

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

IN THE MATTER OF:

CHARLENE LLOYD and ERIC BUNDAY

Applicants

- and -

THE COMMISSIONER OF THE NORTHWEST TERRITORIES

Respondent

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Transcript of the Oral Reasons for Judgment delivered  
by the Honourable Justice J.E. Richard, sitting at  
Yellowknife, in the Northwest Territories on, January  
29th, A.D. 2007.

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APPEARANCES:

Ms. C. Lloyd: Applicant

Mr. D. Proctor: Counsel for the Respondent

1           THE COURT:                           This is an appeal of a  
2                           decision of the Rental Officer, pursuant to  
3                           section 87 of the Residential Tenancies Act.  
4                           The Appellants here live in a mobile home at  
5                           number 24 Rycon Trailer Court. They have a lease  
6                           agreement for the lot on which their mobile home  
7                           is situated. The owner of the lot is the  
8                           Commissioner of the Northwest Territories. The  
9                           lease agreement is between the Appellants and the  
10                          Commissioner.  
11                          On September 26th, 2006 these Appellants  
12                          made an application to the Rental Officer under  
13                          the provisions of the Residential Tenancies Act.  
14                          Specifically, their application was made under  
15                          section 30 of the Act. Section 30 of the Act  
16                          requires a landlord to keep the rental premises  
17                          in good repair. These Appellants sought a ruling  
18                          from the Rental Officer under section 30 that the  
19                          landlord, the Commissioner, had breached section  
20                          30 of the Act.  
21                          The Rental Officer did not make any ruling  
22                          as to whether or not the landlord, the  
23                          Commissioner, had breached section 30 of the Act.  
24                          Instead, the Rental Officer gave consideration to  
25                          a preliminary submission made on behalf of the  
26                          Commissioner to the effect that the Residential  
27                          Tenancies Act did not apply to the lease

1 agreement between these parties and that,  
2 therefore, the Rental Officer had no jurisdiction  
3 to entertain the application under section 30 of  
4 the Act.

5 The Rental Officer, in due course, agreed  
6 with this submission and in a decision made on  
7 December 2nd, 2006 he ruled that the Residential  
8 Tenancies Act did not apply, and he, accordingly,  
9 dismissed the Appellants' application. It is  
10 this decision of the Rental Officer that is the  
11 subject of the appeal before this Court.

12 I have carefully reviewed the record of the  
13 Rental Officer which was filed with this Court  
14 and which includes a transcript of the oral  
15 submissions made to the Rental Officer by the  
16 parties at a hearing held on November 21st, 2006.

17 The principal submission made to the Rental  
18 Officer on behalf of the landlord was to the  
19 effect that in order for a premises to come  
20 within the definition of "rental premises" in the  
21 Residential Tenancies Act, the parties must have  
22 had the intention to bring their relationship  
23 under the Residential Tenancies Act. I find  
24 there is no merit in this submission. However,  
25 it appears that this submission influenced the  
26 Rental Officer's decision.

27 The definition of "rental premises" in the

1 Act contemplates two types: (a), a living  
2 accommodation, or (b), land for a mobile home.  
3 The definition further stipulates that the land  
4 is rental premises if either (a), the land is, in  
5 fact, being used as rental premises; or (b), the  
6 land was intended to be used as rental premises.

7 The Rental Officer made a determination on  
8 the facts before him that the Appellants'  
9 dwelling at number 24 Rycon Trailer Court was a  
10 mobile home. The material before the Rental  
11 Officer indicates that this land was, in fact,  
12 being used as rental premises for a mobile home,  
13 no less so than it was two or three years earlier  
14 with a different landlord.

15 Lot 8, Block 610, which is the legal  
16 description of the land leased from the  
17 Commissioner and on which sits the mobile home of  
18 the Appellants, is, "land for a mobile home,"  
19 being used as rental premises and is, therefore,  
20 "rental premises" for purposes of the Residential  
21 Tenancies Act.

22 In a decision of this Court in 1990 Justice  
23 de Weerdts considered the intention of the  
24 Legislature in enacting the Residential Tenancies  
25 Act and, in particular, its provisions for  
26 enabling tenants to assert their legal rights  
27 against landlords with respect to rental

1 premises. He stated:  
2 "Bearing in mind the usual disparity  
3 of bargaining power and financial  
4 resources between such tenants and  
5 their landlords, the Act is  
6 evidently intended to restore the  
7 balance of power through the public  
8 employment of a Rental Officer to  
9 try and mediate and, if necessary,  
10 to adjudicate disputes between  
11 them."  
12 With the greatest of respect to the Rental  
13 Officer, his decision on the applicability of the  
14 Residential Tenancies Act is incorrect.  
15 Accordingly, the appeal is allowed. The  
16 Rental Officer's decision is set aside and the  
17 Rental Officer is directed to consider the  
18 tenants' application on its merits.  
19 Now, is there any clarification required  
20 from either of you, Ms. Lloyd, Mr. Proctor?  
21 MR. PROCTOR: No, sir.  
22 THE COURT: Fine, then. We will close  
23 court.  
24 MS. LLOYD: There was the question of  
25 legal fees.  
26 THE COURT: Yes. I saw that. I believe  
27 it was in your brief, Ms. Lloyd. I, in this

1 Court, do not have any jurisdiction, speaking of  
2 jurisdiction, to award fees or not in proceedings  
3 before the Rental Officer. If anybody, it is the  
4 Rental Officer to decide that.

5 MS. LLOYD: Okay. Thank you.

6 THE COURT: So we will close court.

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10 Certified to be a true and  
11 accurate transcript pursuant  
12 to Rules 723 and 724 of the  
13 Supreme Court Rules.

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Jill MacDonald, CSR(A), RPR  
Court Reporter

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