

## REASONS FOR THE ORDER OF THE COMMISSIONER OF TENANCIES

### INQUIRY – 25 OCTOBER 2002

This is a determination of an application dated 15 October 2002 by the Landlord, seeking an order for possession pursuant to section 104 and for compensation pursuant to sections 121 and 122 of the *Residential Tenancies Act* (NT) (“the Act”). The application is made in respect of premises being 4/420 Trower Road, Wagaman in the Northern Territory of Australia.

A Notice of Inquiry dated 17 October 2002 was posted to the parties. The inquiry was conducted on 25 October 2002 during which evidence was taken from the Landlord’s agent, (“the Landlord”). There was no appearance by the tenants (“the Tenant”).

On the basis of the documentary and oral evidence before the Inquiry, I find there is a tenancy agreement within the meaning of and subject to the provisions of the Act on the following terms:

Premises:	4/240 Trower Road, Wagaman NT 0810
Commencement Date:	8 June 2002
Period:	Fortnightly Periodical
Rent:	\$145.00 per week
Security Deposit	\$580.00

I note the parties had previously been governed by a written fixed term agreement from 8 March to 7 June 2002.

The Landlord issued a Notice of Termination to Remedy Unpaid Rent dated 2 October 2002 (“the Notice”). I find that the rental payments due to the Landlord was more than fourteen (14) days in arrears at the time that the Landlord by his Agent issued the Notice. I find the Notice was served on the tenant by post on 4<sup>th</sup> October 2002 in accordance with section 154 of the Act.

However, the Notice specifies the rent outstanding as being \$580.00. According to my calculations, the rent outstanding should in fact be \$565.71. Section 87 governs the requirements for a Notice. These requirements are clear in its terms and are mandatory. In my view, this is further illustrated by the fact that no power is given to the Commissioner under the Act to amend notices of termination issued under the Act for substantial compliance. Accordingly, the provisions must be strictly interpreted consistent with intent and operation of the Act.

One of the requirements of section 87 is that the Landlord must specify the “amount of rent that is outstanding and the period for which it has been outstanding”. Implicit in this is that the rent outstanding specified must be correct (section 87(2)(b)). The Landlord in this instance has claimed the Tenant owes more rent than is in fact the case.

As the Notice issued by the Landlord has incorrectly specified the rent outstanding, I am not satisfied the Notice complies with section 87(2) of the Act and I am not satisfied the tenancy agreement has been validly terminated. Accordingly, I order that the Landlord's application be dismissed.

Dated this 25<sup>th</sup> day of October 2002

Penny Turner  
Delegate of the  
Commissioner of Tenancies