

IN THE MATTER between **Fort Smith Housing Authority**, Applicant, and **Randy McDevitt**, 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 **town of Fort Smith in the Northwest Territories**.

BETWEEN:

**FORT SMITH HOUSING AUTHORITY**

Applicant/Landlord

- and -

**RANDY MCDEVITT**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 67(4) of the *Residential Tenancies Act*, the respondent must compensate the applicant for use and occupation of the rental premises in the amount of \$4,875.00 (four thousand eight hundred seventy-five dollars).
2. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, the respondent must compensate the applicant for use and occupation of the rental premises at a rate of \$53.42 for each day the respondent remains in the rental premises known as #0069-14, 60 Breynat Street, in Fort Smith, Northwest Territories, after June 30, 2015.

DATED at the City of Yellowknife in the Northwest Territories this 24th day of June 2015.

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Adelle Guigon  
Deputy Rental Officer

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BETWEEN:

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-and-

**RANDY MCDEVITT**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>June 23, 2015</b>
<b><u>Place of the Hearing:</u></b>	<b>Fort Smith, Northwest Territories</b>
<b><u>Appearances at Hearing:</u></b>	<b>Kevin Mageean, representing the applicant</b>
<b><u>Date of Decision:</u></b>	<b>June 23, 2015</b>

**REASONS FOR DECISION**

An application to a rental officer made by Fort Smith Housing Authority as the applicant/landlord against Randy McDevitt as the respondent/tenant was filed by the Rental Office May 6, 2015. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as #0069-14, 60 Breynat Street, in Fort Smith, Northwest Territories. The applicant personally served a copy of the filed application on the respondent June 19, 2015.

The applicant alleged the respondent had accumulated additional rental arrears since the last rental officer order #10-14491 and had not vacated the rental premises. An order was sought for payment of the additional rental arrears and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for June 23, 2015, in Fort Smith, Northwest Territories. Mr. Kevin Mageean appeared representing the applicant. Mr. Randy McDevitt was personally served a copy of the notice of attendance June 19, 2015. Mr. McDevitt did not appear at hearing, nor did anyone appear on his behalf. The hearing proceeded in his absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

With reference to rental officer order #10-14491, Mr. Mageean testified to and provided evidence that Mr. McDevitt remains an occupant of the rental premises known as #0069-14, 60 Breynat Street, in Fort Smith, Northwest Territories. In the reasons for decision of rental officer order #10-14491 – which was heard March 31, 2015 – I confirmed the tenancy agreement between the parties had been terminated by the landlord in accordance with section 51(3) of the Act on December 31, 2014. Mr. McDevitt had remained in occupancy of the rental premises as an overholding tenant since that date and continues to do so. An eviction order was not issued from the hearing for rental officer file #10-14491 because an eviction order was not requested in the application to a rental officer. Mr. McDevitt was ordered to pay accumulated rental arrears and overholding rent in the amount of \$19,100.

After the previous hearing, Mr. Mageean made an offer to Mr. McDevitt that if Mr. McDevitt reported his total household income since March 2014 and paid his rental arrears in full Mr. Mageean would reinstate the tenancy agreement. Mr. McDevitt met neither requirement and as such the tenancy agreement was not reinstated. The maximum monthly rent of \$1,625 was applied against Mr. McDevitt's rent account for April, May, and June 2015. The lease balance statement supports Mr. Mageean's testimony that the last payment received against Mr. McDevitt's rent account was made June 2, 2014, and the maximum monthly rent has been charged since April 2014 due to Mr. McDevitt's failure to report his total household income as required for every month since March 2014. The current rental arrears, including overholding rent, amount to \$23,975.

I am satisfied that Mr. McDevitt has failed to comply with rental officer order #10-14491 to pay rental arrears and that Mr. McDevitt remains in occupancy of the rental premises. As reported in the reasons for decision of rental officer order #10-14491, I am satisfied that the residential tenancy agreement between the parties was terminated in accordance with the Act on December 31, 2014. I am satisfied the lease balance statement entered into evidence by the applicant accurately represents the status of the respondent's rent account.

I find Mr. McDevitt has accumulated additional overholding rental arrears in the amount of \$4,875. I find Mr. McDevitt's eviction from the rental premises is justified. I find that compensation for use and occupation of the rental premises is necessary.

An order will issue requiring Mr. Randy McDevitt to compensate the applicant for overholding rental arrears in the amount of \$4,875; evicting Mr. McDevitt from the rental premises July 10, 2015; and requiring Mr. McDevitt to compensate the applicant for use and occupation of the rental premises at a rate of \$53.42 for each day he remains in the rental premises after June 30, 2015. The eviction order will follow under separate cover.

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Adelle Guigon  
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Lease balance statement dated April 30, 2015

Exhibit 2: Applicant's correspondence to respondent dated April 15, 2015

Exhibit 3: Rental officer order number 10-14491 dated April 7, 2015

Exhibit 4: Lease balance statement dated June 23, 2015