

IN THE MATTER between **Northwest Territories Housing Corporation**, Applicant,  
and **Karan Nitsiza and Robert Grandjambe**, 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:

**NORTHWEST TERRITORIES HOUSING CORPORATION**

Applicant/Landlord

- and -

**KARAN NITSIZA and ROBERT GRANDJAMBE**

Respondents/Tenants

**ORDER and EVICTION ORDER**

IT IS HEREBY ORDERED:

1. Pursuant to section 41(4)(a) of the *Residential Tenancies Act*, Karan Nitsiza must pay to the applicant rental arrears in the amount of \$46,598.00 (forty-six thousand five hundred ninety-eight dollars).
2. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, Karan Nitsiza must comply with her obligation to report total household income for the months of March to September 2015 in accordance with section 6 of the tenancy agreement.
3. Pursuant to section 41(4)© of the *Residential Tenancies Act*, the tenancy agreement between Northwest Territories Housing Corporation and Karan Nitsiza will terminate October 31, 2015, and the respondents must vacate the rental premises on or before that date.

4. Pursuant to section 63(4)(a) of the *Residential Tenancies Act*, the respondents will be evicted from the rental premises known as Unit 1108 in Whati, Northwest Territories, on November 1, 2015.
5. Pursuant to section 63(4)(b) of the *Residential Tenancies Act*, Karan Nitsiza must compensate the applicant for use and occupation of the rental premises at a rate of \$50.79 for each day the respondents remain in the rental premises after October 31, 2015.

DATED at the City of Yellowknife in the Northwest Territories this 2nd day of October 2015.

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Adelle Guigon  
Deputy Rental Officer

IN THE MATTER between **Northwest Territories Housing Corporation**, Applicant,  
and **Karan Nitsiza and Robert Grandjambe**, 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:

**NORTHWEST TERRITORIES HOUSING CORPORATION**

Applicant/Landlord

-and-

**KARAN NITSIZA and ROBERT GRANDJAMBE**

Respondents/Tenants

**REASONS FOR DECISION**

|                                       |  |
|---------------------------------------|--|
| <b><u>Date of the Hearing:</u></b>    | <b>September 30, 2015</b>  |
| <b><u>Place of the Hearing:</u></b>   | <b>Yellowknife, Northwest Territories, by teleconference</b>   |
| <b><u>Appearances at Hearing:</u></b> | <b>Michael Keohane, representing the applicant<br/>Karan Nitsiza, respondent<br/>Robert Grandjambe, respondent</b> |
| <b><u>Date of Decision:</u></b>       | <b>September 30, 2015</b>  |

### **REASONS FOR DECISION**

An application to a rental officer made by Northwest Territories Housing Corporation as the applicant/landlord against Karan Nitsiza and Robert Grandjambe as the respondents/tenants was filed by the Rental Office June 26, 2015. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as Unit 1108 in Whati, Northwest Territories. The applicant personally served a copy of the filed application on the respondents August 21, 2015.

The applicant alleged the respondents had accumulated significant rental arrears and had repeatedly failed to report household income as required. An order was sought for payment of the rental arrears, termination of the tenancy agreement, and eviction. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for September 30, 2015, by teleconference. Mr. Michael Keohane appeared representing the applicant. Ms. Karan Nitsiza and Mr. Robert Grandjambe appeared as respondents.

#### *Tenancy agreement*

The applicant and respondents agreed and evidence was provided establishing a tenancy agreement for subsidized public housing in Whati, Northwest Territories. The written residential tenancy agreements provided into evidence reflect 25 separate agreements for occupancy which started May 1, 2002. Although all the tenancy agreements named both respondents as tenants on page 1, not all of them have both respondents' signatures: 15 of the agreements were signed by both parties, creating joint tenancy agreements; 7 of the agreements were signed by Karan Nitsiza, creating sole tenancy agreements; and 3 of the agreements were signed by Robert Grandjambe, creating sole tenancy agreements.

Section 9(3) of the *Residential Tenancies Act* (the Act) states that a written agreement is not binding unless signed by all parties. Section 9(4) of the Act says a tenancy agreement is deemed to be in writing where one party has signed it, given it to the other party, and the tenant is permitted to take occupancy of the rental premises. Section 11(1) of the Act requires copies of the tenancy agreement signed by all parties to be provided to all parties. In essence, for a party to be held responsible for the terms of a written tenancy agreement they must have signed it. There are provisions in the Act that recognized an oral or implied tenancy agreement, but where there is a written tenancy agreement the written agreement prevails.

Section 49(1) of the Act says a fixed-term tenancy agreement is automatically renewed as a monthly tenancy at the end of the fixed-term unless the parties enter into a new tenancy agreement. Which means a written tenancy agreement is ended when a new written tenancy agreement is signed. In this case, every time a new written tenancy agreement was signed differently than the previous one, it created a new tenancy. The tenancy agreements between May 2002 and February 2011 alternated between joint tenancies and sole tenancies nine times. The written tenancy agreement ending January 31, 2011, was a joint tenancy agreement. The written tenancy agreement starting February 1, 2011, was a sole tenancy agreement with Karan Nitsiza. The three written tenancy agreements subsequent to the February 2011 agreement were also sole tenancy agreements with Karan Nitsiza. The sole tenancy agreement with Karan Nitsiza was automatically renewed as a monthly tenancy pursuant to section 49(1) of the Act as of January 1, 2013. I am prepared to accept that the sole tenancy with Karan Nitsiza commencing February 1, 2011, has been continuous to date.

#### *Time for making an application*

Section 68(1) of the Act requires an application to be made within six months of the end of a tenancy. As described above, the current tenancy agreement commenced February 1, 2011. In their application, the landlord is claiming rental arrears accumulated since before the current tenancy agreement commenced. The previous joint tenancy agreement ended January 31, 2011 – four years and five months ago. The landlord had more than sufficient time to make application for the rental arrears accumulated during the previous tenancy before now. In my opinion it would not be fair to extend the time for making an application pursuant to section 68(3) of the Act with respect to the tenancies prior to February 2011.

*Reporting of household income*

Section 45(1) of the Act requires a tenant to comply with additional obligations undertaken in a written tenancy agreement. Section 7 of the written tenancy agreement identifies the tenancy as one for subsidized public housing. Section 6 of the written tenancy agreement requires the tenant to report her total household income whenever and as often as required by the landlord. The household income reports are required for the landlord to calculate any subsidies for which the tenant might be eligible. A given month's rent is assessed a subsidy based on the reported household income for the month before. There was no dispute at hearing that the household income reports were required and expected monthly.

The rent account invoice entered into evidence reflected the maximum monthly rent of \$1,545 for the months of April to September 2015. Mr. Keohane confirmed these amounts were applied because the tenant had not reported her household income for the months of March to August 2015. He advised that should Ms. Nitsiza report her total household income for the outstanding months the rents for April to September would be re-assessed for eligible subsidies and slightly reduce the amount of rental arrears. However, he argued, Ms. Nitsiza has not reported her total household income for those periods and is in breach of section 6 of the tenancy agreement. Ms. Nitsiza did not dispute that she has failed to report her total household income for the months of March to August 2015. I find Ms. Nitsiza has failed to comply with section 6 of her tenancy agreement and section 45(1) of the Act. In consideration of the household income report for September being due tomorrow, an order will issue requiring her to report her total household income for the months of March to September 2015.

*Rental arrears*

Mr. Keohane testified and provided evidence of rental arrears accumulated since May 2002. Having already determined that the only tenancy eligible for hearing today is the sole tenancy with Ms. Nitsiza commencing February 1, 2011, I will not be considering rental arrears accumulated prior to February 1, 2011.

Based on the rent account invoice provided, the rental arrears accumulated since February 1, 2011, amount to \$46,598. All rents prior to April 2015 have been assessed a subsidy based on reported household income. Ms. Nitsiza did not dispute the amount of rental arrears claimed. I find Ms. Nitsiza has accumulated rental arrears in the amount of \$46,598.

*Termination of the tenancy agreement and eviction*

Since February 2011, one payment has been made against the rent account in the amount of \$300 on April 9, 2015. No efforts were made by the tenants to resolve their arrears. Several meetings were held between the landlord and tenant to counsel the tenant on her responsibilities and consequences for failing to comply. Recent efforts to establish an automatic withdrawal payment plan were not successful from the outset.

Ms. Nitsiza testified that they were unable to make any payments for rent because they had to pay for food and other bills. Ms. Nitsiza testified that they were working on being able to pay and that she just started an application for income support. When asked, she admitted they have been unable to get income support before. In light of all their rents prior to April 2015 being subsidized, I am not satisfied the respondents did not have the means to make any payments against their rent. Nor am I satisfied that Ms. Nitsiza has a stable plan for either resolving the substantial amount of rental arrears or meeting future rent obligations.

Ms. Nitsiza has repeatedly failed to pay the full amount of rent when due throughout her tenancy, and she has failed to offer a satisfactory resolution to the significant amount rental arrears that she has accumulated. In my opinion, to permit her to continue her tenancy would only result in further increases to the amount of rental arrears accumulated. I find termination of the tenancy agreement and eviction justified under the circumstances, and an order will issue terminating the tenancy on October 31, 2015, evicting the respondents November 1, 2015, and requiring Ms. Nitsiza to compensate the applicant for use and occupation of the rental premises at a rate of \$50.79 for each day the respondents remain in the rental premises after October 31, 2015.

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Adelle Guigon  
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Invoice for rent from January 1, 2008, to June 1, 2015

Exhibit 2: Lease balance statement for rent from April 1, 2012, to May 5, 2015

Exhibit 3: Statements of account for rent from March 31, 2005, to March 1, 2012

Exhibit 4: Applicant's correspondences to respondents dated: June 12, 2015; May 18, 2015; May 11, 2015; February 2, 2015; May 27, 2014; March 3, 2014; February 7, 2014; February 21, 2012; October 18, 2011; January 14, 2009; December 23, 2008; October 30, 2008; September 15, 2008; September 22, 2008; July 31, 2008; March 26, 2008; December 20, 2007; December 4, 2007; November 28, 2007; November 13, 2007; November 2, 2007; September 24, 2007; August 9, 2007; July 26, 2007; May 4, 2007; May 24, 2007; April 4, 2007; February 2, 2007; December 21, 2006; March 22, 2006; December 5, 2006; January 9, 2003; January 27, 2003; May 23, 2002

Exhibit 5: Residential tenancy agreements dated: May 15, 2002; March 13, 2006; October 2, 2006; December 19, 2006; February 1, 2007; March 20, 2007; August 9, 2007; September 21, 2007; November 2, 2007; November 29, 2007; December 4, 2007; February 21, 2008; April 1, 2008; July 1, 2008; October 29, 2008; April 1, 2009; July 1, 2009; October 2, 2009; January 1, 2010; October 25, 2010; February 20, 2011; April 8, 2011; July 12, 2011; October 17, 2012

Exhibit 6: Account invoice for rent from January 1, 2008, to September 1, 2015