

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Denise Simpson and Anthony Wetrade**, 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 community of Whati in the Northwest Territories**.

BETWEEN:

NWT HOUSING CORPORATION

Applicant/Landlord

- and -

DENISE SIMPSON and ANTHONY WETRADE

Respondents/Tenants

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to sections 84(3), 41(4)(a), and 67(4) of the *Residential Tenancies Act*, paragraph 1 of rental officer order number 10-14182 is rescinded, and the respondents must pay to the applicant rental arrears and overholding rent in the total amount of \$16,909.00 (sixteen thousand nine hundred nine dollars).
2. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, the respondents must compensate the applicant for use and occupation of the rental premises known as Unit 908 in Whati, Northwest Territories, at a rate of \$50.79 (fifty dollars seventy-nine cents) for each day they remain in the rental premises after July 31, 2015.

DATED at the City of Yellowknife in the Northwest Territories this 16th day of July 2015.

Adelle Guigon
Deputy Rental Officer

IN THE MATTER between **NWT Housing Corporation**, Applicant, and **Denise Simpson and Anthony Wetrade**, 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:

NWT HOUSING CORPORATION

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-and-

DENISE SIMPSON and ANTHONY WETRADE

Respondents/Tenants

REASONS FOR DECISION

<u>Date of the Hearing:</u>	July 16, 2015
<u>Place of the Hearing:</u>	Yellowknife, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Jerry Vanhantsaeme, representing the applicant Terry Fisher, representing the applicant Madeline Pasquayak, Dogrib interpreter
<u>Date of Decision:</u>	July 16, 2015

REASONS FOR DECISION

An application to a rental officer made by NWT Housing Corporation as the applicant/landlord against Denise Simpson and Anthony Wetrade as the respondents/tenants was filed by the Rental Office May 13, 2015. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit 908 in Whati, Northwest Territories. The applicant personally served a copy of the filed application on the respondents June 2, 2015.

The applicant alleged the respondents had failed to comply with a rental officer order, had accumulated additional rental arrears, and have remained in occupancy of the rental premises after the tenancy 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 16, 2015, by teleconference. Ms. Terry Fisher and Mr. Jerry Vanhantsaeme appeared representing the applicant. Ms. Denise Simpson and Mr. Anthony Wetrade were served notices of attendance by registered mail deemed served June 26, 2015, pursuant to section 71(5) of the *Residential Tenancies Act* (the Act), verbally by telephone by me on July 6 and 13, 2015, and by facsimile on July 13, 2015, at a number provided by Ms. Simpson. Neither Ms. Simpson nor Mr. Wetrade appeared at hearing, nor did anyone appear on their behalf. The hearing proceeded in their absence pursuant to section 80(2) of the Act. Ms. Madeline Pasquayak appeared as Dogrib interpreter for the respondents; as a consequence of the respondents' absence, Ms. Pasquayak was excused.

The applicant testified to and provided evidence that the respondents were bound to the conditions of rental officer order number 10-14182. That order and reasons recognized the subsidized public housing residential tenancy agreement between the parties commencing May 1, 2006, and that the maximum monthly rent for the rental premises is \$1,545. Ms. Simpson and Mr. Wetrade were present at the hearing for that order held September 24, 2014, and at that time acknowledged understanding the findings and orders of the presiding rental officer.

Rental officer order number 10-14182 required the respondents to pay rental arrears of \$39,499 in minimum monthly installments of \$50 starting in October 2014; required the respondents to pay their future rent on time; required the respondents to comply with their obligation to report total household income as required by their tenancy agreement and to report their household income for the months of December 2013 and April to October 2014 no later than October 31, 2014; and terminated their tenancy agreement March 31, 2015, unless the household income was reported for November 2014 to March 2015, and the minimum monthly installments and rents for October 2014 to March 2015 were paid on time.

The respondents did report their income for the months of December 2013 and April to November 2014, and made two payments since the September 2014 hearing date totalling \$475, which combined substantially reduced the amount of rental arrears as of December 2014 to \$6,094. However, the respondents failed to report any further household income to date and have made no additional payments against their rent account. Attempts to communicate with the respondents about the matter, including a hand-delivered letter dated February 2, 2015, were unsuccessful. The maximum monthly rent was charged for the months of January to March 2015. The tenancy agreement effectively ended March 31, 2015, in accordance with rental officer order number 10-14182.

The respondents did not vacate the rental premises on or before March 31, 2015. A letter dated May 12, 2015, was hand delivered to the respondents confirming the termination of their tenancy agreement as of March 31, 2015, and requesting the respondents move out of the rental premises by June 15, 2015. They remain in occupancy of the rental premises to date as overholding tenants. The maximum monthly rent amount has been applied to the respondents' rent account for the months of April to July 2015. The rental arrears and overholding rent owing have accumulated to the total amount of \$16,909.

As a consequence of the respondents' failure to comply with the rental officer order, failure to report their household income, failure to pay their rent on time, and failure to vacate the rental premises, the applicant requested an order to pay the total rental arrears and an expedited eviction date.

Tenancy agreement

The residential tenancy agreement for subsidized public housing was previously established at the hearing for rental office file number 10-14182.

Rental arrears, minimum monthly installments, and reporting of household income

The lease balance statements and invoice spreadsheet entered into evidence represent the landlord's accounting of monthly assessed rent and payments received against the respondents' rent account. I am satisfied these documents accurately represent the current status of the respondents' rent account.

The statements corroborate the applicant's testimony that the respondents did report their household income for all months up to and including November 2014 and as such the rents for all months up to and including December 2014 have been subsidized. The statements also corroborate the applicant's testimony that the respondents have not reported their household income for all months including and since December 2014 and as such the rents for January to March have been assessed the maximum monthly rent of \$1,545. I find the respondents have accumulated rental arrears as of March 31, 2015, in the amount of \$10,729.

Paragraphs 1, 2, and 3 of rental officer order number 10-14182 require the respondents to pay minimum monthly installments of \$50 towards their rental arrears, to pay their future rent on time, and to report their household income in accordance with their tenancy agreement. It was established at the hearing for that order the household income reports were required on a monthly basis and the rent is due the first of each month. The last payment received on the respondents' rent account was made by ECE on their behalf November 3, 2014, in the amount of \$25. The last payment received directly from the respondents was made October 22, 2014, in the amount of \$450. I find the respondents have failed to comply with an order of the rental officer by failing to pay their minimum monthly installments, failing to pay their monthly rent on time, and failing to comply with their obligation to report household income on a monthly basis.

Termination of the tenancy agreement, overholding rent, and eviction

Paragraph 4 of rental officer order number 10-14182 (identified on the order as paragraph 3), terminated the tenancy agreement between the parties on March 31, 2015, unless the household income for November 2014 to March 2015 was reported, and the minimum monthly installments and rents for October 2014 to March 2015 were paid on time. Having found the respondents have failed to report their household income and make the required payments, I am satisfied the tenancy agreement was terminated March 31, 2015, in accordance with rental officer order number 10-14182.

The applicant confirmed the respondents remain in occupancy of the rental premises to date. As the tenancy agreement is terminated the respondents are no longer eligible for subsidized rent, and at any rate have not reported their household income from which any subsidy would be calculated. Their continued occupancy of the rental premises defines the respondents as overholding tenants. The application of the maximum monthly rent for the months of April to July 2015 is appropriate. I find the respondents have overholding rental arrears accumulated since April 1, 2015, in the amount of \$6,180.

The respondents continued occupancy of the rental premises after it was terminated in accordance with a rental officer order, even after being given additional time by written notice to vacate the rental premises, indicates to me the justification for an eviction order.

Order

An order will issue rescinding paragraph 1 of rental officer order number 10-14182 and requiring the respondents to pay rental arrears and overholding rent in the total amount of \$16,909; requiring the respondents to compensate the applicant for use and occupation of the rental premises at a rate of \$50.79 for each day they remain in the rental premises after July 31, 2015; and evicting the respondents from the rental premises on August 1, 2015. The eviction order will follow under separate cover.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Applicant's correspondences to respondents dated: May 12, 2015; February 2, 2015

Exhibit 2: Lease balance statement dated May 12, 2015

Exhibit 3: Rental officer order and reasons number 10-14182 dated October 3, 2014

Exhibit 4: Invoice spreadsheet statement of account for rent from July 1, 2008, to July 1, 2015