

IN THE MATTER between **Fort Resolution Housing Authority**, Applicant, and  
**Charity Miersch**, 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 **hamlet of Fort Resolution in the  
Northwest Territories**.

BETWEEN:

**FORT RESOLUTION HOUSING AUTHORITY**

Applicant/Landlord

- and -

**CHARITY MIERSCH**

Respondent/Tenant

**ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to sections 84(3) and 41(4)(a) of the *Residential Tenancies Act*, paragraph 1 of rental officer order number 10-14393 is rescinded, and the respondent must pay to the applicant rental arrears in the total amount of \$8,478.00 (eight thousand four hundred seventy-eight dollars).
2. Pursuant to sections 41(4)(c) and 45(4)(e) of the *Residential Tenancies Act*, the tenancy agreement between the parties for the rental premises known as House #925A, Lot 0019-07, Plan 2343, in Fort Resolution, Northwest Territories, will terminate July 31, 2015, and the respondent must vacate the rental premises on or before that day.

3. 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 known as House #925A, Lot 0019-07, Plan 2343, in Fort Resolution, Northwest Territories, at a rate of \$50.79 (fifty dollars seventy-nine cents) for each day she remains in the rental premises after July 31, 2015.

DATED at the City of Yellowknife in the Northwest Territories this 14th day of July 2015.

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Adelle Guigon  
Deputy Rental Officer

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BETWEEN:

**FORT RESOLUTION HOUSING AUTHORITY**

Applicant/Landlord

-and-

**CHARITY MIERSCH**

Respondent/Tenant

**REASONS FOR DECISION**

<b><u>Date of the Hearing:</u></b>	<b>July 14, 2015</b>
<b><u>Place of the Hearing:</u></b>	<b>Fort Resolution, Northwest Territories, by teleconference</b>
<b><u>Appearances at Hearing:</u></b>	<b>Elizabeth-Ann McKay, representing the applicant</b>
<b><u>Date of Decision:</u></b>	<b>July 14, 2015</b>

### **REASONS FOR DECISION**

An application to a rental officer made by Fort Resolution Housing Authority as the applicant/landlord against Charity Miersch as the respondent/tenant was filed by the Rental Office May 19, 2015. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as House #925A, Lot 0019-07, Plan 2343, in Fort Resolution, Northwest Territories. The applicant served a copy of the filed application on the respondent by registered mail signed for June 8, 2015.

The applicant alleged the respondent had failed to comply with a rental officer order, had failed to report household income, had failed to pay the full amount of rent when due, and had accumulated rental arrears. An order was sought for payment of rental arrears in full, termination of the tenancy agreement, and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for July 14, 2015, in Fort Resolution, Northwest Territories. Ms. Elizabeth-Ann McKay appeared representing the applicant. Ms. Charity Miersch was served a notice of attendance by registered mail signed for June 30, 2015. Ms. Miersch did not appear at hearing, nor did anyone appear on her behalf. The hearing proceeded in her absence pursuant to section 80(2) of the *Residential Tenancies Act* (the Act).

Ms. McKay testified and provided evidence that Ms. Miersch has been a tenant in subsidized public housing since April 1, 2014. At a hearing before a rental officer on December 11, 2014, at which Ms. Miersch was present, she was found to be in breach of her obligations to pay rent and report her household income as required by her tenancy agreement; an order issued requiring Ms. Miersch to pay her rental arrears in minimum monthly installments of \$25 starting in January 2015, to pay her future rent on time, and to report her household income in accordance with her tenancy agreement.

The last payment received directly from Ms. Miersch was received on February 27, 2015, in the amount of \$75. The rent and minimum monthly installments for January and February were paid, albeit late for both months. An additional payment was received from Income Support against Ms. Miersch's rent account on April 20, 2015, in the amount of \$150.

Ms. Miersch did report income for months outstanding prior to and for December 2014 and January 2015, and her rent for all months up to and including March 2015 were accordingly assessed subsidies. She failed to report her household income for March to June 2015 and as such has been assessed the maximum monthly rent of \$1,545 for April to July 2015.

Ms. McKay reported that Ms. Miersch has been given written notices over the last several months reminding her of her obligations and notifying her of the accumulated arrears. Ms. Miersch has made no efforts to respond to the notices and made no effort to communicate with her landlord. Ms. McKay confirmed that to her knowledge Ms. Miersch remains in occupancy of the rental premises.

#### *Tenancy agreement*

The residential tenancy agreement entered into evidence establishes a subsidized public housing tenancy between the parties commencing April 1, 2014. I am satisfied a valid tenancy agreement is in place between the parties in accordance with the Act.

#### *Rental arrears and reporting of household income*

The lease balance statement and tenant ledger cards entered into evidence represent the landlord's accounting of monthly assessed rents and payments received against the respondent's rent account. I am satisfied these documents accurately reflect the current status of the respondent's rent account.

Section 6 of the tenancy agreement requires the tenant to report total household income whenever and as often as required by the landlord. The applicant confirmed the reporting of income is required on a monthly basis. The applicant testified that the respondent failed to report income for the months of March to June 2015 and this is corroborated by the application of the maximum monthly rent for April to July 2015. I am satisfied the respondent has failed to report her income for the months of March to June 2015 and find that she has failed to comply with her obligation to do so pursuant to section 6 of the tenancy agreement. Section 7 of the tenancy agreement specifies a tenant's eligibility for rent subsidy is dependent on their compliance with the terms of the tenancy agreement. I am satisfied that by failing to comply with section 6 of the tenancy agreement the respondent is not eligible for a rent subsidy for the months of April to July 2015, and the application of the maximum monthly rent of \$1,545 for those months is appropriate.

The lease balance statement indicates the last payment received against the respondent's account was made by Income Support on April 20, 2015, in the amount of \$150 and the last payment made by the respondent was on February 27, 2015, in the amount of \$75. Section 7 and Schedule A of the tenancy agreement specify the rent is payable the first of every month. Based on the lease balance statement, I am satisfied the respondent has failed to pay the full amount of her rent when due and find that she has accumulated rental arrears in the amount of \$8,478.

*Compliance with rental officer order, termination, and eviction*

Rental officer order number 10-14393 dated January 6, 2015, required the respondent to pay rental arrears in minimum monthly installments of \$25 starting January 1, 2015, to pay her future rent on time, and to comply with her obligation to report household income in accordance with her tenancy agreement and not to breach that obligation again.

Having found the respondent has failed to make any payments since February 2015, I am satisfied she has failed to comply with paragraphs 1 and 2 of the rental officer order. Having found the respondent has failed to report her household income since March 2015, I am satisfied she has failed to comply with paragraph 3 of the rental officer order.

Having heard the respondent has made no efforts to communicate with the landlord respecting her obligations since February 2015, including to resolve her arrears and comply with the rental officer order, and in considering the substantial amount of rental arrears, I am satisfied termination of the tenancy agreement and eviction are justified.

*Order*

An order will issue rescinding paragraph 1 of rental officer order number 10-14393 and requiring Ms. Charity Miersch to pay rental arrears in the total amount of \$8,478. An order will also issue terminating Ms. Miersch's tenancy agreement on July 31, 2015; evicting her from the rental premises on August 1, 2015; and requiring her to compensate the landlord for use and occupation of the rental premises at a rate of \$50.79 for each day she remains there after July 31, 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 May 12, 2015

Exhibit 2: Agreements to pay rental arrears signed: January 15, 2015; April 29, 2013

Exhibit 3: Residential tenancy agreement dated April 1, 2014

Exhibit 4: Respondent's acknowledgement of responsibility to comply with promissory note dated April 26, 2013

Exhibit 5: Lease balance statement dated July 13, 2015

Exhibit 6: Tenant ledger card for rent from April 1 to July 1, 2015