

IN THE MATTER between **FORT SIMPSON HOUSING AUTHORITY (ON BEHALF OF THE NWTHC)**, Applicant, and **WALTER MCPHERSON**, 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, **HAL LOGSDON**, Rental Officer, regarding the rental premises at **FORT SIMPSON, NT**.

BETWEEN:

FORT SIMPSON HOUSING AUTHORITY (ON BEHALF OF THE NWTHC)

Applicant/Landlord

- and -

WALTER MCPHERSON

Respondent/Tenant

ORDER

IT IS HEREBY ORDERED:

1. Pursuant to section 45(4)(a) of the *Residential Tenancies Act*, the respondent shall report the household income for the month of July, 2015 in accordance with the tenancy agreement.

DATED at the City of Yellowknife, in the Northwest Territories this 15th day of December, 2015.

Hal Logsdon
Rental Officer

IN THE MATTER between **FORT SIMPSON HOUSING AUTHORITY (ON BEHALF OF THE NWTHC)**, Applicant, and **WALTER MCPHERSON**, 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 **Hal Logsdon**, Rental Officer.

BETWEEN:

FORT SIMPSON HOUSING AUTHORITY (ON BEHALF OF THE NWTHC)

Applicant/Landlord

-and-

WALTER MCPHERSON

Respondent/Tenant

REASONS FOR DECISION

Date of the Hearing: December 3, 2015

Place of the Hearing: Yellowknife, NT via teleconference

Appearances at Hearing: Hilda Gerlock, representing the applicant

Date of Decision: December 10, 2015

REASONS FOR DECISION

The respondent was served with a Notice of Attendance sent by registered mail and confirmed delivered. The respondent failed to appear at the hearing and the hearing was held in his absence.

The applicant alleged that the respondent had breached the tenancy agreement by failing to pay rent. The applicant sought an order requiring the respondent to pay the alleged rent arrears and terminating the tenancy agreement and evicting the respondent. The premises are subsidized public housing.

The applicant provided a lease balance statement in evidence which indicated a balance of rent owing of \$11,071.04. The applicant sought relief in that amount. The full unsubsidized rent of \$1625 has been applied in June and August, 2015. The applicant testified that the respondent had failed to provide any income information to enable the calculation of a subsidized rent for those months.

A previous order (file #10-14767, filed on August 4, 2015) required the respondent to pay rent arrears of \$7996.04 in monthly installments of \$25 and will terminate the tenancy agreement on January 31, 2016 unless the monthly rent is paid on time as well as the ordered monthly installments. In considering the quantum of rent owing at that hearing, the respondent confirmed that his income had not changed from the previous month and the applicant agreed to adjust the full unsubsidized rent of \$1625 for June, 2015 which had been charged due to the tenant's failure

to provide any income information, to \$80.

The current ledger continues to show the June, 2015 rent as \$1625. The applicant stated that since the respondent did not produce the formal income information after the previous hearing, the full unsubsidized rent was reinstated for June, 2015.

Article 6 of the tenancy agreement between the parties sets out the tenant's obligation to report the household income.

6. Tenant's Income

The Tenant promises to provide a subsidy agent appointed by the Landlord with an accurate report of the Tenant's income, the income of any occupant of the Premises, the size of the Tenant's family, and the number of occupants residing on the Premises, whenever, and as often as, the subsidy agent requests such a report. All reporting by the Tenant must be in the form prescribed by the subsidy agent.

In my opinion, if the landlord was willing to accept the tenant's sworn testimony at the previous hearing that his income had not materially changed since the previous month, the respondent has provided the necessary income information required by article 6. The rent charged for June 2015 should be based on that testimony and should be \$80.

I accept the application of the full unsubsidized rent for August, 2015 although I note that the rent of \$80 was assessed for six consecutive previous months and for September and October, 2015. It would seem unlikely that the rent based on household income would be any different, particularly given the current structure of the rent scale. However, there is no indication that any information was provided in any form and it is clear that the tenant was required to report

monthly in a specified form. I do note, however, that should the respondent subsequently provide the required household income information, the applicant is obligated to adjust the August, 2015 rent accordingly.

Had the respondent paid the monthly rent and an additional \$25/month since the issuance of the last order, the balance would now be \$7896.04.

Last order balance	\$7996.04
Less August pmt.	25.00
Less September pmt.	25.00
Less October pmt.	25.00
Less November pmt.	<u>25.00</u>
Total	\$7896.04

Instead, the balance shown on the ledger is \$11,071.04 a difference of \$3175. That difference is largely due to the reinstatement of the full unsubsidized rent in June and the application of the unsubsidized rent in August. If the respondent had reported his income as required for August and assuming that the rent based on income was \$80, that difference would only be \$85.

The previous order will terminate this tenancy agreement on January 31, 2016 unless the conditions set out in that order are satisfied. In my opinion, there are not sufficient grounds to terminate this tenancy agreement any earlier. I also note that the applicant has not applied for an eviction order in this application. If the respondent continues to fail to meet the conditions of the previous order, the applicant may then make an application after January 31, 2016 for the full payment of the remaining balance of rent and an eviction order if the respondent fails to vacate the premises.

The applicant shall be ordered to report the household income to the applicant for the month of July, 2015.

Hal Logsdon
Rental Officer