

Ontario RTA reforms give relief to both landlords and tenants

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The long awaited changes to the Residential Tenancies Act (RTA) were introduced in the Ontario Legislature on March 12 as Bill 184. In Bill 184, the provincial government is seeking to provide some relief to both landlords and tenants. However, anyone who expected a major overhaul of the RTA to make it more landlord-friendly will be sorely disappointed.

The big fix everyone needs is for the Landlord and Tenant Board (LTB) to eliminate its delays in processing applications. Over the last two years, the average time to process application has gone from about one month to about 4 months, with some cases now taking 6 months. (The current suspension of hearings to prevent the spread of COVID-19 will add to those delays.)

The Ontario government is well on its way to appointing sufficient adjudicators to process applications in a timely manner, once the backlog is cleared. Once enacted, Bill 184 should provide some modest help in clearing the backlog and keeping the LTB current, by reducing the number of hearings which need to be held.

First, Bill 184 will remove the requirement that landlords re-open an application if a repayment agreement is not complied with. Section 206 of the RTA allows for consent orders to be issued to resolve non-payment of rent applications, without a hearing, where the parties have reached a repayment agreement. But under the current rules, if a tenant doesn't comply with the agreement, the Board has to hold a full hearing to determine whether to evict the tenant. For this reason, landlords have seen no value in those consent orders.

Under Bill 184, the landlord will be able to obtain a payment and eviction order based on the consent order and an affidavit. That should result in more applications being resolved outside formal hearings, and a shorter time for disputed matters to be heard.

Second, Bill 184 will make mediation and other alternate dispute resolution services available earlier in the application process, rather than mostly or only on the hearing date, as is now the case. This improvement will work in with the change just noted.

Third, Bill 184 will largely end ambush complaints at hearings for non-payment of rent. Tenants will need to give landlords advance notice of any maintenance complaints they want to raise at a hearing, or have a very good reason for not having done so (such as the problem having just arisen).

Once the LTB has largely cleared its backlog, Bill 184 will allow landlords to apply to the LTB to claim costs they incur because of tenant misbehaviour. Bill 184 will also fix the unfairness of allowing former tenants to bring claims against landlords at the LTB, while forcing landlords to go to SmCC to bring claims against former landlords. Bill 184 will give the LTB jurisdiction to process claims for unpaid utility charges against both current and former tenants; and against former tenants for occupancy charges up to the enforcement of an eviction order, and for damages to the unit or complex.

Bill 184 will also save numerous landlords who have failed to give proper notice of rent increases. Now, tenants can invalidate rent increase going back for many years due to a Court case known as *Price v. Turnbull's Grove*. That can be devastating for purchasers, who buy a building based on an income stream, and then see the income stream cut back for defective or absent notices of rent increase before their purchase date.

Bill 184 will also improve various rules for mobile home parks.

New rights for tenants

For their part, tenants in more situations will be entitled to compensation for terminations for personal or family use, purchaser's use, renovations, demolition or conversion to non-residential use. Currently, tenants who are required to move for personal or family use are entitled to one month's rent as compensation for having to move, but tenants who are required to move for purchaser's use are not. They will be, once Bill 184 is in force.

Tenants in residential complexes with five or more residential units who are required to move for major repairs, renovations, demolition or conversion to a non-residential use are generally entitled to compensation for having to move. The amount is between one and three month's rent (depending on reason for termination, and the length of the repair or renovation work), unless the landlord arranges another rental unit acceptable to the tenant. If enacted in its current form, Bill 184 will extend that compensation to rental complexes of four or fewer residential units.

In addition, in order to apply to terminate tenancies for personal or family use, purchaser's use, renovations, demolition or conversion to a non-residential use, landlords will be required to file an affidavit setting out whether and when they have given any such notices of termination within the previous two years. The LTB is to take the facts about those terminations into account in determining the good faith of the current notice and application.

In addition, instead of the current one year to make a claim for a bad faith eviction, Bill 184 will extend the limitation period to two years. Finally, as well as the current ability to provide compensation for the difference in rent for one year, the LTB will be empowered to order general compensation for a wrongly evicted tenant in an amount up to 12 months of the last rent charged. All monetary awards by the LTB are limited to a total of \$35,000 per case.