

HIGHLIGHTS OF RESIDENTIAL TENANCIES ACT, 2006

The name of the Ontario Rental Housing Tribunal will be changed to the Landlord and Tenant Board on January 31, 2007. This reflects its renewed mandate of fairness and accessibility for both tenants and landlords.

As you read the highlights of the *Residential Tenancies Act, 2006*, the Tribunal is referenced as the 'Landlord and Tenant Board' or 'the Board'.

MAINTENANCE

Provisions contained in the legislation will encourage landlords to maintain their buildings and provide more remedies to tenants who are living in poorly maintained buildings.

- If a building has serious maintenance issues or serious outstanding work orders, the following remedies will be available to tenants:
 - A tenant could apply to the Landlord and Tenant Board to stop all rent increases, including annual rent increases and above guideline increases, until all the serious maintenance issues are resolved.
 - If there are serious outstanding work orders or serious maintenance issues, the Board could refuse some or all of an above guideline increase application, until these issues were resolved.
 - In special circumstances, the Board member could allow tenants to pay some or all the rent to the Board, instead of to the landlord, until the serious maintenance issues were resolved.
- Landlords will be able to inspect rental units for maintenance problems. They will be required to give their tenants 24-hour notice of this inspection. This will help landlords fix maintenance issues before they became serious.

RENT INCREASE GUIDELINE

Under the legislation, the annual rent increase guideline will be based on the Ontario Consumer Price Index (CPI). The CPI will be the rate of inflation for the year running from June to May. The guideline is announced each August. The guideline will be more stable and never higher than inflation.

Note: The annual rent increase guideline is the maximum percentage that landlords can raise rents without getting permission from the Board.

ABOVE GUIDELINE INCREASES – UTILITIES

A tenant's rent can be raised by an above guideline rent increase for higher utility costs.

A landlord will only be able to claim an extraordinary increase in utility costs. An extraordinary increase in utility costs means a cost increase greater than the guideline plus 50% of the guideline (ie: if the guideline is 2%, a landlord will only be able to claim a utility cost increase that is higher than 3%)

Under the legislation, where a tenant's rent is increased because of higher utility costs, if the utility costs later decrease, the tenant's rent will be reduced accordingly. For example, if a \$10,000 extraordinary increase in utility costs resulted in a 2% above guideline rent increase for the tenant, if the utility costs later decrease by \$10,000, the tenant will get a 2% rent reduction..

After receiving an above guideline increase for utilities, for each of the next 5 years a landlord will be required to share information about utility costs with the tenant each year. If utility costs decrease during this time, the landlord will have to reduce the tenant's rent.

Note: An **above guideline increase** is an increase above the annual rent increase guideline. Landlords can apply for this type of increase if their costs have increased due to:

- a) Extraordinary increases in municipal taxes and charges or utilities
- b) Capital expenditures such as roof replacement
- c) Operating costs related to security services

ABOVE GUIDELINE INCREASES – CAPITAL

A tenant's rent can be raised by an above guideline increase for capital expenditures, e.g. a new roof. The legislation will make the above guideline increase system fairer to tenants:

- When a landlord finishes paying for the capital expenditures, e.g. a new roof and new windows, sitting tenants whose rents were increased based on the capital expenditures will have their rent reduced accordingly.
- Before a landlord is allowed to pass costs onto tenants, there will be a stricter test to decide if the capital expenditure is really necessary.
- Above guideline rent increases will not be allowed for routine maintenance or repair. Work must be extraordinary or significant to qualify for an increase. In addition, above guideline rent increases will not be allowed for projects that are substantially cosmetic in nature or for projects to enhance the level of prestige or luxury of a building.

- The rent increase for certain items will be spread out over more years, so the tenant will be paying less per year.
- The cap for an above guideline increase based on capital expenditures will be set at 3% per year for a maximum of 3 years. Previously, the cap was 4% per year with no maximum number of years.
- Landlords will no longer be able to pass management cost allowances onto their tenants.
- The financing rate for landlords will be reduced to the 5 year conventional mortgage rate. Previously the financing rate was the 5 year conventional mortgage rate plus 1%.
- In addition to the copy of the above guideline increase application which landlords must give to each tenant, landlords will also be required to make a copy of the supporting documents (e.g. bills for capital work done) available to tenants on a compact disc for a fee of no more than \$5 (tenants and landlords can agree on alternate ways to provide these documents), and for buildings with offices the landlord must make a copy of the supporting documents available for viewing by tenants.

EXCESSIVE OR WILFUL DAMAGE TO A UNIT

Under the legislation, if a tenant is purposely causing wilful and/or excessive damage in a rental unit or building, a landlord will have more remedies to deal effectively with this situation. These new remedies will cut the eviction process approximately in half.

Remedies will include:

- The notice period to the tenant will be shortened to 10 days from 20 days.
- The landlord will be able to apply to the Board right after serving the notice on the tenant (the landlord won't need to wait until the notice period is over).
- The tenant will not be able to void the eviction application by repairing the damages.
- The eviction order will include a request that the Sheriff speed up the enforcement of the eviction.

- Where a tenant has caused excessive damage to a rental unit or building, the Board will be able to order the tenant to be evicted immediately.

CAUSING A DISTURBANCE IN A LANDLORD'S HOME

Under the legislation, a landlord will have a faster remedy available to deal with a tenant causing a disturbance, such as playing loud music all night. This applies to a tenant who has a rental unit in a building with 3 or fewer apartments, where the landlord also resides. This will cut the eviction process approximately in half.

Remedies will include:

- The notice period to the tenant will be shortened to 10 days from 20 days.
- The landlord will be able to apply to the Board right after serving the notice on the tenant (the landlord won't need to wait until the notice period is over).
- The eviction order will include a request that the Sheriff speed up the enforcement of the eviction.

LANDLORD AND TENANT BOARD (currently known as the Ontario Rental Housing Tribunal)

Under the legislation, the Board will make its processes fairer and more accessible for both tenants and landlords by:

- **Eliminating the default eviction process:** Every tenant facing eviction will have access to a hearing or mediation. They will not have to file a written dispute to obtain a hearing.
- **Considering a tenant's circumstances:** Before allowing an eviction, the Board will automatically consider a tenant's special circumstances. For example, if the tenant is in the hospital and cannot pay the rent.
- **Applications for rent arrears and evictions based on rent arrears:** For these applications, the Board will consider all issues raised by the tenant (e.g. poor maintenance) and order any available remedies to resolve these issues.
- **Lowering fees:** Application fees, including fees for above-guideline increase applications and photocopying services, will be reduced.

- **Distributing an information pamphlet:** A pamphlet with information on the responsibilities of landlords and tenants, the role of the Board and contact details will be given to all tenants by landlords when they move in.
- **Providing better notice:** The Board will send an information notice about the eviction hearing process to a tenant when an eviction application has been filed. Landlords will still be responsible for giving the formal “Notice of Hearing” to their tenants.
- **Allowing payment to avoid eviction:** Tenants will be allowed to void an eviction order by paying outstanding rent and related landlord costs to the Board up until the Sheriff enforces the eviction. This provision will be allowed **one time** during a tenancy.

Note: This is in addition to current provisions that a tenant can pay the rent arrears and avoid eviction, in most cases, up until 10 days after the eviction order is issued. There is no limit on the number of times this current provision can be used to avoid eviction during a tenancy.

- **Creating a repayment schedule:** Landlords and tenants will be able to work out their own repayment schedule for outstanding rent. They will be able to do this without a Board mediator, and have the details of their agreement made official by the Board. If the agreement is broken, a hearing would be scheduled.

INTEREST ON LAST MONTH’S RENT

Under the legislation, the interest paid to tenants on last month’s rent deposit will be the same as the Consumer Price Index to more closely reflect actual interest rates.

Landlords will be able to use the interest earned on last month’s rent deposits to top up the tenant’s last month’s rent deposit as required to keep this deposit up-to-date with the current monthly rent.

Note: Landlords can ask tenants for the last month’s rent as a deposit before a tenant moves in. The landlord can keep this amount until the last month of the tenancy. If the rent increases, landlords can ask tenants to pay the increase to ‘top-up’ the rent deposit.

RENT DISCOUNTS

Under the legislation, landlords will be able to give up to 3 months’ free rent to tenants. Landlords could use this as a way to attract new tenants, while still keeping the original rent in place.

MOBILE HOMES/LAND LEASE COMMUNITIES

Under the legislation, the rules for mobile homes and land lease communities will be fairer to tenants:

- Tenants will be allowed to assign their tenancies to someone else, without getting their landlord's permission. Landlords can apply to the Board if they disagree with the assignment.
- Landlords will be required to tell their tenants the property tax breakdown for individual units, once the landlord has received the information from the Municipal Property Assessment Corporation. Until the landlord gives this information to the tenant, a tenant will not have to pay his/her share of the property taxes.
- Landlords will be required to disclose, in writing, all park rules to all tenants.
- Tenants will receive compensation of up to \$3,000 or one year's rent, whichever amount is less, if they are evicted because of conversion or demolition of their mobile parks.

CARE HOMES

Under the legislation, the rules for care homes will be fairer to tenants:

- When a tenant is leaving a unit, the period required to end care services or meals will be no more than 10 days.
- Tenants will receive a temporary rent reduction if their landlords fail to provide a written lease.
- Landlords will not be allowed to stop a tenant from receiving external care services.

OTHER PROVISIONS

Personal Caregiver

A landlord will be able to evict a tenant to allow the landlord's personal caregiver to move into the unit.

Maximum Penalties

The maximum penalty for an offence under the act will be increased to \$25,000 for individuals and \$100,000 for a corporation.

Rent Geared-to-Income Subsidies

The Board will not be permitted to adjudicate rent geared-to-income subsidies or other forms of assistance that are calculated in other legislation (e.g. Social Housing Reform Act).

Extending Exemptions for Social Housing to New Affordable Housing

Social housing units are exempt from certain provisions, such as most rent rules, and subletting/assignment of unit rules. They are covered by other rules such as eviction procedures. These exemptions for social housing units are extended to include subsidized units in new affordable rental housing programs. Market units in new affordable housing are not exempt, so they are fully subject to the Act.

Definition of Tenant

The definition of tenant will be broadened to include the spouse of the tenant if the tenant dies or if the tenant leaves. This rule does not apply where the tenant leaves and the building contains 3 or fewer apartments and the building is also the landlord's home.

Time to Collect Property

The time period for an evicted tenant to collect their property will be extended to 72 hours, and the landlord will be required to make this property available between 8am and 8pm.

Debiting Bank Accounts

Landlords will not be allowed to require automatic debiting of bank accounts to pay rent.

Vital Services

Between September 1 and June 15 heat is considered a vital service and should be provided at a minimum temperature of 20 degrees Celsius.

Rules for Post-1991 Units

For units built after 1991, a landlord and a tenant will be permitted to add and discontinue services and adjust rent accordingly (same as for pre-1991 units).