

IN THE MATTER between **Northwest Territories Housing Corporation**, Applicant,
and **Pamela Horesay**, 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 Hay River in the Northwest Territories**.

BETWEEN:

NORTHWEST TERRITORIES HOUSING CORPORATION

Applicant/Landlord

- and -

PAMELA HORESAY

Respondent/Tenant

ORDER and EVICTION ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(e) of the *Residential Tenancies Act*, the tenancy agreement between the parties will terminate December 15, 2015, and the respondent must vacate the rental premises on or before that date.
2. Pursuant to section 63(4)(a) of the *Residential Tenancies Act*, the respondent will be evicted from the rental premises known as 34 Stewart Drive in Hay River, Northwest Territories, on December 16, 2015.

DATED at the City of Yellowknife in the Northwest Territories this 13th day of
November 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
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REASONS FOR DECISION

<u>Date of the Hearing:</u>	November 4, 2015
<u>Place of the Hearing:</u>	Hay River, Northwest Territories, by teleconference
<u>Appearances at Hearing:</u>	Adam Swanson, representing the applicant Pamela Horesay, respondent
<u>Date of Decision:</u>	November 10, 2015

REASONS FOR DECISION

The application to a rental officer made by Hay River Housing Authority as the applicant/landlord against Pamela Horesay as the respondent/tenant was filed by the Rental Office September 16, 2015. The application was made regarding a subsidized public housing residential tenancy agreement for the rental premises known as 34 Stewart Drive in Hay River, Northwest Territories. The applicant personally served a copy of the filed application on the respondent September 25, 2015.

The applicant alleged the respondent failed to comply with a transfer to a more suitable public housing unit and an order was sought to terminate the tenancy agreement and evict the tenant. Evidence submitted is listed in Appendix A attached to this order.

A hearing was scheduled for November 4, 2015, in Hay River, Northwest Territories. Mr. Adam Swanson appeared representing the applicant. Ms. Pamela Horesay appeared as respondent.

Preliminary matters

The application to a rental officer identified the landlord as Hay River Housing Authority. The written tenancy agreement identified the landlord as Northwest Territories Housing Corporation with Hay River Housing Authority as its agent. Mr. Swanson agreed the application should appropriately identify Northwest Territories Housing Corporation as the landlord. Going forward, the application and style of cause are amended to reflect Northwest Territories Housing Corporation as the landlord.

Tenancy agreement

The parties agreed and a copy of the written tenancy agreement was entered into evidence establishing a tenancy agreement between them for subsidized public housing commencing December 1, 2012. The rental premises was identified as 34 Stewart Drive in Hay River, Northwest Territories. I am satisfied a valid tenancy agreement for subsidized public housing is in place between the parties in accordance with the Act.

Reallocation transfer to other premises

Section 3 of the tenancy agreement specifies that the tenant agrees to accept a transfer to other premises when, in the landlord's opinion, the premises are no longer suitable. The current rental premises occupied by the respondent is a three-bedroom unit. The only occupants in the unit are the respondent and her six-year-old daughter. The landlord re-assessed the respondent's premises eligibility based on number of persons occupying the rental premises and other available units, and determined the three-bedroom unit was not suitable for her. On July 22, 2015, the landlord notified the respondent of her current over-housed status and that she was being allocated a transfer to a two-bedroom unit located at 73B Stewart Drive effective September 1, 2015. She was asked to make the necessary preparations in anticipation of the move.

The respondent told the landlord she did not want to move, citing medical concerns for her daughter. She was not able to provide or obtain any written medical certification against changing residences. She did not prepare for the move and remains in occupancy of 34 Stewart Drive. The respondent argued against moving from the three-bedroom unit to the two-bedroom, claiming it would be traumatic for her daughter, who suffers from ADHD and FASD and related developmental issues. There are no physical disabilities. The respondent further argued that the two-bedroom unit and property are too small, and too far away from her daughter's school; she does not have a vehicle and the extra distance would result in an additional 40-minute walk for her and her daughter.

Mr. Swanson countered the respondent's arguments, stating that the difference in square footage between the two properties was negligible at best, and the two-bedroom unit in fact included a full basement where the three-bedroom unit did not. Additionally, the two-bedroom unit was in fact only 1.5 blocks away from the three-bedroom unit, which would not create as significant an increase to the respondent's walking time as she's suggesting.

The respondent then suggested that her adult son had just moved back in with her on November 2nd, which would make her again eligible for the three-bedroom unit. However, she and her son had not yet attended the landlord's office to add him as an occupant to the tenancy agreement, which is a requirement to establish suitability for the three-bedroom unit. She was unable to confirm her son's long-term commitment to residing with her. Mr. Swanson expressed concern that the respondent's son would not reside with her for any reasonable period of time within which to cancel the reallocation of units, and that the respondent consequentially would end up in the same position of facing a transfer to a two-bedroom unit. He additionally pointed out that there is a significant wait list for families requiring a three-bedroom unit.

I agreed to give the respondent's son an opportunity to contact me in order to satisfy me of his long-term intentions with respect to residing with his mother, and gave him until end of day Friday, November 6, 2015, to make that contact; the respondent was to notify her son to contact me in this regard. By Tuesday, November 10, 2015, I had not received any communication from the respondent's son. I then confirmed with Mr. Swanson that he had not heard from either the respondent or her son since the hearing date.

I am not satisfied the respondent has effectively changed the occupancy status of her current premises. I am satisfied that the landlord has appropriately applied the terms of section 3 of the tenancy agreement to the respondent's familial situation. I find the respondent has failed to comply with the requirement to transfer units, and that termination of the tenancy agreement and eviction are justified under the circumstances.

Order

An order will issue terminating the respondent's tenancy agreement on December 15, 2015, requiring her to vacate 34 Stewart Drive in Hay River, Northwest Territories, on or before that date, and evicting her from that rental premises on December 16, 2015.

Adelle Guigon
Deputy Rental Officer

APPENDIX A

Exhibits

Exhibit 1: Applicant's statement of facts

Exhibit 2: Signed residential tenancy agreement dated December 1, 2012

Exhibit 3: Applicant's notes to file dated: September 1, 2015; August 19, 2015; August 18, 2015; July 22, 2015

Exhibit 4: Applicant's correspondence to respondent dated July 22, 2015