agreement specified the tenants' obligation to pay the on the first day of every month.

Section 41(1) of the Act sets out the tenants' obligation to pay their rent on the dates specified by the tenancy agreement.

Section 57(b) of the Act specifies that where a tenant of subsidized public housing has ceased to meet the requirement for occupancy of the rental premises the rental officer may make an order terminating the tenancy.

Ms. Gerlock has testified that one of the requirements for eligibility for the HELP is for the total household income to meet a minimum threshold. Together (jointly), Mr. Antoine's and Ms. Deneyoua's income met that requirement. When Mr. Antoine moved out of the rental premises his income could not be considered in the total household income; Ms. Deneyoua's income alone does not meet the minimum threshold, creating a breach under section 4 of the HELP agreement.

When Mr. Antoine moved out of the rental premises in October 2014 he created a breach under section 9(a) of the HELP agreement.

When the respondents failed to pay the full amount of rent on time for the months of November 2014 to February 2015 they created a breach under section 7 of the residential tenancy agreement and section 41(1) of the Act.

I am satisfied that the respondents have breached the terms of their HELP agreement and residential tenancy agreement, and are no longer eligible for subsidized public housing under the Homeownership Entry Level Program. As such, termination of the tenancy agreement is warranted under section 57(b) of the Act. However, it seems to me that just because the respondents are not eligible under the HELP does not necessarily mean they are not eligible for subsidized public housing under another program. As such, in an effort to give Ms. Deneyoua and Mr. Antoine enough time to separately work with the applicant to determine their respective eligibility for subsidized public housing under another program, the termination date for their current joint tenancy will be May 31, 2015.

I will not be issuing an eviction order at this time as I am optimistic the parties have been given enough time to make suitable alternate accommodation arrangements so as not to require an eviction order. Should such alternate accommodations fail to arise the applicant has leave to make application to a rental officer for an eviction order.

I would also note that there is nothing in the Act restricting the applicant from entering into new tenancy agreements with either or both of the respondents prior to the termination date ordered here.

An order will issue requirement Ms. Pauline Deneyoua and Mr. Gilbert Antoine to pay rental arrears in the amount of \$160 and terminating the tenancy agreement May 31, 2015.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Residential Tenancy Agreement

Exhibit 2: Lease balance statement dated January 9, 2015

Exhibit 3: Applicant's Homeownership Entry Level Program (HELP) correspondence to respondents dated January 27, 2014

Exhibit 4: Applicant's outstanding rental arrears correspondences to respondents dated: January 9, 2015; December 22, 2014

Exhibit 5: Lease ledger dated February 24, 2015

Exhibit 6: Homeownership Entry Level Program agreement with amendment agreement