

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

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

- and -

CAROL ABRAHAM

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 accumulated as of March 31, 2015, in the amount of \$2,079.15 (two thousand seventy-nine dollars fifteen cents).
2. Pursuant to sections 45(4)(a), 45(4)(b), and 83(2) of the *Residential Tenancies Act*, the respondent must comply with her obligation to report her total household income in accordance with section 6 of her tenancy agreement, must not breach that obligation again, and must report her total household income to the applicant for the months of March to June 2015, by July 31, 2015.

3. Pursuant to sections 41(4)(a) and 83(2) of the *Residential Tenancies Act*, the respondent must pay to the applicant re-assessed rent for the months of April to July 2015 by August 31, 2015.
4. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondent must pay her rent on time in the future.
5. 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 #0010, 63 St. Ann's Street, in Fort Smith, Northwest Territories, will terminate October 31, 2015, unless the respondent has reported her total household income to the applicant for July to September 2015 and the rents for August to October 2015 are paid on time.

DATED at the City of Yellowknife in the Northwest Territories this 17th day of July 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:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

-and-

CAROL ABRAHAM

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REASONS FOR DECISION

<u>Date of the Hearing:</u>	July 14, 2015
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Kevin Mageean, representing the applicant Carol Abraham, respondent Joanne Gauthier, advocate for the respondent
<u>Date of Decision:</u>	July 14, 2015

REASONS FOR DECISION

An application to a rental officer made by Fort Smith Housing Authority as the applicant/landlord against Carol Abraham as the respondent/tenant was filed by the Rental Office April 22, 2015. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit #0010, 63 St. Ann's Street, in Fort Smith, Northwest Territories. The applicant served a copy of the filed application on the respondent by registered mail signed for May 7, 2015.

The applicant alleged the respondent had accumulated rental arrears and remained in occupancy of the rental premises after the tenancy agreement was terminated. An order was sought for payment of rental arrears and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for July 14, 2015, by teleconference. Mr. Kevin Mageean appeared representing the applicant. Ms. Carol Abraham appeared as respondent. Ms. Joanne Gauthier appeared as an advocate for Ms. Abraham.

The parties agreed and acknowledged that a residential tenancy agreement was in place between them for subsidized public housing. Ms. Abraham has been occupying the rental premises known as Unit #0010, 63 St. Ann's Street, in Fort Smith, Northwest Territories, since June 2009.

The parties agreed and acknowledged that Ms. Abraham had been repeatedly late paying the full amount of her rent when due throughout her tenancy, and that all her monthly rents up to and including for March 2015 had been assessed subsidies based on reported household income. The rental arrears accumulated as of March 31, 2015, total \$2,079.15.

The parties agreed and acknowledged that Ms. Abraham had entered into several payment plan agreements directly with the landlord throughout her tenancy which she has not complied with. They also agreed and acknowledged that Ms. Abraham had been given several notices to terminate her tenancy due to the amount of rental arrears, all of which Ms. Abraham successfully appealed to the Fort Smith Housing Authority board or directors, who rescinded the termination notices on the condition that Ms. Abraham enter into a new payment plan agreement.

The last notice was given to Ms. Abraham on January 21, 2015, terminating her tenancy February 28, 2015. Ms. Abraham testified that she responded to that notice the same way she did all the previous notices: by appealing in writing to the board of directors shortly after receiving her notice, as is her right. Unfortunately, Fort Smith Housing Authority staff had just gone on strike leaving one senior staff member to oversee the operation of the office, and it appears the appeal was not forwarded to the board of directors for consideration. Ms. Abraham expected the same procedure to be followed as previously, in that the board of directors would contact her to let her know when to appear before them. She did not pursue the matter when she did not hear from the board, and presumed that the termination had been rescinded again. Ms. Abraham reported her income for February and was assessed a subsidy for March's rent.

When Ms. Abraham was informed that her tenancy agreement had not been reinstated and that she would be assessed the maximum monthly rent going forward she became overwhelmed. She did not report her income again and made no payments against her rent account. When she received the application to a rental officer in May, she sought help from Ms. Gauthier as she did not know where to turn. Ms. Gauthier is a social worker with the Department of Health and Social Services.

Ms. Gauthier testified, with Ms. Abraham's consent, that Ms. Abraham is a 28-year-old mother of five children – the oldest being 12 years old. Ms. Gauthier identified Ms. Abraham as being overwhelmed, embarrassed, and scared about her situation, and that she found it difficult to share the complete picture. She has been trying without guidance or support, until now, to build a foundation for her family. Ms. Abraham is now employed and anticipates being able to pay her monthly rents.

With Ms. Gauthier's help, Ms. Abraham has sought out assistance through various resources. She has received conditional commitment from the Homelessness Assistance Fund to provide up to \$3,000 towards her rental arrears if she is not evicted. She has received a commitment from her children's father to contribute at least \$500 towards Ms. Abraham's rental arrears. Ms. Abraham is expecting a Universal Child Tax payment of \$1,800 that she can put towards her rental arrears. And Fort Smith Social Services has committed to assisting Ms. Abraham with whatever amount of rental arrears remain after the previous commitments are used.

Tenancy agreement

The check-in inspection report submitted into evidence establishes the respondent began her tenancy at the rental premises known as Unit #0010, 63 St. Ann's Street, in Fort Smith, Northwest Territories, on June 30, 2009. The residential tenancy agreement signed by the parties April 1, 2012, establishes the tenancy continued for subsidized public housing, and sets out the maximum monthly rent as \$1,625. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the Act.

Rental arrears

The lease balance statements provided into evidence represent the landlord's accounting of monthly assessed rents and payments made against the respondent's rent account. There was no dispute as to the accuracy of this accounting. I am satisfied the statements accurately reflect the current status of the respondent's rent account.

In concurrence with the testimony provided, the monthly rents up to and including for March 2015 have been assessed subsidies. The payments received against the rent account have been repeatedly late and of insufficient amounts to cover the assessed rents and accumulated arrears. I find the respondent has rental arrears accumulated as of March 31, 2015, in the amount of \$2,079.15 and that the respondent has failed to comply with her obligation to pay the full amount of rent when it is due.

Termination and eviction

The applicant did give the respondent notice to terminate the tenancy effective February 28, 2015, in accordance with section 51(5) of the Act and requested an eviction order in conjunction with the termination of the tenancy. The respondent's repeated failure not only to pay the full amount of her rent when due but also to comply with payment plan agreements she willfully entered into with the landlord throughout the tenancy gives rise to justification to uphold the termination and grant the eviction. However, in consideration of the respondent's particular circumstances and her substantial efforts to access resources to resolve her arrears as quickly as possible give me pause to the justification for evicting the respondent at this time. It seems to me the serious consequences of failing to comply with her obligations is finally settling in. In a community with a zero vacancy rate, with literally nowhere else for a single mother of five

children to go, who has just secured employment, it seems appropriate to permit the respondent the proverbial last chance to prove her ability to provide for her family and comply with her obligations. A conditional termination order will issue. The landlord has leave to apply for an eviction order should the need arise.

Reporting of household income and additional rental arrears

The monthly rents for April to July 2015 have been charged at the maximum amount of \$1,625 each. The respondent acknowledged that she did not report her total household income for March to June 2015 as required by section 6 of her tenancy agreement. The applicant acknowledged that should the respondent report her household income for March to June the rents for April to July would be re-assessed accordingly, likely resulting in a substantial reduction to the total amount of rental arrears. I find the respondent has failed to comply with her obligation to report her total household income. I find that the respondent has additional rental arrears accumulated for the months of April to July 2015, however, an accurate total amount cannot be determined until the household income is reported for March to June 2015. In consideration of the commitments that have been made by various parties to have the respondent's arrears paid, it seems appropriate to me to grant the respondent some time to submit the required documents and pay the arrears.

Order

An order will issue requiring Ms. Carol Abraham to pay rental arrears accumulated as of March 31, 2015, in the amount of \$2,079.15; to comply with her obligation to report household income in accordance with her tenancy agreement, not breach that obligation again, and report her household income for the months of March to June 2015 no later than July 31, 2015; to pay the re-assessed rents for April to July 2015 by August 31, 2015; and terminating her tenancy agreement October 31, 2015, unless the household income is reported for July to September 2015 and the rents are paid on time for August to October 2015.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Lease balance statement dated April 15, 2015
- Exhibit 2: Agreement to pay rental arrears dated September 8, 2014
- Exhibit 3: Page 1 of residential tenancy agreement dated April 1, 2012
- Exhibit 4: Schedule A and Schedule B initialled January 26, 2015
- Exhibit 5: Fixed term lease tenant information dated January 26, 2015
- Exhibit 6: Applicant's correspondence to respondent dated January 21, 2015
- Exhibit 7: Applicant's outstanding rental arrears correspondence to respondent dated December 11, 2014
- Exhibit 8: Applicant's renewal of fixed term lease correspondences to respondent dated: December 19, 2014; October 30, 2014
- Exhibit 9: Residential tenancy agreement dated April 1, 2012
- Exhibit 10: Check-in inspection report dated June 30, 2009
- Exhibit 11: Lease balance statement dated July 13, 2015
- Exhibit 12: Email conversation between Joanne Gauthier, Cheryl Mandeville, Revi Lau-a, Mary Bishop, and Amanda Robinson dated June 29 to July 6, 2015