

NEWSLETTER

March 2007

www.EOLO.ca

Residential Tenancies Act In Force

Since 1975 a change in the Ontario governing party has often triggered dramatic changes in rent control and residential tenancy laws. The election of Dalton McGuinty and the provincial Liberal party in October 2003 was no exception. On January 31, 2007, the Tenant Protection Act (TPA) was replaced by the Residential Tenancies Act (RTA), and the Ontario Rental Housing Tribunal was replaced by the Landlord and Tenant Board.

EOLO held 3 educational seminars to educate our members on the changes in the RTA. EOLO expects to be holding seminars in the coming months to discuss the early decisions and practices of the Landlord and Tenant Board.

At first glance, the RTA looks very similar to its predecessor Act. However there are a number of significant changes in the RTA including changes to rent control; additional remedies that can be granted to tenants if landlords fail to do necessary repairs to the rental unit or complex; a greater ability for tenants to obtain rent reductions and abatements; and greater opportunities for tenants to obtain relief from forfeiture.

Elimination of Default Orders

One of the biggest practical changes is the requirement that all eviction applications go to a hearing. Under the TPA, tenants who opposed an eviction application needed to file a written dispute within 5 days of receipt of the application. If a landlord was applying for an eviction because the tenant did not pay the rent, unless there was a written dispute, in most cases the Tribunal would

issue a default order. That default order would give the tenant one last chance to pay the rent, failing which the tenancy would be terminated.

About half of the applications before the Ontario Rental Housing Tribunal were resolved by default orders. Now that the RTA is in force, all applications must go to a for-

mal hearing before the Landlord and Tenant Board. There are no longer any default orders.

Ability of Tenant to Bring Up New Issues in Eviction Applications

The RTA introduces a significant change in how hearings may be held.

Under the TPA, tenants were required

to bring their own applications to obtain remedies for

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Next EOLO Networking Event

May 23, 2007

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Property Tax Issues

Last month the City of Ottawa passed its 2007 budget. The budget delivers a 0.3% overall municipal tax increase. In addition, certain other fees have increased including garbage charges: an increase of \$5 (to \$84) per unit for curbside pick-up and \$1 (to \$33) per unit for bin pick up. Also, water and sewer charges are increasing by 8.9% starting May 1st.

What does this mean for rental property?

For most owners of buildings of 6 or fewer units, your tax bill will be close to the same as last year.

For owners of multi-residential property (7 or more units

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Charging Landlords for Police Calls

On February 19th the Ottawa Police Services Board asked City Council to look at obtaining and using new powers to deal with “habitual problem landlords.” The motion came as a result of demands by Community Associations. The proposal is to charge property owners for police service calls if their buildings are used as crack houses.

The Hintonburg Community Association cited a by-law in New Westminster, B.C., under which landlords are charged the cost of responding to complaints if there have already been three calls to police or bylaw officers at the building that year.

Some community associations claim that there are a small number of landlords who are satisfied to rent their buildings to drug dealers and other criminals. They believe that these landlords turn a blind eye, or even encourage tenants to operate crack houses and brothels.

If a landlord or an occupant or a shopkeeper or anyone else is aiding and abetting criminal activity they ought to be charged and face the consequences.

It is extremely difficult to understand how a landlord could be satisfied to have their property destroyed by criminal activity. Private landlords already have tremendous incentives to minimize crime and police calls to their buildings. If crime is high, good tenants don't want to live there. Current tenants move out and no new tenants want to move in, leaving units vacant and revenue down.

Also, most criminal activity causes physical damage to the property which needs to be repaired, and usually that cost is borne by the landlord.

If the City charges landlords for police calls to high crime buildings, those costs will ultimately be passed through to tenants, mostly the good tenants in the building, not the few criminal tenants.

Under the Residential Tenancies Act a landlord cannot easily turn a problem building into a problem-free building. It can be a long and drawn out process to evict a tenant who is known to have caused problems. Meanwhile if there are problems in a building, landlords often cannot prove which specific tenant has been committing crimes or serious interfering with other tenants reasonable enjoyment.

If the City makes it more expensive to operate a building in a higher crime area, rent will become more expensive for tenants who can least afford it. And there will be a disincentive for landlords to invest in their buildings to make them safer and in good repair.

If the rationale for charging landlords for police calls is to create an incentive for landlords to clean up buildings, then there is an error in the equation.

If the rationale is to introduce user fees to police service, we are entering into a scary area. Are these groups proposing that a homeowner whose TV is stolen in a break in should pay a charge to the City for being broken into?

It is grossly unfair and ineffective to blame landlords for society's ills, and useless to merely try to push societal problems out of one neighbourhood and into another.

Many landlords are taking steps and investing in their buildings to minimize crime. As an example, three prominent EOLO landlord members are currently working with the police department to minimize crime in and around their buildings through the Crime Free Multi-Housing Program. This program takes a multi-faceted approach to crime prevention. For more information on this program, please contact David Lyman, Vice President EOLO at (613) 235-0101 or Diane Larocque of the Ottawa Police Department at (613) 236-1222 ext. 5182.

EOLO will continue to monitor the proposal, and seek to avoid or minimize the negative impact on landlords.

New Rental Subsidy Programs

Last year, the Federal and Provincial government announced a so-called housing allowance component of the Canada / Ontario Affordable Housing Program.

That program is not a true housing allowance program because tenants must move to a vacant unit for which the City has made a contract with the landlord. A true housing allowance program would pay the money to the tenants, who could choose to stay where they are, or to move, as they please.

The program is also different than the usual rent-geared-to-income rent supplement program because the rent subsidy is limited to about \$220 per month and will apply for not more than 5 years.

On February 14th, Ottawa City Council decided to proceed with a pilot project to attempt to find 50 units for tenants to access. The City is hoping that EOLO members will take up most or all of those units.

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Property Tax Issues - continued

(Continued from page 1)

on a single tax roll number), because of capping and clawback rules, any change in your 2007 tax bill will likely be similar to the change you experienced last year. If your taxes went up by 10% last year, you will probably face a similar (or somewhat smaller) increase this year. If your 2006 taxes were similar to the previous year's taxes, your 2007 taxes will most likely remain at that same level.

Property tax fairness

For many years, EOLO has lobbied for reduced taxes for multi-residential property. We have had great success, but more work is required to reach tax fairness.

As with any tax, it is ultimately the consumers (in this case tenants), who pay the property taxes. The *Residential Tenancies Act* requires municipal notices to tenants when the taxes have been decreased, and automatic rent reductions to tenants, as long as the taxes have decreased more than a small amount (a "threshold").

Why are landlords in favour of the reduction for the multi-residential tax class? Landlords would obtain a lower cost structure, and that means that we can rent more units at lower rents. Lower costs mean lower rents, which are good for business. Lower taxes, and therefore lower rents, will mean fewer vacancies, reduced costs due to default, less hardship for low-income tenants and

a better business climate for multi-residential landlords.

EOLO's position is that tenants should be taxed at the same municipal tax rate as homeowners. For many years multi-residential properties have been taxed at significantly higher tax rates than residential properties. In Ottawa, **tenants currently pay municipal property taxes at almost twice the rate that homeowners pay.** This disparity is unfair on its face.

Last year City Council lowered the tax ratio from 2.152 to 1.8. If Council had left the tax ratio at 2.152, multi-residential property would have faced a \$14 million tax increase. Because of the reduction to 1.8, landlords and tenants saved \$2.5 million in municipal taxes. However because of increases to education taxes and the introduction of the garbage levy, most multi-residential properties actually faced a small overall tax increase.

To assist City Council, EOLO's major members agreed to pass through to their tenants all tax decreases whether or not they were beyond the threshold. EOLO member companies that gave the commitment were Minto, Commvesco/Levinson-Viner, Osgoode, Paramount, OTNIM, Homestead, District, Taggart, Glenview, Regional, Empire Holdings and Triole Investments. This resulted in thousands of tenant households receiving rent reductions because of lower property taxes.

2007 EOLO Spring Networking Event

On the evening of May 23 EOLO will be hosting its annual Spring Networking Event for all EOLO members. Invitations will be mailed out soon to all members that are in good standing. If you are interested in attending and are not a member, please contact Clayton at (613) 235-0101 or eolo@magma.ca for further information.

We look forward to seeing you at the Networking Event on May 23.

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Ontario's New Asbestos Regulations

By: John Tufts, Pinchin Environmental Ltd.

Ontario Regulation 278/05 under the Occupational Health and Safety Act ("Designated Substance – Asbestos on Construction Projects and in Buildings and Repair Operations") became effective November 1, 2005. This Regulation replaces a similarly named regulation which has been in place since 1985 (O. Reg. 654/85 subsequently re-named R.R.O. 838/90).

Many changes from existing regulation R.R.O. 838/90 have been made. Most of these are welcome and overdue and reflect common practice in the industry and other jurisdictions. There are however some significant inclusions and changes which Pinchin and much of the industry lobbied against. While these disagreements are few in number, several are quite major and will impact owners significantly.

Two of the major changes that will affect building owners are summarized below. Other major changes to the regulation include changes to asbestos work classifications, worker training requirements and air monitoring following major asbestos abatement.

Record of Asbestos in Buildings (Surveys)

The old regulation required building owners to maintain a record of the location of friable asbestos-containing material (ACM) in their buildings. As of November 1, 2007 (to allow a 2 year phase in period), owners will be required to maintain a record of both friable and non-friable ACM.

Effective immediately, the new regulation specifies a minimum number of samples of suspect material to be analysed in order to be able to conclude that the material is asbestos-free. This change will cause the cost of asbestos surveys to increase immediately (our best estimate is that the cost will increase anywhere from one third to one half). There is another greater impact, however: the specified number of samples is far more than what has been collected in the past in surveys performed in Ontario in the past twenty years. This means that all existing surveys will have to be redone or updated with additional samples (unless the owner wants to assume all suspect material or materials with fewer than the specified number of samples is asbestos – this is clearly unacceptable to most building owners). This will result in substantial costs to most building owners.

Tenant Notification about all Asbestos

The new regulation states that the owner of a building shall provide written notice of any information in the asbestos record that relates to the area occupied by the tenant (or occupier). This means that all tenants must

be notified of any friable asbestos material in their premises today and of all non-friable ACM in their premises after November 1, 2007. To emphasize this point, when this section becomes effective for non-friable asbestos in November 2007, owners and managers of multi-tenant residential properties and commercial properties will be faced with notifying tenants of the presence of asbestos (in drywall joint compound and floor tiles) in many buildings constructed prior to the early 1980s.

A detailed summary of the changes with some comments on the impact of the new regulation is found at www.pinchin.net/newsletters/pdfs/pen24asbestos278.pdf

Please contact John Tufts at (613) 592-3387 or jtufts@pinchin.com with any questions regarding how the new regulation will affect you.

**Remember the
2007 Guideline rent
increase is 2.6%**

**New Rental Subsidy Programs
continued**

(Continued from page 2)

EOLO is attempting to work out an appropriate agreement with the City so that landlords will have sufficient incentive to offer some of their units for the pilot project (and the program).

Please contact David Lyman at (613) 235-0101 if you have any interest in participating in this program, or if you would like further information about this rent supplement program.

A much better housing allowance program has just been announced in the Provincial budget of March 22. The Province will be spending \$185 M on portable housing allowances over 5 years. The Province will administer the program. Apparently, the benefits will be paid directly to tenants, and will be portable not only within cities, but also between cities. That will make use of a key public policy advantage of housing allowances, namely allowing recipients to move to pursue job prospects.

Mortgage benefits for Energy Efficient Rental Properties

Contributed by CMHC

In November of 2004, CMHC introduced underwriting flexibilities to encourage energy efficiency for rental properties on a two-year pilot basis ending December 31, 2006. CMHC is now pleased to advise you of its extension of the Energy Efficient Homes, Rental Properties program to December 31, 2007.

The flexibilities include a 10% insurance premium refund paid to the borrower upon the completion of energy efficiency improvements, and recognition of estimated energy savings in the valuation of projects. For instance, CMHC will take into account the energy savings when calculating net operating income for valuation purposes. In addition, at CMHC's discretion and depending on current market conditions, substantial energy improvements may be reflected in the capitalization rate used to value the property.

A "green refund" of 10 per cent on mortgage loan insurance premiums may be available when new energy-efficient buildings are constructed or existing buildings are retrofitted to make them more energy efficient. The program applies to new and existing rental properties, retirement residences and nursing homes.

Owners of existing rental properties are eligible for the CMHC premium rebate if they undertake renovations that cut the building's energy consumption by at least 10 per cent.

CMHC supports energy conservation in Canada by offering this program for apartment buildings, retirement residences and nursing homes. By incorporating energy-efficiency measures into their new construction projects, building developers and property owners help reduce greenhouse-gas emissions, lower their operating expenses, and now also reduce their mortgage financing costs.

CMHC offers mortgage insurance on rental properties to enable landlords and developers to purchase buildings with as little as 15 per cent down; however, the "green refund" initiative specifically targets borrowers who are planning energy-efficiency upgrades.

Mortgage loans can help borrowers finance new energy-efficiency projects. Landlords who want to upgrade their buildings can refinance an existing mortgage to pay for this type of work. CMHC offers a refinancing product that enables apartment owners to secure insured financing for property improvements or to leverage the equity in one multi-residential property to finance the purchase of another.

How to qualify for the rebate

Apartment owners and other landlords who wish to apply for the insurance premium rebate for energy-efficiency improvements on existing properties must submit an energy retrofit plan prepared by an engineer, architect or other qualified energy-management specialist. The plan must outline projected annual energy savings of at least 10 per cent. A post-retrofit report, also completed by a third party, must confirm the completion of the project.

More ways to save

Borrowers who use CMHC-insured financing to purchase, refinance or construct multi-unit residential buildings already enjoy several benefits, including improved cash flow and higher return on equity. CMHC-insured mortgages generally carry lower interest rates than their uninsured counterparts because of the reduced risk to lenders. Borrowers also enjoy favourable interest rates when they renew their mortgage since the insurance remains in force for the full amortization period of the loan.

Expedite the payback on an already sound investment

CMHC is prepared to do more than simply provide borrowers with a refund on qualifying mortgage loan insurance applications. Borrowers who plan to undertake energy-efficiency upgrades on newly built or purchased buildings, as well as existing owned buildings, will be eligible for larger insured mortgages. That's because CMHC will factor the proposed energy savings into the valuation of the property.

By combining energy-efficiency improvements with CMHC-insured financing, property developers and landlords can expedite the payback on an already sound investment, doing their share to tackle climate change and contribute to cleaner air and healthier communities throughout Canada.

This CMHC initiative illustrates that smart business policy and smart environmental policy are mutually reinforcing.

For more information on federal government incentives for multi-unit residential buildings, visit www.nrcan.gc.ca or contact Connie Simo, Manager, Business Development, Multi-Unit Mortgage Insurance, Ontario Region, CMHC, at csimo@cmhc.ca or 416-218-3458.

CFAA Report: Federal Energy Initiatives and Improving Federal Income Tax Rules for Landlords

By John Dickie, President, Canadian Federation of Apartment Associations

FEDERAL ENERGY INITIATIVES

One of the Canadian Federation of Apartment Associations' goals is to secure access for private landlords to any available funding for energy efficiency.

In January 2007, the Federal Government announced the ecoENERGY Initiatives, which will replace the EnerGuide programs that were put in place by the Liberals. The program will start in April 2007.

The ecoENERGY Initiatives include:

- \$300M for the ecoENERGY Efficiency Initiative, including the ecoENERGY Retrofit Program and ecoENERGY for Buildings and Houses
- \$230M for the ecoENERGY Technology Initiative, for the research and development of clean energy technologies
- \$1.5M for the ecoENERGY Renewable Initiative, for renewable energy supplies

ecoENERGY for Buildings and Houses

\$60M in funding will be targeted to the construction, operation and retrofit of more energy-efficient buildings and houses. Funding will be directed toward new design tools and training, house and building energy rating and labelling systems, and working with other levels of government to encourage the adoption of more stringent building energy codes.

ecoENERGY RETROFIT

The four year initiative will provide \$220M in financial incentives to building owners to speed up action on energy-saving projects. The incentives will be designed to help homeowners and small and medium-sized businesses, industry and public institutions invest in energy and pollution-saving upgrades.

Further details on how these programs will apply to the development and retrofit of apartment buildings will not be available until April 2007. For more information, visit the ecoENERGY Initiatives website at www.ecoenergy.gc.ca and the Office of Energy Efficiency website at oee.nrcan.gc.ca.

CFAA will continue to encourage governments to make all applicable housing programs open to private landlords, and to improve the terms of those programs.

IMPROVING FEDERAL INCOME TAX RULES

One of CFAA's key objectives is to obtain tax reform to improve the position of the rental housing industry. While CFAA has 6 tax reform goals, we have made one issue a priority, namely a tax deferral on the sale of a rental property and re-investment in another rental property.

CFAA continues to work with the Canadian Real Estate Association (CREA), and other national groups, to promote support for a tax deferral on the sale of and re-investment in rental property. In the Fall of 2006, CFAA met Minister Flaherty's tax policy advisor on several occasions. We also met a number of Conservative MPs to seek support from the Conservative caucus. We were very well received. We also met Liberal Finance Critic John McCallum, who was open to CFAA's tax deferral proposal.

On January 11, 2007, in Toronto, CFAA met Minister Flaherty's budget planner and his tax policy advisor to promote the tax deferral proposal. In January and February, CFAA met Liberal MPs John MacKay and Ralph Goodale, and Judy Wasylycia-Leis, the NDP Finance critic. John McCallum and John MacKay will author the Liberal party tax platform. CFAA was also in contact with the Prime Minister's office about CFAA's tax deferral proposal. Everyone contacted was either supportive of the tax deferral proposal, or at least open to it.

Despite CFAA's effort the tax deferral was not included in the Federal Budget announced on March 19. CFAA expects to continue to seek that tax deferral as its top priority.

CFAA's policy statement on tax deferral is available at www.cfaa-fcapi.org by clicking on Policy Goals & Statements. We urge all CFAA members to promote tax deferral on sale and reinvestment in rental property to all MPs and all other federal decision makers. Please contact president@cfaa-fcapi.org if you would like talking points to use.

EOLO is pleased to support CFAA as one of 17 member associations across Canada. Together, our members own or manage more than 1,000,000 rental homes. CFAA is the sole national organization representing the interests of Canada's \$30 billion rental housing industry. For more information, go to www.cfaa-fcapi.org.

30% Affordability Standard in Need of Review

By John Dickie, President, Canadian Federation of Apartment Associations

Although other countries use different measures to determine whether a household is in housing need, Canada uses a cut-off of 30% of household income. A household will be considered in housing need if they need to pay more than 30% of their income to obtain suitable housing. The standard is entrenched, but it is in need of refinement.

Current refinements

Three refinements already apply. First, if a household pays more than 30% of their income for their housing, but they would pay less than that if they rented at the median rent in their community, they are not considered to be in housing need. One can think of them as choosing to pay more to obtain better than average accommodation.

Second, suppose a household pays less than 30% of their income for their housing, but the housing is overcrowded or in poor repair. They are considered to be in housing need if they would need to pay more than 30% of their income to rent the median unit in their community of a suitable size, but not otherwise.

Third, people under the age of 30 who are in school are not considered to be in housing need regardless of their level of income. They are considered to be in a transitory phase on their way to their expected career path.

Refinements needed

A number of commentators have addressed the issue of household size, and the issue of income versus expenditure.

Household size

Household size makes the standard inconsistent in its effect. Consider two households, both with incomes of \$2,000 per month paying rent of \$800 per month. Both show a rent-to-income ratio of 40%, which suggests moderate housing need.

Suppose one household consists of a single person, Julie. After paying her rent, Julie has \$1,200 per month left to pay for food, clothes, other necessities and enter-

tainment. Julie is not facing any hardship.

Suppose the other household consists of a single parent, Esther, and her three children. After paying her rent, Esther has \$1,200 per month left to pay for food, clothes, other necessities and entertainment for four people, i.e. \$300 per person. Esther and her children are facing considerable hardship.

A wide spectrum of advocates working in the housing field agree that the affordability standard for a one or two person household should be higher than the rent-to-income standard for a larger household. In other words, a variable shelter cost standard with different rates for different household sizes makes sense.

Another approach would be to measure housing affordability by determining how much income is left over per household member after the necessary housing costs are paid. That approach is taken in several other countries.

Income versus expenditure

Another issue is the question of evaluating affordability against income or against expenditure. Consider two households, both with incomes of \$1,000 per month, paying rent of \$500 per month. Both show a rent-to-income ratio of 50%, which suggests severe housing need.

Suppose one household has no savings and can only spend their income. After paying their rent they have only \$500 left for other spending. However, the other household is a retired person who has saved during their working years, and is now spending their savings to finance their retirement at the rate of \$500 per month. That person is spending \$1,000 on things other than housing. Their housing cost-to-expenditure ratio is only 33%.

Jacqueline Luffman discusses the effect of this alternative method in "Measuring Housing Affordability" (Statistics Canada, *Perspectives on Labour and Income*, November 2006, Vol. 7, no. 11, available at www.statcan.ca/english/freepub/75-001-XIE/75-001-XIE2006111.pdf).

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CFAA Allied Members



30% Affordability Standard in Need of Review - continued

(Continued from page 7)

Some of the effects can also be seen in the expenditure data in Canadian Housing Observer, 2006, CMHC, especially at pages 65, 66 and 73. The table below shows some highlights of that data, with percentage shelter cost calculations by CFAA. All figures are per month. The income levels are in quintiles, i.e. fifths.

	Income level				
	High	Upper	Middle	Moderate	Low
Average household income	\$11,245	\$5,836	\$3,933	\$2,439	\$1,015
Average total expenses (other than taxes)	\$5,723	\$3,939	\$3,056	\$2,263	\$1,456
Shelter costs as % of income	9.8%	15.1%	18.8%	25.1%	52.6%
Shelter costs as % of expenses	19.3%	22.4%	24.2%	27.0%	36.7%
% of one person households	3.9%	9.8%	20.9%	33.5%	61.9%
% of household head not in the labour force	11.6%	17.0%	25.9%	43.0%	60.3%

Those figures show the prevalence of single person households among low income households. The figures also show a greater ability to spend by low income households than income figures suggest. Besides drawing down savings, such additional spending ability may come from government benefits not reported in income, illegal or undeclared income, gifts or other sources.

Conclusion

Taken together, the difference in household size, and the measurement of shelter costs as a % of expenditure,

suggest that some of the concern about housing affordability as a widespread problem is overstated. Without doubt some serious problems exist, but better measures of the extent and size of the real problems would allow better targeted and more effective solutions.

The Canadian Federation of Apartment Associations represents the owners and managers of more than one million residential rental suites in Canada, through 17 organizations across Canada. For more information, go to www.cfaa-fcapi.org.

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Remember the 2007 Guideline rent increase is 2.6%

The guideline is the amount by which landlords of rent controlled units can raise their rents for continuing tenants without an application.

Residential Tenancies Act In Force - continued

(Continued from page 1)

maintenance and other claims. A tenant could have filed an application at any time to make such claims, and landlords would have received notice of the claim. This was consistent with the rules in every other court and tribunal.

Section 82 of the RTA applies to the hearings of all eviction applications for non-payment of rent. It allows tenants to raise maintenance or any other issues that could be the subject of a tenant application, without any prior notice to the landlord. The Board encourages tenants to raise these issues with landlords prior to the hearing. However, there is no requirement for tenants to provide such notice. In fact, the Board and EOLO recommend that landlords inspect units before hearings to anticipate maintenance complaints.

Under the rules of natural justice, a landlord would be entitled to an adjournment if needed to respond to any new issues. We believe landlords will also be able to ask to proceed in stages to hear some of the tenant's evidence and to hear the adjudicator's tentative opinion prior to deciding whether to obtain an adjournment or to defend the allegations at that day's hearing. For more information, please contact your professional advisor.

Volume of cases

With all applications going to a formal hearing, we can expect that there will be twice as many hearings. It is likely that in most cases involving non-payment of rent the tenant will not appear. However, with the ability for the tenant to raise any issue without prior notice, most people in the residential tenancy industry are concerned that delays will be inevitable.

In the very early stages of the Landlord and Tenant Board in Ottawa, the time from filing an eviction application to the resolution of the application has been about the same as was under the Ontario Rental Housing Tribunal. The Board is to be commended for avoiding an early backlog. However, most people in the industry are still concerned.

In Ottawa on Tuesday, Wednesday and Thursdays the Board holds hearings in 2 separate rooms. The hearings blocks commence at 9:00 am, sharp; and so, parties are encouraged to arrive by 8:30 am to check in.

Under the TPA, with half of the applications resolved by default, the time lag for resolving issues between landlords and tenants was amongst the highest in North America. Under the RTA, the time lag will likely be even longer. If proper procedures are not followed, or knowledgeable tenants take advantage of the rules, extremely

long delay can be the result.

New eviction grounds

In Ontario, residential tenants have "security of tenure"; this means that to evict a tenant, a landlord needs to have one of the reasons specified in the RTA.

In most cases, a residential tenant can maintain their tenancy by remedying the more common breaches. In the case of non-payment of rent, a tenant can almost always fully remedy the breach after receiving notice of termination by paying all outstanding rent before an eviction application is filed. So long as the tenant pays all arrears and any application fee, the tenant can also remedy the breach after an eviction application is filed. Now even after an order is issued and the landlord has filed the order with the sheriff, the tenant may still be able to maintain their tenancy if they pay all the arrears and costs prior to the enforcement of the eviction.

In the case where the tenant has caused undue damage, is interfering with the reasonable enjoyment of the property by the landlord or other tenants, or is permitting overcrowding of the unit, the tenant can remedy the breach and continue their tenancy so long as they stop the offending behaviour and repair any damage within 7 days.

In the cases of more serious offences, like committing an illegal act or impairing safety, the tenant does not have an opportunity to remedy the breach to continue their tenancy.

The RTA provides two new grounds for termination of tenancies that were not present in the TPA.

If a tenant wilfully causes undue damage to the building or uses their unit in a way that can reasonably be expected to cause extraordinary damage, a landlord may give an expedited notice to terminate. This expedited notice cannot be voided even if the tenant is willing to repair the damage. However, a landlord who gives this expedited notice, runs the risk of the tenant arguing that the damage was not caused wilfully (but rather accidentally). A landlord may be better off giving the normal notice of termination for damage.

There is also a new expedited notice that can be given to tenants who rent an apartment in a landlord's home and cause a disturbance. This notice cannot usually be voided even if the tenant is willing to correct their behaviour. This provision was introduced to protect smaller landlords from having to continue to live in very close proximity to tenants who are disturbing them. That avoids a disincentive to adding to the secondary rental market.



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