

IN THE MATTER between **Fort Smith Housing Authority**, Applicant, and **Ashley Phripp and Warren Sikyea**, 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 town of Fort Smith in the Northwest Territories**.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

- and -

ASHLEY PHRIPP and WARREN SIKYEA

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 \$10,084.00 (ten thousand eighty-four dollars).
2. Pursuant to section 41(4)(b) of the *Residential Tenancies Act*, the respondents must pay their 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 0057, 111 Field Street, in Fort Smith, Northwest Territories, will terminate September 30, 2015, unless \$3,000.00 (three thousand dollars) is paid towards the rental arrears and the monthly rents for July to September 2015 are paid on time.

4. Pursuant to section 63(4)(b) and 83(2) of the *Residential Tenancies Act*, if the tenancy agreement terminates September 30, 2015, in accordance with paragraph 3 of this order, the respondents must compensate the applicant for use and occupation of the rental premises at a rate of \$53.42 for each day they remain in the rental premises after September 30, 2015.

DATED at the City of Yellowknife in the Northwest Territories this 10th day of July 2015.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **Fort Smith Housing Authority**, Applicant, and **Ashley Phripp and Warren Sikyea**, 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.

BETWEEN:

FORT SMITH HOUSING AUTHORITY

Applicant/Landlord

-and-

ASHLEY PHRIPP and WARREN SIKYEA

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	June 23, 2015
<u>Place of the Hearing:</u>	Fort Smith, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Kevin Mageean, representing the applicant Ashley Phripp, respondent Warren Sikyea, respondent Diane Porter, DHSS, for the respondents Denise Yuhas, Constituency Assistant, for the respondents
<u>Date of Decision:</u>	June 26, 2015

REASONS FOR DECISION

An application to a rental officer made by Fort Smith Housing Authority as the applicant/landlord against Ashley Phripp and Warren Sikyea as the respondents/tenants 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 Unit 0057, 111 Field Street, in Fort Smith, Northwest Territories. The applicant personally served a copy of the filed application on the respondents May 22, 2015.

The applicant alleged the respondents had repeatedly failed to pay the full amount of rent when due, had failed to pay for cleaning a kitchen appliance, and had accumulated rental arrears. An order was sought for payment of rental arrears, compensation for cleaning costs, termination of the tenancy agreement, 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. Ms. Ashley Phripp and Mr. Warren Sikyea appeared as respondents.

Mr. Mageean testified and provided evidence that the respondents had entered into a tenancy agreement for subsidized public housing on February 5, 2012, taking occupancy of the rental premises known as Unit 0057, 111 Field Street, in Fort Smith, Northwest Territories, on February 6, 2012. The monthly assessed rent is due the first of each month, and the maximum unsubsidized monthly rent is \$1,625.

The respondents have been repeatedly late paying their rent and have accumulated rental arrears to date amounting to \$10,084, representing the rent for June 2014 to June 2015. This amount includes the maximum monthly rent charged for September 2014 and June 2015. Relatively regular payments have been made against the respondents' rent account throughout the tenancy, including the most recent payment of \$160 on May 25, 2015, but the amounts paid have been insufficient to pay the full amounts owing.

Notices have been sent to the respondents regarding the situation and several meetings have taken place with them. Seven payment plan agreements were entered into since April 2014, none of which were successfully honoured. A written notice dated April 23, 2015, was given to the respondents terminating the tenancy May 31, 2015.

The respondents did not dispute the amount of rental arrears alleged, acknowledging their debt and accepting responsibility. They testified that since 2012 there have been extended family difficulties for which they felt obligated to offer financial support they admittedly could not afford. The respondents are a young couple with four children. They have realized their immediate family obligations must come first, and they have taken steps since this application to a rental officer was filed to seek support and resources to resolve their arrears and make the necessary monthly payments to retain their home.

Ms. Diane Porter is a social worker overseeing the Homelessness Assistance Fund (HAF). She attended the hearing in support of the respondents and provided evidence corroborating the respondents' testimony that they have applied for assistance under the HAF. Ms. Porter confirmed that the respondents are eligible for the one-time \$3,000 payment, which would be paid directly to the landlord to be applied against the respondents' rental arrears, on the condition that the respondents could remain in the rental premises. Ms. Porter also confirmed that assistance is being provided to the respondents to seek further assistance through other agencies and resources.

Ms. Denise Yuhas, the constituency assistant for the Thebacha MLA, also attended in support of the respondents. She has had conversations with the respondents regarding their difficulties. Ms. Yuhas spoke in favour of the respondents' recent efforts, to their character, and to their sincere intent to resolve these matters. She expressed assurance that the respondents can continue to work with the landlord.

Tenancy agreement

The residential tenancy agreement entered into evidence establishes a subsidized public housing tenancy between the parties commencing February 6, 2012. The agreement was for a fixed-term to March 31, 2012, after which it was automatically renewed as a monthly tenancy pursuant to section 49(1) of the *Residential Tenancies Act* (the Act). The respondents have continuously occupied the rental premises known as Unit 0057, 111 Field Street, in Fort Smith, Northwest Territories, throughout this tenancy. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the Act.

Rental arrears

The lease balance statement entered into evidence represents the landlord's accounting of monthly assessed rents and payments received against the respondents' rent account. The respondents did not dispute the accuracy of the statement. I am satisfied the statement accurately reflects the current status of the respondents' rent account. I find the respondents have accumulated total rental arrears to date in the amount of \$10,084.

The statement corroborates the undisputed allegations that the respondents have been repeatedly late paying the full amount of their rent on time or pay down their rental arrears. I find the respondents have repeatedly failed to comply with their obligation to pay the full amount of their rent when it is due.

Termination and eviction

No previous rental officer orders have either been applied for or issued against the respondents and although the applicant has given notice to the respondents to terminate their tenancy agreement May 31, 2015, in accordance with section 51(5) of the Act, and they have not formally rescinded that termination, I am not satisfied that an unconditional eviction order is justified. The tenants have clearly made recent efforts and taken steps to access resources to resolve their rental arrears. Further, the respondents have testified that they understand the situation they are in and have offered explanations for how they got to this point, acknowledging the necessity to prioritize their own obligations over others' needs.

The payment of the monthly rent has been repeatedly late during the term of the tenancy and the rental arrears have accumulated to a significant amount, which certainly explains the landlord's rationale for terminating the tenancy. In consideration of the tenants' historical pattern of behaviour and their recent efforts to resolve matters, I am satisfied a conditional termination and eviction order is justified.

An order will issue requiring Ms. Ashley Phripp and Mr. Warren Sikyea to pay rental arrears in the amount of \$10,084; to pay their future rent on time; terminating their tenancy agreement September 30, 2015, unless \$3,000 is paid towards their rental arrears and the rents for July to September 2015 are paid on time; evicting them from the rental premises October 1, 2015, if the termination of the tenancy becomes effective; and to compensate the applicant at a rate of \$53.42 for each day they remain in the rental premises after September 30, 2015, if the tenancy terminates that day. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

- Exhibit 1: Lease balance statement dated May 4, 2015
- Exhibit 2: Residential tenancy agreement dated April 1, 2012 - not signed by either party
- Exhibit 3: Applicant's correspondence to respondents dated April 23, 2015
- Exhibit 4: Agreement to pay rental arrears signed by parties January 27, 2015
- Exhibit 5: Copy of receipts number 20299, 20310, and 20311
- Exhibit 6: Respondents' correspondence to applicant dated January 26, 2015
- Exhibit 7: Applicant's correspondence to respondents dated January 21, 2015
- Exhibit 8: Tenant check-in report completed February 6, 2012
- Exhibit 9: Lease balance statement dated June 23, 2015
- Exhibit 10: Applicant's correspondence to respondents dated June 1, 2015
- Exhibit 11: Email from Jessie Carriere to Erin Shea dated May 28, 2015
- Exhibit 12: Email conversations between Amanda Robinson, Erin Shea, and aphripp@outlook.com dated May 26, 2015
- Exhibit 13: Respondents' written submission
- Exhibit 14: Homelessness Assistance Housing Stabilization Plan dated June 11, 2015
- Exhibit 15: Residential tenancy agreement dated April 1, 2012 (unsigned)
- Exhibit 16: Applicant's correspondences to respondents dated January 21, 2015; December 19, 2014; December 18, 2014; December 17, 2014; May 29, 2012; June 4, 2012
- Exhibit 17: Pages 1, 6, and 7 of residential tenancy agreement dated April 1, 2012
- Exhibit 18: Residential tenancy agreement dated February 5, 2012 (signed)