

REASONS FOR THE ORDER OF THE COMMISSIONER OF TENANCIES

INQUIRY - 12 OCTOBER 2004

This is a determination of an application dated 29 September 2004 by the Landlord, seeking an order for possession pursuant to section 104 and for compensation pursuant to section 121 & 122 of the *Residential Tenancies Act* (NT) (“the Act”). The application is made in respect of premises being 49 Baldwin Drive, Woodroffe in the Northern Territory of Australia.

A Notice of Inquiry dated 5 October 2004 was posted to the parties. The inquiry was conducted on 12 October 2004 during which evidence was taken from the Landlord’s Agent, (“the Landlord”). There was also an appearance by the Tenant, (“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:	49 Baldwin Drive Woodroffe NT 0830
Commencement Date:	7 May 2004
Period:	52 weeks
Rent:	\$250.00 per week payable fortnightly in advance
Security Deposit	\$1,000.00

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 a Notice to Remedy Unpaid Rental and Notice of Termination dated 16 September 2004 in accordance with section 87(1) of the Act (“the Notice”).

I find the Notice complies with the requirements of section 87(2) of the Act and was sent to the Tenant by post on 16 September 2004 in accordance with section 154 of the Act.

The rent payment day is specified in the notice as being 27 September 2004. As rent was not paid by the rent payment date, in accordance with section 87(3) of the Act, the tenancy is terminated effective on the termination date being 28 September 2004 and in accordance with section 103 of the Act, the Tenant ceases to be entitled to possession of the premises as at this date.

I am satisfied the tenancy has been terminated and the Landlord should have vacant possession of the premises effective as at 9:00am on Monday, 18 October 2004.

In relation to the Landlord’s claim for compensation pursuant to section 121 and 122, I find the Tenant has failed to pay rent in accordance with the tenancy agreement and as at the date of the inquiry remains in possession of the premises. The Tenant has paid rent up until 9 September 2004 inclusive. On the basis of the evidence before me, I find the amount of \$1,208.56 is owed by the Tenant to the Landlord in compensation, being unpaid rent and rent that would have been payable to the Landlord from the termination of the tenancy up to and including the date of the inquiry.

Accordingly, I order that:

1. The Landlord have vacant possession of the premises effective at 9:00am on Monday, 18 October 2004.
2. The Tenant is to pay the Landlord compensation in the amount of \$1,208.56 being for unpaid rent and section 121 compensation up to and including 12 October 2004.
3. Any further claim for compensation is adjourned to a date to be fixed upon further application and notice to the parties.

Dated this 12 day of October 2004

Garry Schneider
Delegate of the
Commissioner of Tenancies