

## REASONS FOR THE ORDER OF THE COMMISSIONER OF TENANCIES

### INQUIRY - 22 February 2005

This is a determination of an application dated 11 February 2005 by the Tenants seeking an order to declare that the purported termination of the tenancy agreement is of no effect pursuant to section 84 of the *Residential Tenancies Act* (NT) ("the Act"). The application is made in respect of premises being 1 Makryllos Drive, Brinkin in the Northern Territory of Australia.

A Notice of Inquiry dated 14 February 2005 was posted to the parties. The inquiry was conducted on 22 February 2005 during which evidence was taken from ("the Tenants"). There was no appearance by the landlord's agent ("the Landlord").

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:	1 Makryllos Drive Brinkin NT 0810
Commencement Date:	27 July 2003
Period:	12 months + 12 months
Rent:	\$550.00 per week payable fortnightly in advance
Security Deposit	\$2,200.00

The Landlord failed to appear at the hearing of the Tenants' application. Pursuant to section 141(1)(d) of the Act, I proceeded to hear and determine the application *ex parte*.

The evidence of the Tenants is that the Landlord wrote to the Tenants on 14 October 2004 offering a further tenancy on the same conditions for a period of twelve (12) months, expiring 27 July 2005. Specifically, the letter said "To ensure a continual secure tenancy, we would appreciate you signing and returning the attached within the next seven (7) days". The Tenants signed the tenancy agreement and returned it to the Landlord on 15 October 2004. The Landlord wrote to the Tenants on 20 January 2005 and again on 7 February 2005 purporting that the previous tenancy had expired, the current lease was a periodic tenancy and that they were giving the Tenants the required forty-two (42) days notice to vacate ("the purported Notice of Termination").

I find that there was an initial tenancy agreement for the period of 27 July 2003 to 27 July 2004. I also find that there is an existing tenancy agreement which was offered to the Tenants on 14 October 2004 and accepted on 15 October 2004. This tenancy is due to expire on 27 July 2005.

I also find that the purported Notice of Termination issued by the Landlord on 20 January 2005 and 7 February 2005 is of no effect.

Accordingly, I order that:

1. The application was heard and determined *ex parte* pursuant to section 141(1)(d) of the Act; and
2. I declare that the purported Notice of Termination issued by the Landlord on 20 January 2005 and 7 February 2005 is of no effect pursuant to section 84 of the Act.

Dated this 22 day of February 2005

Gabrielle Martin  
Delegate of the  
Commissioner of Tenancies