

# **Eviction Prevention Project**

## **Report**

**Prepared by  
Hastings and Prince Edward Legal Services**

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## **Introduction**

This report has been prepared by staff at Hastings and Prince Edward Legal Services. Legal Services is a non-profit community legal clinic that has served this community since 1980.

Legal Services received funding from the Provincial Homelessness Initiative Fund to carry out an Eviction Prevention Project. Most of the funding was used to hire a "Housing Advocate" to assist legal clinic staff in carrying out the project. Although initially funded for a one year period that began in October, 1999, the project was extended a further three months to December 31, 2000. Legal Services submitted a proposal to continue the project and has been funded now until December 31, 2001.

The project is carried out by the Housing Team. The team includes a supervising lawyer, community legal worker, housing advocate, and the Executive Director.

The project goals included three main strategies designed to alleviate homelessness:

- Individual advocacy
- Preventative education and outreach to the community
- Systemic advocacy

The housing advocate works largely on the first two goals, sharing responsibility with others on the housing team.

We report in Part 1 on our efforts to meet the project goals. We detail what we agreed to provide, and whether we were able to reach that goal.

In Part 2 we make observations on what we learned as we delivered services during the course of the fifteen-month period covered by our initial funding. We make a number of recommendations that might assist in the prevention of homelessness.

These recommendations flow from the following questions explored in Part 2:

- Why are tenants facing eviction?
- What can be done to prevent eviction?
- Why do local tenants have difficulty enforcing their rights to safe, secure and affordable housing?
- Why can't tenants find safe and affordable housing?
- What else can be done to prevent eviction?
- What other issues are related to preventing homelessness?

Answers to these questions result in a number of recommendations summarized in Part 3, which are organized as follows:

- Municipal government
- Provincial government
- Federal government
- Other

Please note that recommendations made to Hastings County and member municipalities are also directed at the cities of Belleville and Quinte West, as appropriate. We have assumed that the County of Hastings will play a leadership role in ensuring many of the recommendations are implemented as the County is administering and managing local funding for the prevention of homelessness, and now for social housing.

We hope that community forums will address the following issues:

- ✓ **Revisiting local causes of homelessness (since the initial Task Force on Homelessness Report in May, 1999)**
- ✓ **Preventing unnecessary evictions and homelessness**
- ✓ **Preserving and enhancing the stock of safe, secure, adequate and affordable housing**
- ✓ **Developing an action plan with sustainable initiatives to prevent homelessness**

We hope this report will be helpful by promoting local understanding of a very complex and multi-faceted issue. We are asking that this report be made available to:

- To all interested members of the community
- To the Council of the County of Hastings via the Homelessness Accountability Committee (a subcommittee of the Joint Social Services Committee)
- To the Councils of the cities of Belleville and Quinte West

## **Part 1 – Report on Project Goals and Outcomes**

### **1. Individual Advocacy**

As stated in our initial funding application, a primary objective was to prevent, where possible, eviction and homelessness through legal intervention, self-advocacy, and negotiation on behalf of tenants. Priority was given to individuals identified as "hard to house" and, therefore, vulnerable to homelessness.

#### *Performance Objective Greatly Exceeded*

In our funding application we set a Performance Objective of responding to at least 500 calls from tenants for legal advice over a 12-month period.

During the reporting period (15 months) the housing team responded to 1567 tenant problems (which often included multiple phone contacts, and tenant visits to the clinic for assistance in preparing documentation and preparing to present at their own hearings). They also represented 39 tenants in more complex matters.

#### *Tenant Hotline*

We created a legal advice service focusing on "self-advocacy" for tenants in order to cope with an anticipated high level of demand for assistance. To that end, we now operate a "Tenant Hotline" four days a week. We have restricted the "Hotline" service to four days, as on the fifth day the Ontario Rental Housing Tribunal holds its hearings.

We are preparing an analysis of the types of problems that tenants are experiencing. Additionally we have spent a great deal of time rethinking and revising how we can assist tenants to ensure that we can serve a large number of tenants but still provide quality services.

#### *Toll-free Access and Improved Intake*

In order to increase access to all low income tenants living in Hastings, we ensured toll free access to tenants in outlying areas. This gave improved access to legal advice to tenants in Centre and North Hastings. In order to streamline our intake, tenant calls are now routed directly to the housing team, using voice mail technology. This circumvents normal (more complicated) intake processes for other areas of law in which the clinic provides service.

### *Advice Counsel at the Ontario Rental Housing Tribunal*

“Advice Counsel” services are now provided at the Ontario Rental Housing Tribunal (ORHT) on Fridays. The community legal worker and the housing advocate spend most of the day at the Tribunal offering advice to low income tenants, and assisting in negotiations with landlords. We assisted 219 people as “Advice Counsel” over the fifteen month period.

If a tenant has an urgent legal need for advice on Fridays while the community legal worker and the Housing Advocate are out of the office at the Tribunal, clinic staff can contact them by cell phone to make special arrangements for that advice. The cell phone also ensures the community legal worker and the housing advocate have immediate access to the supervising lawyer on the Housing Team.

Observing the proceedings at the Tribunal weekly has given the Housing Team a unique perspective on the difficulties facing tenants attempting to use the Tribunal to secure their rights to safe and secure housing.

## **2. Community Education and Preventative Outreach**

We agreed to provide:

- at least two training sessions with government and community agencies whose clients were tenants
- six tenant meetings
- proactive education about tenants' legal rights and obligations
- additional outreach to ensure low income tenants knew about our free legal services.

### *Performance Objectives Exceeded*

We have been able to do a great deal more work than was originally envisioned.

### *Information Sessions*

Over the fifteen month period the housing team delivered information sessions and training to the following government and community agencies:

- ✓ Ernie Parson's Constituency Staff
- ✓ Leona Dombrowsky's Constituency Staff
- ✓ Canadian Mental Health Association
- ✓ Counselling Services of Belleville and District (Adult Protection Service Workers)
- ✓ Community Services Network of Belleville
- ✓ North Hastings Interagency Group
- ✓ Hastings Housing Resource Centre
- ✓ Gleaner's Foodbank

### *Tenant Meetings*

The housing team organized eight tenant meetings in rental unit complexes identified as housing low income tenants. These legal educational meetings occurred outside clinic office hours. Written legal education materials were also distributed.

### *Public Legal Education Sessions and Materials*

The housing team delivered eleven education sessions and distributed public legal education materials directly to tenants (or prospective tenants) at the following locations:

- ✓ Quinte Detention Centre (two events)
- ✓ Generation Unity
- ✓ Clarke Business College
- ✓ Loyalist College (three events)
- ✓ Three Oaks Women's Shelter
- ✓ United Church Mom's Group
- ✓ Youth Habilitation Quinte
- ✓ Family Safety Day (Pine Street Housing Project)

### *Outreach*

The housing team created a flyer advertising free legal advice and assistance which was distributed by Ontario Works to all their recipients with their monthly cheque.

An article for our newsletter "Bafflegab" was prepared in the fall of 2001 and widely distributed. Pamphlets on tenants' legal rights were distributed to libraries, MTO offices, and other locations.

### **3. Systemic Advocacy**

Our strategy was to "sensitize" the community to issues of homelessness and eviction including the impact of the *Tenant Protection Act* on low income tenants. This advocacy was to include organizing regular meetings with community agencies, municipal departments and other interested groups to identify community issues and work towards solving identified needs.

We agreed to engage in systemic advocacy before the Ontario Rental Housing Tribunal, the Ministry of Municipal Affairs and Housing's Investigations Unit, and local, provincial and federal politicians to sensitize these groups to local issues of homelessness and eviction. We promised to work with provincial tenant groups to ensure that local issues are made known at the provincial and federal level.

### *Performance Objectives Exceeded*

The housing team built relationships with local community resources and support agencies serving low income and "hard to house" tenants. The Housing Team worked and/or met with:

- ✓ Municipal agencies and departments (Social Services, Property Standards enforcement officers, Health Unit)
- ✓ Law Enforcement officers
- ✓ Fire Departments
- ✓ Electrical Safety Authority
- ✓ Ministry of Municipal Affairs and Housing's Investigations Unit
- ✓ Ministry of the Attorney General's Court Enforcement Office (Sheriff)
- ✓ Ontario Disability Support Plan workers
- ✓ Ontario Works Caseworkers
- ✓ Ontario Rental Housing Tribunal
- ✓ Centre for Equality Rights in Accommodation
- ✓ Constituency staff at MPPs offices
- ✓ Homelessness Advisory Committee (5 meetings)

### *Advocacy with MPPs*

The housing team participated in meetings with two local provincial MPPs as well as participated in two meetings with the Liberal Housing Critic prior to that member tabling legislative changes to the *Tenant Protection Act*.

### *Forum on Homelessness*

The housing team organized a forum on homelessness in November 2000 with a local and a provincial speaker that attracted a large turnout (quite unexpectedly). Additionally this homelessness forum was filmed by Cablevue 4 and rebroadcast on many occasions. Public reaction to this event was swift and decisive. **A clear need for additional public meetings on the issue of homelessness emerged, designed to meet the need for additional information and understanding of the complexity of the issues, and to harness the creative energies of local people in working towards solutions.**

Cathy Crowe, Street Nurse, presented a report called Building Momentum! Building Housing describing the "one percent solution" which calls on municipal, provincial and federal governments to devote more resources to social housing.

### *Housing Issues Advocacy Group*

In co-operation with the Community Development Council of Quinte two meetings of local agencies and groups were organized in the hope of forming a community-based

housing advocacy group. (Since January, 2001, a group has now organized itself as a subcommittee of the Quinte Coalition for Social Justice and hopes to meet regularly.)

### *Tenant Self-Help Group*

Finally, the housing team began to organize a tenants' self-help group by holding a meeting in December. (Since January, 2001, this group now meets monthly with the support of the housing team who provide the location, assistance with organizing the meeting, refreshments and childcare.)

### *Involvement with Provincial Tenant Advocacy Groups*

The clinic participated in a province-wide Early Intervention Pilot Project initiated by the Centre for Equality Rights in Accommodation (CERA). CERA released a report in April 2000 that is very informative and merits further study.

### *Advocacy with OHRT and the Ministry of Housing*

An additional strategy was to arrange meetings with the Area Vice-Chair of the Ontario Rental Housing Tribunal and the Ministry of Municipal Affairs and Housing's Investigations Unit to discuss issues of local concern.

While no face-to-face meeting occurred during the project with the Area Vice Chair of the Ontario Rental Housing Tribunal, the housing team did on numerous occasions contact the Area Vice Chair either directly or by letter to advise of serious issues relating to the administration of the Tribunal. Further, a staff member attended a meeting with the Ministry of Municipal Affairs and Housing's Investigations Unit to discuss further serious concerns relating to the enforcement of the *Tenant Protection Act*.

### *Sensitizing Media to the Issue of Evictions and Homelessness*

The clinic issued two press releases to local media with the result of wide coverage in local papers and radio. Staff participated in various other unsolicited interviews with the local media.

There was a great deal of coverage in the *Intelligencer*, *Community Press* and *Trentonian* in October and November, 2000 of our annual AGM, which focused on homelessness. The *Intelligencer* coverage, although unexpected, generated a huge interest in the issue locally, and resulted in a large attendance at the Homelessness Forum described above. As mentioned above, the local cable television station repeatedly rebroadcast the Homelessness Forum in November and December, 2000.

### *Working with Law Enforcement Officers*

The housing team created and distributed a “Police Aide Memoire” for the Belleville City Police about tenant rights, provincial offence charges that can be laid against landlords for breaches of the *Tenant Protection Act*, and appropriate community resources for police referrals.

### *Eviction Prevention Survey*

The housing team initiated a research project to survey tenants in the midst of the eviction process to:

- ✓ gather information about tenant understanding of the new laws
- ✓ whether the Ontario Rental Housing Tribunal (ORHT) process was working well.

The research was needed to be able to better advocate for necessary changes to the administrative practices of new ORHT and to the *Tenant Protection Act*. Weekly lists of local eviction Applications to the ORHT were obtained at cost from CERA (who had a bulk purchasing agreement with ORHT). The housing team then contacted these tenants by phone and by mail in order to find out if the tenant facing eviction:

- had received the required notice of the landlord’s eviction Application
- understood the eviction process
- understood their legal rights
- needed affordable housing
- knew where to turn in the community for help

The research was done in two phases. Phase One was held May 2000 – August 2000. Phase Two was begun October 2000 and continued until April 15, 2001. Although the results of our local survey are not surprising (as they match fairly closely the results of a study done in Toronto), **the results are quite distressing**. These results are presented in Part 2.

### *Homelessness Advisory Committee*

As one of the non-profit organizations funded by the Provincial Homelessness Initiative Fund, we were asked to participate in a committee sponsored by Hastings County, which also includes some municipal representatives. We met quarterly to discuss the work we are doing. Members worked hard to coordinate their emergency services, and received information regarding Hastings County efforts to obtain additional funding for homelessness initiatives.

## **Summary of Part 1**

The legal clinic met and exceeded all its performance targets. We successfully applied for funding in 2001 to continue the Eviction Prevention Project, building on the success and momentum of the first fifteen months. A great deal of work remains to be done, and at times the challenges seem insurmountable. However, our Housing Team is committed to preventing as many unnecessary evictions as possible, and assisting as many tenants as possible to retain or obtain safe, secure and affordable housing. We are also committed to working with others in this community to identify the underlying problems that contribute to homelessness, and to work for changes to reduce the risk of homelessness. Our contributions in Part 2 were developed as a part of this commitment.

## Part 2 – Observations and Recommendations

The funding for this project has enabled us to assist families and individuals in our community confront, cope and, sometimes, prevent eviction and homelessness. In addition to providing referrals, information, legal advice, and representation, the Housing Team was able to closely work with community agencies and local and provincial departments to ensure that in our community, eviction is a last resort.

As a result of the work we described in Part I of this Report, we are presenting additional information on what we observed, and our reflections on the difficulties we discovered. We've grouped this information in response to several key questions:

- Why are tenants being evicted?
- What can be done legally to prevent eviction?
- Why do local tenants have difficulty enforcing their rights to safe, secure and affordable housing?
- Why can't tenants find safe and affordable housing?
- What else can be done to prevent eviction?
- What are other issues that are related to preventing homelessness or ensuring safe, and affordable housing?

Answers to these questions provide the basis for our **recommendations**.

We make these recommendations in a spirit of goodwill and concern. **We hope that many individuals, groups, and local government organizations will want to endorse our recommendations.** We look forward to receiving feedback on the viability of the recommendations, and the degree of community support they receive.

We have only taken the first few steps to identifying the causes contributing to the complex problem of increased risk of homelessness. Even as we drafted this report, we could think of many other things that were “broken” and needing fixing that we simply could not include given the time and resource constraints we operate under on a daily basis. **We know that other individuals and organizations have a great deal to contribute to an understanding of this problem.** We hope this community will be willing to devote a significant amount of energy to understanding this enormous problem over the coming year. We need to take the time, and invest the resources, not just to band-aid the victims, but to tackle the difficulties with the system which aggravate, and in some cases, cause the problem.

## Why are tenants being evicted?

The overwhelming reason that a landlord files an application with the Ontario Rental Housing Tribunal to evict a tenant is arrears of rent.<sup>1</sup> Most of the tenants we helped to avoid or deal with eviction were threatened with eviction for that reason. Many tenants also face eviction or give up their housing because it falls below acceptable housing standards. (The problems with substandard accommodation are discussed at page 22.)

There are many reasons why tenants find themselves in arrears of rent. They have included:

- Rent that is beyond the individual's or family's budget
- Personal or family emergencies causing a shortfall of funds
- Extra expenses connected to heat or hydro increases that the tenant must pay

### ➤ Why can't tenants afford their rent?

Working poor have difficulty making ends meet especially given the low minimum wage rate of \$6.85 an hour. The minimum wage rate has been frozen since 1995, while expenses faced by the working poor have continued to increase. The Hastings County Ontario Works Department keeps track of the average wage earned by people exiting the social assistance system and have reported it to be just above \$8.00 per hour, on average<sup>2</sup> for people in full-time jobs, and less than \$8.00 for people exiting the system to part-time jobs.

In 1995, the provincial government reduced social assistance rates by 21.6%. This reduction affected all people who were receiving welfare (now known as "Ontario Works") but not those receiving disability pensions. This meant that tenants experienced up to a 21.6% cut in the amount they received to cover their shelter costs. Additionally, there have been no increases to social assistance since that time. In real dollar terms, people who rely on social assistance to survive have even less money now to spend on shelter than they did in 1995. Inflation has further eroded the real value of social assistance benefits 8% since then.<sup>3</sup> Furthermore, the average allowable rent increase has averaged just under 3% per year. Rents have been increasing, and tenants' ability to pay has been decreasing.

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<sup>1</sup> Ontario Rental Housing Tribunal Report, Tenant Protection Act Workload Report – January 1, 2000 to December 31, 2001

<sup>2</sup> These reports are available from Hastings County Ontario Works Department, and are published in their monthly newsletter. See also the analysis prepared by the Health Unit in the report described in footnote 5 regarding the cost of living and shelter when a family is living on two minimum wage salaries.

<sup>3</sup> Ontario Social Safety Network, "FIVE YEARS LATER: Welfare Rate Cuts Anniversary Report", November, 2000 <http://www.welfarewatch.toronto.on.ca>

People receiving disability pensions did not have their shelter allowances reduced in 1995. However, they have not had an increase since long before 1995, so in real dollar terms they are also falling behind in their ability to pay their shelter costs. This is especially true since they often have a need for shelter that can accommodate their disability.

**A report done by Hastings County Ontario Works Department in April of 2000 found that on average recipients paid almost 70% of their total income towards shelter costs<sup>4</sup>.** The accepted standard (Statistics Canada uses this to determine their “low income cut off” and it is generally accepted as the “poverty line”) is that anyone paying more than 30% for shelter, is paying more towards shelter than they can afford.

To give another example of the impact of inadequate shelter allowances.... the maximum shelter allowance paid out to a mother of two children under the *Ontario Works Act* (OWA) is \$554.00. The average rent for a three bedroom unit in Belleville in 2000 is \$738.00<sup>5</sup>. This discrepancy may equal an increased risk of homelessness, or at the very least - hungry kids. This potential for hunger is borne out by a recent study done by the Health Unit that looked at the very real difficulties experienced by social assistance recipients.<sup>6</sup> Furthermore, this average rent is also not affordable for a disabled parent with two children who will only receive a maximum of \$707 per month for her shelter costs.

The Community Development Council has reported that the City of Belleville, in particular, now has average rent levels that have created a “tentative housing market”. “Tentative housing is the result of housing costs which are too high to be maintained on a regular and secure basis by tenants.. and increases the risk of homelessness in the region.”<sup>7</sup>

The Mayor’s Task Force on Homelessness in Belleville recommended that shelter allowances be increased to prevent homelessness. This recommendation has not been acted upon.<sup>8</sup>

***We recommend that the Ontario Government increase the shelter allowances available under the Ontario Works Act (OWA) and the Ontario Disability Support Plan Act (ODSPA) to reflect true shelter costs.***

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<sup>4</sup> “Report of Shelter Costs: Percentage of Total Take-Home Income Spent on Shelter” prepared by Steve Aiken and dated April 28, 2000.

<sup>5</sup> CMHC market survey report dated November 30, 2000. A two-bedroom unit would cost an average of \$643.00 in Belleville, or \$629 in Quinte West, which still exceeds the shelter allowance. Availability of these units is another issue. Additionally, many tenants on social assistance have a difficult time finding a landlord who will rent to them.

<sup>6</sup> “Is Healthy Eating Affordable in Hastings and Prince Edward Counties?: Release of the 2000 Nutritious Food Basket Costing”, Hastings and Prince Edward Counties Health Unit, December 2000. The Ontario Social Safety Network Report, *ibid*, claims a single person on social assistance with one child has only \$2.24 to spend per day once food and rent is paid, for all other expenses.

<sup>7</sup> Community Development Council, “Quality of Life Index Project: Progress and Setbacks in Quinte 1990 – 1999 released June 2000.

<sup>8</sup> Mayor’s Task Force on Homelessness, 1997, Recommendation 9.13. A similar recommendation had been made in the original Community Development Council report “Hunger in Belleville” released in 1992.

***We also ask Hastings County Council to undertake advocacy efforts and recommend to the provincial government that the shelter allowance under OWA and ODSPA be increased to reflect actual rental costs, or a fair percentage of average rent costs as reflected in yearly Canada Mortgage and Housing Corporation studies.***

- **What happens when tenants are having trouble paying for their shelter when there has been an emergency or series of unexpected expenses? Or when tenants are having trouble paying for their heat and hydro due to rising costs?**

It doesn't take much to push individuals and families living below the poverty line into a crisis when an unexpected expense or job loss occurs. The Centre for Equality Rights in Accommodation found that tenants were facing eviction even when they had formerly been able to afford the rent because:

- they or their children got sick
- they had unexpected expenses (medication, travel, repairs etc.)
- they lost their job or payment for their work was delayed
- their partner or room-mate left them
- they suddenly discovered they were not eligible for EI
- child support payments were not made
- their OSAP didn't arrive on time.<sup>9</sup>

Hastings County Ontario Works Department can provide access to a number of funds to assist social assistance recipients but often cannot assist people who are not eligible or are not willing to apply for assistance under the OWA. Many potential applicants for help are reluctant to apply to the Department, fearing the stigmatization that welfare recipients are increasingly subject to, or have had a negative experience with the Department in the past that they do not wish to repeat.

Furthermore, it can be very confusing to understand what "emergency" fund a tenant is receiving help from, and whether the tenant has a right to an appeal or complaint process if that help is denied arbitrarily. The Department recently issued a fact sheet (called the "reference guide & contacts") detailing different types of funds available. It is of enormous help in clearing up some of the confusion but more work needs to be done. It would be helpful if the tenant received some explanation of the available funds, and a letter explaining what type of funds were provided, or if not helped, why help was not available and whether this decision can be appealed. This is particularly important as tenants are always in crisis when they are requesting these funds, which leads to confusion for everyone.

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<sup>9</sup> Centre for Equality Rights in Accommodation, "Early Intervention Pilot Project Final Report: April, 2000", Toronto, p. 10

Heat and hydro costs are increasing and must be kept paid up to keep accommodation. Last winter was particularly severe, and energy cost increases caused great difficulty for tenants. Many tenants calling our clinic complained that they could not pay the costs of their utilities. When they were referred to the Rent Bank, they were told that the Rent Bank would not assist in paying outstanding utilities. The Rent Bank is out of reach to these needy tenants.

Hastings County Ontario Works Department administers the Rent Bank. This has led to some additional confusion for tenants and service providers. In at least one instance, a tenant found himself repaying a Rent Bank loan by deductions from his social assistance cheque, alleged to be the result of a social assistance overpayment. This is not legally allowable under the OWA. It is very important for the Department to keep proper records about where the funds are coming from.

There has also been a reluctance to applying for the Rent Bank funds as it appears Eligibility Review Officers (EROs) are taking the applications for Rent Bank funds. As the EROs are often assigned to cases of suspected fraud or following up on "snitch line" calls, this appears to be a legitimate concern. When the local concept for a Rent Bank was developed in the spring of 2000, it was felt that it should not be administered by the Department, based on the experience of successful programmes elsewhere.

OW recipients applying for a Community Start-Up Benefit<sup>10</sup> (CSUB) are often given a difficult time by their Ontario Works caseworker because the cost of rent at the new housing is more than the shelter allowance they are entitled to under the OWA. The tenant is made to feel that he or she is somehow being "unreasonable" in making a request for help with moving expenses and last month's rent deposits in these circumstances. High rents, low vacancy rates, and low OWA shelter allowances are not the tenant's fault. Facts like these should be made known to caseworkers so that the atmosphere of blame is done away with, and benefits are made available in appropriate circumstances. We discussed difficulties being experienced in accessing CSUBs, and other special funds with senior administration on several occasions last year, and notable improvements were made.

***We recommend that Hastings County Ontario Works Department:***

- ***revisit the requirement that recipients must apply for OWA to receive special need funds***
- ***ensure that the source of funding for a tenant's special need be clearly identified to the tenant, and appeal rights or a complaint process is outlined if the request is refused***
- ***Ensure that the local Rent Bank allow loans to needy tenants for utility arrears***

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<sup>10</sup> A CSUB is a special grant available to OW recipients who need assistance moving due to health or other acceptable reasons. It can be available in some circumstances, to help prevent eviction to assist in paying off rent arrears.

- ***re-examine whether it is the most appropriate body to administer the Rent Bank, and if so, ensure adequate legal safeguards for social assistance recipients***
- ***Provide information to caseworkers about the average rents in our community to prevent misunderstandings and ensure maximum availability for benefits.***

## What can be done legally to prevent an eviction?

If a landlord wishes to evict a tenant he/she must follow the procedures set out in the *Tenant Protection Act (TPA)*. This law was new in 1998. Tenants and landlords now bring their disputes before the Ontario Rental Housing Tribunal (ORHTI) instead of the courts.

If a tenant can be reached in time, needless evictions can be avoided. However, the time periods under the *TPA* are very short, and very strict.

**It is very clear that tenants need more help understanding their rights under the TPA.**

### ➤ TPA Procedures Confuse Tenants

Every day we see tenants who are confused by the eviction process. The eviction process under the *Tenant Protection Act* is a four-step process when the tenant owes rent to the landlord. The tenant first receives a Notice to Terminate the tenancy from the landlord for non-payment of rent. This notice is insufficient to actually evict the tenant, but is merely the first step giving the tenant 14 days to pay.

If the tenant does not pay then the landlord cannot evict the tenant, but merely has the right to apply to the ORHT for an Order to terminate the tenant's tenancy. Once the landlord applies, a hearing set. The tenant is required to file a dispute **within five days** of receiving the Notice of Hearing from the landlord. Most tenants do not understand this time limitation, or the importance of filing a dispute. If a dispute is not filed, the Tribunal releases a default order.

If the tenant disputes the landlord's application and attends the hearing, a settlement may be reached, the landlord's application may be dismissed or the Adjudicator may issue an eviction Order.

If an eviction order has been issued, the final step in the process is for the Sheriff to issue a Notice to Vacate and, eventually change the locks.

Both landlords and tenants find this process confusing. However, the process is weighted against the tenant from the beginning:

- The preliminary notice to terminate states that the tenant "must move out" as of a specific date. This is legally wrong and misrepresents the tenant's rights. Clearly the tenant does not have to move out at this stage.
- If the tenant does not move out and the landlord applies to the ORHT for an order evicting the tenant, then the tenant only has five days to file a dispute. This means that the tenant must receive the notice from the landlord in the first place, and as our study discussed below indicates, this does not always happen. Further, tenants are given

only **five** days to file a dispute. This means that tenants only have five days after they receive the notice to get legal advice, draft and file confusing documentation if they intend to challenge their landlord. (Reasons could include that they had paid the rent, set off a debt, or were harassed or have a defense based on disrepair.) We have observed that some landlords or their agents, commonly serve hearing notices late on Fridays, thus giving the tenant only *three* days to get legal help and file a dispute.

All the forms are difficult to understand. This problem is aggravated when a tenant has difficulty with reading and writing. We know that levels of illiteracy are very high in our community, which adds to the difficulty local tenants are experiencing.

As a part of the housing team's efforts to prevent needless evictions, we embarked on an ambitious study of tenants facing eviction before the Ontario Rental Housing Tribunal. The full results of the survey, conducted over two separate time periods (May – August, 2000 and October, 2000 – April, 2001) lead to the following conclusions:

- ❑ 2 – 3 tenants out of ten do not know that an eviction proceeding has been commenced against them
- ❑ 3 – 5 tenants out of ten did not receive a copy of the Notice of Hearing
- ❑ Most tenants do not file disputes to the landlord's Application to evict them
- ❑ Most tenants did not know that they had to file a dispute within five days or a default order would issue
- ❑ The majority of tenants were confused by the forms
- ❑ The majority of tenants were confused by the Tribunal process
- ❑ Most tenants had no place to go when we contacted them to do the survey
- ❑ Most tenants did not get legal advice.

The findings of the survey are presented in chart form in Appendix One to this Report, together with a more detailed "Survey Analysis" and an explanation of how the survey was done. We discontinued our survey once we reached the "saturation point" and had learned all we could from it. It took a great deal time to try and contact all the tenants on the list, and was not a sustainable project with our limited resources.

Our findings are very similar to those found in large studies like the report the Centre for Equality Rights in Accommodation (CERA) completed in April 2000. The findings include:

- ❑ Over fifty percent (50%) on the landlords' applications to evict result in *default* orders<sup>11</sup>
- ❑ Tenants are not receiving copies of the applications to evict
- ❑ The forms and procedures are bewildering
- ❑ Tenants who receive a "Notice of Hearing" do not, understandably, realize that they must file a written dispute within five calendar days if they actually do want a hearing
- ❑ Tenants who do get a hearing can be evicted for being late or missing one month's rent<sup>12</sup>

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<sup>11</sup> ORHT statistics for 2000 put the default rate at 66% in Eastern Ontario (Default Statistics Report produced February 15, 2001)

CERA highly endorsed an **early intervention project**, with components of education, referral, and service and income support, as a successful tool in preventing homelessness.<sup>13</sup> While the Housing Team is able to help tenants who call us when they receive notices of hearing, we cannot reach tenants who don't know about our services in the first place. Both the results of our survey, and the CERA survey, endorse the need for "early intervention".

Changes to both the forms allowed under the TPA, and the notice provisions under the TPA are needed. A number of the identified problems would have been partially remedied by the tabled legislation brought forward by David Caplan, MPP, who is the Liberal Party Housing Critic. This legislation was titled the *Towards Fairness to Tenants Act*.<sup>14</sup> Unfortunately, the provincial government did not support this legislation.

***We recommend that:***

- ***changes be made to misleading forms under the TPA***
- ***amendments be made to the Tenant Protection Act be enacted to protect tenant's procedural rights similar to those tabled in the Fairness To Tenants Act.***

***We ask Hastings County Council undertake advocacy efforts and recommend to the provincial government that changes be enacted to the TPA that will help ensure there are no unnecessary evictions. These changes would include:***

- 1. Better procedural protections for tenants***
- 2. Requiring the ORHT to serve notices of hearings, rather than landlords***
- 3. Removing the requirement that written disputes be filed***
- 4. Improving their forms by using plain language and ensuring legal accuracy***

- **Provincial OHRT Practices lead to unnecessary evictions**
- **Problems with Ontario Rental Housing Tribunal sittings in Belleville**

ORHT will not often grant adjournments, even to allow tenants to get legal advice. This is particularly unfair given the short notice tenants receive for the actual hearing. Rarely have they had an opportunity to summons witnesses or gather other forms of evidence. Once a hearing has been held, ORHT issues an order. These Orders are extremely

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<sup>12</sup> Centre for Equality Rights in Accommodation, "Early Intervention Pilot Project Final Report", April 2000, p.4

<sup>13</sup> *ibid*, p.5. See our further recommendation of an early intervention project for Hastings County residents later in this report.

<sup>14</sup> See Appendix Two, press release from David Caplan incorporating the content of the proposed Bill 36, 1999.

difficult to challenge, and both the review (\$75 fee) the appeal process (to Divisional Court, \$200+ filing fee) are beyond the reach of most tenants.

Additionally, when an eviction is ordered, we are currently seeing an increase in "forthwith" eviction orders. In these instances the normal notice requirement from the Sheriff's Office (Court Enforcement) is done away with. Tenants must find new accommodation within 48 hours.

A further difficulty is created when tenants attempt to raise the issue of disrepair, as a ground for not paying some of the rent owed to the landlord, for example. They are not permitted to do this in their Dispute and are forced to make a separate Application, and pay \$45.00. This unnecessarily complicates issues for the tenant and the ORHT. It also means that the Tribunal (due to the scheduling delays experienced when a tenant brings an Application) won't hear all the issues bearing on the tenancy, and adjournments must often be sought. (Landlord Applications appear to get priority and Tenant applications often take up to 6 weeks to be scheduled.) We believe that ORHT is incorrectly interpreting the law regarding what a tenant can raise by way of defence to a landlord's application. This injustice must be corrected.

At least one member of our Housing Team attends weekly sittings of the ORHT in Belleville, but this is often insufficient. Belleville is now used as a hearing location for all tenants in Hastings and Prince Edward Counties, and also for tenants from the Greater Napanee area. Hearing days are overbooked, resulting in over-crowding of tenants and landlords, and safety and security concerns. All matters are booked for 9:30 a.m. (There used to be 1:00 p.m. hearings scheduled also.) Additionally, insufficient time is allowed for hearings. On some occasions, hearings have gone into the evening. One hearing ended as late as 11:00 p.m. It is difficult for tenants from Prince Edward, in Quinte West and Centre and North Hastings, and from the Greater Napanee to attend hearings in Belleville.

Due to the large number of tenants present at the weekly sittings, it has been impossible to speak to every tenant in a timely fashion, provide quality legal advice which often involves the review or interpretation of legal documents, or provide referrals to social service agencies. We usually try to provide two staff people but this is not always possible.

Noteworthy of comment were the difficulties we experienced trying to get copies of the list of hearings scheduled for ORHT sittings. We were receiving this list on a weekly basis directly from ORHT. This was of enormous assistance to us in planning for our "Advice Counsel" service at the ORHT, and also for contacting tenants for the eviction prevention survey. Unfortunately, since June 2000, ORHT has refused to provide us with the list. Without this list it is difficult to provide effective and efficient "Advice Counsel" services.

ORHT sometimes decides not to schedule a hearing day in Belleville, due to a Tribunal member's holiday, for example. Although our Tenant "Advice Counsel" service is greatly appreciated by the sitting Tribunal member, who has made every effort to publicize the service and encourage tenants to use it, ORHT refuses to let the clinic know when the days are being cancelled. This has resulted in wasted staff time.

***We recommend that ORHT:***

- ***Grant adjournments to tenants when they cannot attend a hearing due to short notice, or need time to prepare, or need to get legal help for the hearing***
- ***only use forthwith eviction orders in exceptional circumstance***
- ***permitting tenants to raise disrepair in their Disputes, rather than requiring new Applications***
- ***increase the access of tenants in Quinte West, and Centre and North Hastings to Tribunal sittings***
- ***advise us when hearing days are cancelled, for any reason***
- ***provide us with a copy of the “hearing list” on a weekly basis to ensure an effective “advice counsel” service, free of charge***

➤ **Tenants don't have enough information about their legal rights**

The survey we did and CERA's comprehensive report show that tenants need much more information and **proactive** help to understand their legal rights. A key future local strategy should be to try to reach tenants in advance of their cases being on the list of Tribunal hearings, similar to the “early intervention project” undertaken by CERA. This is particularly important because our eviction prevention survey found that 70 – 80% of tenants facing eviction had **no place to go** at the time of contact.

Additionally, much more public legal education is needed regarding the new *TPA*. The Housing Team has undertaken to do that this year. We will also be providing information about our services directly to OW recipients using “cheque inserts” in the fall of 2001. We have also offered to provide information on tenant rights directly to OW caseworkers, so that they will be able to “red flag” issues for referral directly to us before they become a crisis and eviction is a real possibility.

***We recommend that Hastings County consider providing funding in the future for an “early intervention project” designed to reduce the risk of homelessness. This would include funding to:***

- ***Get a list of the Applications for evictions filed at ORHT***
- ***Permit someone to contact all these tenants and provide them with information about local services available, and referrals to those services***
- ***Encourage tenants to get disputes filed, and/or get legal advice on their situation, immediately.***

- **Vacancy “decontrol” provides an economic incentive to evict, and an incentive to “harass” tenants so they will leave their rental units**

The *Tenant Protection Act* can inadvertently encourage eviction and harassment by “rewarding” a landlord when a tenant is evicted or leaves because rent controls come off the rental unit when a tenant vacates (“vacancy decontrol”). Under the previous *Rent Control Act* this was not permissible and there was no incentive for a landlord to try and get a tenant out of a unit.

After “eviction”, the next most common reasons for tenants come to us for advice is that they have been “illegally locked out”, harassed by their landlord, or have experienced “interference with their vital services” (heat, hydro, water). This situation has worsened considerably since the new law was passed in 1998. Although the *Tenant Protection Act* was ostensibly passed to “protect” tenants, in many instances, it does the complete opposite of exactly that.

Many tenants are at risk of losing or leaving their accommodation because of this increase in illegal evictions, harassment and interference. In order for the risk of homelessness to be reduced, steps must be taken to ensure that their rights to safe, adequate, and affordable housing are safeguarded.

## Why do local tenants have difficulty enforcing their rights to safe, secure and affordable housing?

### ➤ Problems with enforcing tenant rights under the *Tenant Protection Act*

During the fifteen months we initially did this work, we received 102 calls from tenants with complaints that their landlord or the landlord's agent had harassed, interfered with vital services, entered the premises without proper notice, and/or threatened to or carried out an illegal eviction.

These calls are the most serious calls we receive from tenants and unless assistance is given immediately, homelessness may result. When faced with such threats and actions tenants are supposed to be able to contact the Investigations Unit of the Ministry of Municipal Affairs & Housing. This Unit is charged with the investigation of offences under the *Tenant Protection Act*.

During the reporting period our clinic referred many tenants to this Unit. In the vast majority of cases, the tenants were greeted with an unsympathetic investigator who did not do an investigation and no charges were laid. Even in situations where an offence was blatantly obvious the Investigations Unit seemed surprised and disturbed that tenants called them.

The Investigations Unit has a staff of only six investigators for all of Ontario. In 1999 the Unit reports that they received 1,672 complaints. Clearly investigators are overworked. Also, these numbers may not reflect the actual picture. For instance, during the year 2000 they report they received only 14 calls from tenants in Belleville alleging serious breaches of the *Tenant Protection Act*. We know that we have referred and witnessed far more than 14 Belleville tenants contacting the Unit with serious complaints. We referred at least 100 complaints to the Unit over approximately the same time period, during which they report approximately 29 for Hastings and Prince Edward Counties<sup>15</sup>. Even allowing for tenants who did not follow through on our advice, we can only assume that the Ministry's numbers must be wrong or that the Unit is not processing or tabulating all the complaints.

Our clinic, along with other legal clinics in eastern Ontario, met with John Rutherford, Investigations Unit Manager with the Ministry of Municipal Affairs and Housing in 2000 to discuss this problem. At this meeting we were informed that since the *Tenant Protection Act* was proclaimed the numbers of reported offences in 1999 had increased 12 times as compared to reported complaints during the last year of the *Landlord & Tenant Act*. Given the inaccuracy of their 2000 statistics, now available, we wonder at their ability to deal with the problem.

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<sup>15</sup> Reference Ministry of Municipal Affairs and Housing Statistics 2000 for Hastings, Prince Edward and Lennox & Addington Counties, received at HPELS January 22, 2001

Certainly, we know that many tenants who faced extremely serious threats from landlords and who complained to the Investigations Unit were told to file an Application to the ORHT rather than refer the matter for investigation and prosecution. It is true that when a tenant does file an application with ORHT, the Adjudicator often accepts the tenant's complaint and awards damages to the tenant and/or an administrative fine against the landlord. Unfortunately, this is still not an acceptable response. Most cases are emergencies, and the ORHT is not equipped to deal with these, or to enforce the law. The Investigation's Unit needs to have an enforcement process that can deal with the emergencies we see, and act as a general deterrent to landlords breaking the law, by intervening early and directly with landlords.

The problems with an OHRT Application being the only suggested remedy is that tenants:

- Usually need legal advice or help to be able to file an application;
- If he/she does not have legal help, he/she must have a high degree of understanding of the legal issues, and be able to complete complex forms, and to have the safety or personal strength to continue to deal with an often hostile landlord (who is allegedly committing an offence under the TPA)
- Needs money to pay for the costs of summoning witnesses or serving the Application
- Cannot get help in preventing the violation of the TPA in emergency situations as they must wait up to six weeks for a hearing

It should be noted that in rare cases we have been able to bring forward emergency motions with as little as one-day notice to the landlord or the ORHT. We ask for these emergency motions only as a last resort. When we started this Eviction Prevention Project, emergency motions were not available. It was through the continued advocacy of our housing team and through intervention in crisis cases that this remedy became available. The Adjudicator at the Belleville ORHT sittings informs us that he is the only Adjudicator in Ontario who will accept emergency motions.

The Investigations Unit's enforcement powers are vitally important if tenant's rights are to be enforced in a timely and safe fashion, and safe, adequate and affordable housing remain in place for that tenant.

***We recommend that the Ministry of Municipal Affairs and Housing Investigations Unit:***

- ***Create a protocol for dealing with emergencies caused by breaches of the TPA***
- ***Intervene directly with landlords who are allegedly reaching the TPA to provide for an immediate remedy, and a general deterrent***
- ***actually investigate all alleged offences under the Tenant Protection Act in a timely fashion***
- ***lay charges where a breach by a landlord is found.***

***We recommend that Hastings County Council undertake advocacy efforts and recommend to the Ministry of Municipal Affairs and Housing that an audit of the***

***Investigations Branch's activities be undertaken to ensure that low income tenants' rights are enforced under the TPA.***

***We recommend that the Ontario Rental Housing Tribunal continue to allow emergency motions for tenants where there are alleged breaches of the Tenant Protection Act.***

➤ **Vital role of the police in enforcing the TPA offence provisions**

We have found the work on the Belleville City police highly instrumental in preventing illegal evictions, and other breaches of the *TPA*. This has been a particularly vital role in light of the difficulties we have experienced in getting the Ministry's Investigations Unit to act. Without this local resource, our tenants would be in much greater difficulty. Our police aide memoire appears to have been well received and well used by the Belleville City police. The housing team will encourage other police forces to adapt the aide memoire to their communities, and will provide training or sensitivity sessions, on request.

***We recommend that Hastings County Council encourage its member municipalities and their police forces to assist with enforcement of TPA offence provisions.***

➤ **Problems with standards bylaws and their enforcement**

Property standards bylaws are key local laws that assist tenants and help ensure that the housing they occupy is safe and adequately maintained. They enhance the limited protection available under the *TPA*. Unfortunately, the usefulness of these bylaws varies greatly by municipality. Some property standards are very weak, and offer little protection to the tenant. In cases where the municipality has no bylaw, the province can come in and do inspections using "Maintenance Standards" that are prescribed under the *TPA*.<sup>16</sup> The province then charges the municipality \$265 for the inspection. In recent months, some municipalities have started passing poor quality property standards bylaws simply to oust the jurisdiction of the province. These bylaws have done little or nothing to protect a tenant's right to decent housing. In fact, the situation has been made worse.

The Ontario Association of Property Standards Officers has proposed a model bylaw called "Property Maintenance and Occupancy Standards" which provides an excellent example of a law that would help to ensure tenants are housed safely.<sup>17</sup>

***We ask that Hastings County Council encourage all their member municipalities to:***

- ***revisit their current property standards bylaws and ensure they comply at least with the provincial "Maintenance Standards" as prescribed by the TPA***

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<sup>16</sup> Regulation made under the *Tenant Protection Act*, 1997

<sup>17</sup> A copy of this bylaw is available from the Maintenance and Standards Unit at the Ministry of Municipal Affairs and Housing at 777 Bay Street, 2<sup>nd</sup> Floor, Toronto, On M5G 2E5

- ***consider adopting the model “Property Standards and Occupancy Standards” bylaw created by the Ontario Association of Property Standards Officers for all rental housing.***

Additionally, each municipality is charged with enforcing their own bylaws. In our experience, these bylaws can be inconsistently enforced. At times, even if an investigation has taken place it has been difficult for tenants to get copies of this correspondence related to the enforcement or the reports. It is important for tenants to have copies, particularly if they are bringing an application before ORHT and need the report as evidence of disrepair. Tenants are entitled to copies under municipal access to information laws. Impediments should not be placed in their way.

The Housing Team would like to organize, resources permitting, a forum for local property standards officers to attend and discuss issues related to ensuring existing rental stock is safe and adequately maintained.

***We ask that Hastings County Council encourage all their member municipalities to:***

- ***ensure that property standards bylaws currently existing are enforced, and***
- ***revisit their access to information policies to ensure tenants receive copies of property standards reports and correspondence after they have initiated a complaint.***

➤ **Need to coordinate all standards relating to housing**

Many calls we receive involve problems with rental accommodation that could be dealt with by the Health Unit, Property Standards Inspectors, Public Utilities (electrical problems/inspections) or Fire Departments throughout the County. The work of these organizations is critical to ensuring an adequate stock of safe and affordable housing. If rental premises are a firetrap, infested with insects or infiltrated with mould, or in serious disrepair, a tenant and his/her family are as good as homeless, and certainly are at great risk.

There are a myriad of codes, policies, regulations and bylaws relating to housing throughout the County. It would be helpful if there was greater coordination of these efforts, and easier access to inspections and reports, than is currently the case. Clinic staff have worked successfully with many of the above-listed local agencies. We feel it would be helpful to bring together staff from all the above agencies, perhaps in a one-day forum or workshop to foster improved enforcement and coordination of standards related to housing, and to increase agency staff understanding of the TPA.

***We recommend that the County of Hastings sponsor a one-day forum on safety and standards issues in rental housing.***

## Why can't tenants find safe and affordable housing?

### ➤ Why is it so hard to find affordable housing?

Vacancy rates are decreasing. Rents are increasing. The rental housing stock is shrinking, with no new rental housing being built. In this atmosphere rents are being deregulated under the *Tenant Protection Act*. The government's stated purpose for lifting rent controls in 1998 on vacant rental units was to encourage the building of affordable housing by landlords and developers. This has not happened and increasing risk of homelessness is a direct result. The Canada Mortgage and Housing Corporation reported in 1999, that Belleville had actually lost 107 rental units in the last four years.<sup>18</sup>

The provincial government policy of vacancy "decontrol" has failed to provide an increasing in the housing supply. Belleville has seen the rental vacancy rate decrease two years in a row, as has Quinte West.<sup>19</sup> The overall vacancy rate in Belleville is becoming a cause for concern, whereas it is less so in Quinte West. The vacancy rate for affordable housing is still a concern throughout Hastings County, however. Lower vacancy rates mean there are fewer rental units available for prospective tenants, and landlords can, therefore, charge higher rents when a unit becomes vacant.

Private developers had promised the provincial government that if rent controls were relaxed, the private market would fill the gap created when governments got out of building social housing. Despite getting their way, construction of rental housing has ground to a halt.

***We ask that Hastings County strongly recommend to the provincial government that rent controls (and a rent registry to keep track of legal rent levels) be reinstated.***

### ➤ Improving Access to local subsidized Housing

We came across numerous instances where tenants were having difficulty obtaining subsidized housing despite being homeless. What was disturbing about those instances was they were being told that they could not get on the waiting list for subsidized rental accommodation through the local housing authority if they owed rent to a previous landlord. This practice seems illogical; the reason the tenant is applying for subsidized housing in the first place is because they cannot afford rent in the private market. It seems likely that most of these applicants may owe rent to a previous landlord. We have also learned of several cases where applicants for subsidized accommodation were not being clearly informed of their right to appeal refusals to be put on the waiting lists.

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<sup>18</sup> "Fast Fax: Rental Market Report", CMHC Report dated November 25, 1999

<sup>19</sup> *ibid*

The administration of subsidized housing is being taken over by the County of Hastings so this will be an appropriate time to re-examine the current business practices of the Housing Authority and ensure that provincial policies are followed. The CERA report earlier referred to highlights a number of possible business practice improvements for local housing authorities which may be of assistance locally.<sup>20</sup>

***We recommend that the local Housing Authority:***

- ***re-examine their current practice, and that previous arrears accumulated in the private market not be a grounds to refuse subsidized accommodation to these tenants***
- ***ensure that tenants who are refused a place on the Consolidated Waiting List be informed in writing of their right to appeal.***

➤ **Increasing the supply of affordable housing**

Both the provincial and federal governments have stopped providing funding to build new social housing. No new affordable housing is being built by the private sector.

Additionally, the Hastings Local Housing Authority reports that landlords in Hastings County are not taking advantage of the government's subsidy program for low income tenants. If the private market cannot supply desperately needed affordable housing, then it is up to the provincial and federal government to step in.

The Community Development Council reports that the waiting list for subsidized housing increased 67% between 1998 and 1999, according to Ministry of Housing figures. They conclude that those at risk of homelessness are on the rise as the situation is worsening.<sup>21</sup>

On average, the federal, provincial and municipal governments spend about one percent of their total budgets on housing; in 1994-95, they spent \$3.83 billion out of a total \$358 billion. An increase of one percent would double the amount now spent and would go far towards ending homelessness in the next three to five years. This is called the "1% Solution" and has been championed by the Toronto Disaster Relief Committee.<sup>22</sup>

More than 1100 individuals and 400 organizations, including hospitals, numerous health organizations, AIDS services organizations, community services and faith organizations have declared homelessness a "National Disaster". The city councils of Toronto, Vancouver, Victoria, Nepean and Rideau, and the regions of Ottawa-Carlton and Durham, and the mayors of 10 of Canada's largest cities, have done the same.

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<sup>20</sup> CERA, *ibid*, pp. 20 -23

<sup>21</sup> Community Development Council of Quinte, "Quality of Life Index Project: Progress and Setbacks in Quinte 1990 -1999, released June, 2000

<sup>22</sup> For further information on this proposal, contact Toronto Disaster Relief Committee at (416) 599-8372 or [www.tao.ca/~tdrc](http://www.tao.ca/~tdrc)

The call for greater monetary commitment by governments is part of an overall strategy to have the federal government initiate a National Housing Strategy.

Very recently, the National Housing and Homelessness Network prepared a study which has just been presented to the United Nations. They reported that federal and provincial governments have chopped almost \$500 million from spending on housing in the past several years. "The homelessness disaster, and underlying affordable housing crisis, is Canada's dirty little secret," the report says.,,, The report argues Canada has slipped backwards since.. Ottawa transferred responsibility for social housing to provinces and the private sector abandoned building affordable rental housing... Canada is the only major country in the world without a national housing strategy."<sup>23</sup>

***We recommend that:***

- ***the federal government create a national housing strategy***
- ***the provincial and federal governments build social housing.***

***We ask that Hastings County Council strongly:***

- ***endorse the "1% solution" proposed by a coalition of housing groups, as initiated by the Toronto Disaster Relief Committee***
- ***advocate for the need for a National Housing Strategy to end homelessness, and create affordable housing to both the federal and provincial governments.***

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<sup>23</sup> Toronto Star, June 5, 2001

## What else can be done to prevent eviction?

### ➤ Preventing disconnection of vital services

Local Public Utility Commissions appear powerless to halt landlords from ordering that vital services like gas, hydro and water be cut-off. This is so even if that vital service is the landlord's responsibility and utilities are included in the rent. Often, the utility company is not aware that a tenant is even occupying a unit. If they are aware they are extremely reluctant to get involved. The ORHT cannot order a local utility commission to maintain vital services to stop an illegal cut-off. The *Tenant Protection Act*, however, gives municipalities this power and responsibility.<sup>24</sup> Municipalities do this by enacting a "Vital Services By-law". Such a By-law is urgently required in our community and gives the Building Inspector added authority and power to intervene in a crisis. Kingston has a vital services by-law.

It is an offence under the *Tenant Protection Act* for a landlord to interfere with a vital service such as the provision of electricity. This past winter we had an alarming increase in the number of calls where a local PUC company had delivered cut-off notices to tenants where landlords were refusing or could not pay the utility bill, or were alleging the tenant was now responsible for paying the utilities. Except for situations where an a rental unit had been vacant and had been rented to new tenants (vacancy "decontrol"), it is contrary to the TPA for a landlord to require an existing tenant to take over a hydro account, and it would be an illegal rent increase. Unfortunately, the PUC becomes an unwitting accomplice to an unscrupulous landlord trying to circumvent the provisions of the TPA, and potentially committing a provincial offence.

***We ask that Hastings County encourage its member municipalities to enact a vital services by-law.***

***We recommend that local public utilities commissions reconsider their current cut-off practices with respect to rental accommodation where the landlord is responsible for paying the account.***

### ➤ Recognition of local landlords with good track records

Tenants facing eviction are desperate for housing. Housing is in short supply. Agencies in our community often know who the problem landlords are. However, we have observed situations where the Municipal Property Standards Inspector issues a violation order against a landlord, or ORHT confirms serious disrepair issues or harassment by a landlord, and yet the social agencies may continue to refer needy tenants to this same landlord. There must be a way to create referral lists that require landlords who wish to be on it, to establish that they have a good track record of service to tenants.

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<sup>24</sup> Tenant Protection Act, s. 146

***We recommend that local agencies providing referrals to local landlords compile referral lists in a way that recognizes landlords with good track records for protecting tenants' rights and who provide accommodation that meets property standards bylaw requirements.***

## **What are other issues related to preventing homelessness or ensuring safe and affordable housing seen by legal clinic staff – what else can be done?**

There isn't sufficient time or space in this report to explore the relationship between homelessness and the changes to provincial social assistance legislation, particularly the changes enacted in May, 1998. Many changes have been counterproductive and have put people at a greater risk of homelessness.

### **➤ Liens against the homes of OW recipients**

The change to social assistance legislation in May 1998 requiring liens to be placed on the homes of social assistance recipients also appears to be a counterproductive measure. Most recipients purchased these homes when they were fully employed, or married to a spouse who was. Their life circumstances changed and they find themselves forced to rely on social assistance to survive. Their homes are usually humble dwellings, many with low mortgage payments. Their shelter costs are often below the shelter allowance OW provides which means that they receive less social assistance than recipients who rent. However, they have a roof over their head, and a secure place to live, free from the inadequate protections given to tenants under the TPA, partially described in this report.

The lien requirement may dissuade people who are in desperate need from applying for OW for fear of a lien being placed upon their home. It also creates uncertainty in the lives of recipients now forced to have a lien placed against their home. It discourages home ownership in areas where there is only limited rental housing stock. The effect of the lien requirement seems to create a greater risk of future homelessness, and diminishes the supply of safe and secure and affordable housing for low income people by forcing people into the rental market.

***We ask that Hastings County Council continue their opposition to the lien requirement and communicate this to the provincial government.***

***We ask that the Joint Social Services Committee require the Hastings County Ontario Works department to develop a policy to provide for discretionary decision-making and the power not to file Certificate of Liens against homes of Ontario Works recipients, in appropriate cases.***

## **Moving beyond Band-Aid solutions to homelessness**

Like other community organizations funded by the Provincial Homelessness Initiative Fund, we have worked hard to assist individuals maintain their housing, and to prevent eviction and homelessness.

As a result of everything we have done, and observed, we feel it is important for this community to move beyond “band-aiding” this problem, to dealing with the systemic issues. It is important to create a forum where these concerns can be dealt with.

We have participated in the Homelessness Advisory Committee for almost two years now. Initially it was hoped that this committee could do advocacy work, and undertake an analysis of what needed to change to prevent homelessness. For a number of reasons, this has not occurred. The committee has also never adopted formal terms of reference. It is time to re-evaluate the work that this committee does, and consider whether another body would be more appropriate to co-ordinate a broader response to the issue of homelessness, and focus on advocacy efforts.

It seems obvious, in light of the multitude of recommendations that we have made above, that a more visionary response is required to the issue than the Homelessness Advisory Committee can provide. Who can provide leadership in our community? A more visionary response requires devotion of resources that goes beyond what many of us can provide (even with small pockets of additional funding) and will require additional co-operative efforts and partnerships to create and sustain. Sustained advocacy and education and exploration of the nature of the problems are needed.

***We recommend that the role, function, and membership of the Homelessness Advisory Committee be reviewed.***

***We recommend that forum be created for advocacy, education and exploration of issues of homelessness, and the need for safe, adequate and affordable housing.***

## **Part 3 – Summary of Recommendations**

*Please note that recommendations made to Hastings County and member municipalities are also directed at the cities of Belleville and Quinte West, as appropriate. We have assumed that the County of Hastings will play a leadership role in ensuring many of the recommendations are implemented as they are administering and managing local funding for the prevention of homelessness, and now for social housing.*

### **Municipal Government**

We ask that Hastings County Council undertake advocacy efforts and strongly recommend to the provincial government that:

1. the shelter allowance under OWA and ODSPA be increased to reflect actual rental costs, or a fair percentage of average rent costs as reflected in yearly Canada Mortgage and Housing Corporation studies
2. that changes be enacted to the *TPA* that will help ensure there are no unnecessary evictions. These changes would include:
  - Better procedural protections for tenants
  - Removing the requirement that written disputes be filed
  - Improving their forms by using plain language and ensuring legal accuracy
3. that rent controls (and a rent registry to keep track of legal rent levels) be reinstated
4. to the Ministry of Municipal Affairs and Housing that an audit of the Investigations Branch's activities be undertaken to ensure that low income tenants' rights are enforced under the *TPA*

We ask that Hastings County consider providing funding in the future for an “early intervention project” designed to reduce the risk of homelessness. This would include funding to:

- Get a list of potential tenants facing eviction from ORHT
- Permit someone to contact all these tenants and provide them with information about local services available, and referrals to those services
- Encourage tenants to get disputes filed, and/or get legal advice on their situation, immediately.

**We recommend that the County of Hastings sponsor a one-day forum on safety and standards issues in rental housing.**

**We ask that Hastings County Council encourage its member municipalities and their police forces to assist with enforcement of TPA offence provisions.**

**We ask that Hastings County Council encourage all its member municipalities:**

- **To revisit their current property standards bylaws and ensure they comply at least with the provincial “Maintenance Standards” as prescribed by the TPA**
- **to consider adopting the model “Property Standards and Occupancy Standards” bylaw created by the Ontario Association of Property Standards Officers for all rental housing.**

**We ask that Hastings County Council encourage all their member municipalities to:**

- **ensure that property standards bylaws currently existing are enforced, and**
- **revisit their access to information policies to ensure tenants receive copies of property standards reports and correspondence after they have initiated a complaint**
- **to enact a vital services by-law.**

**We recommend that Hastings County Ontario Works Department:**

- **revisit the requirement that recipients must apply for OWA to receive special need funds**
- **ensure that the source of funding for a tenant’s special need be clearly identified to the tenant if the tenant is an OW recipient, and the appeal right or a complaint process if the request is refused**
- **ensure that the local Rent Bank allow loans to needy tenants for utility arrears**
- **re-examine whether it is the most appropriate body to administer the Rent Bank, and if so, ensure adequate legal safeguards for social assistance recipients**
- **provide information to caseworkers about the average rents in our community to prevent misunderstandings and ensure maximum availability of benefits**

**We recommend that the local Housing Authority:**

- **re-examine their current practice, and that previous arrears accumulated in the private market not be a grounds to refuse subsidized accommodation to these tenants**
- **ensure that tenants who are refused a place on the Consolidated Waiting List be informed in writing of their right to appeal.**

**We ask that Hastings County Council continue their opposition to the lien requirement and communicate this to the provincial government.**

**We ask that the Joint Social Services Committee require the Hastings County Ontario Works department to develop a policy to provide for discretionary**

decision-making and the power not to file Certificate of Liens against homes of Ontario Works recipients, in appropriate cases.

We ask that Hastings County Council strongly:

- endorse the “1% solution” proposed by a coalition of housing groups, as initiated by the Toronto Disaster Relief Committee
- advocate for the need for a National Housing Strategy to end homelessness, and create affordable housing to both the federal and provincial governments.

We recommend that the role, function, and membership of the Homelessness Advisory Committee be reviewed.

## **Provincial Government**

We recommend that the provincial government increase the shelter allowances available under the *Ontario Works Act (OWA)* and the *Ontario Disability Support Plan Act (ODSPA)* to reflect true shelter costs.

We recommend that:

- changes be made to misleading forms under the *Tenant Protection Act*
- amendments be made to the *Tenant Protection Act* to protect tenant’s procedural rights similar to those tabled in the *Fairness To Tenants Act*.

We recommend that the Ontario Rental Housing Tribunal:

- Grant adjournments to tenants when they cannot attend a hearing due to short notice, or need time to prepare, or need to get legal help for the hearing
- only use forthwith eviction orders in exceptional circumstances
- permitting tenants to raise disrepair in their Disputes, rather than requiring new Applications
- increase the access of tenants in Quinte West, and Centre and North Hastings to Tribunal sittings
- advise us when hearing days are cancelled, for any reason
- provide us with a copy of the “hearing list” on a weekly basis to ensure an effective “advice counsel” service, free of charge
- continue to allow emergency motions for tenants where there are alleged breaches of the Tenant Protection Act.

We recommend that the Ministry of Municipal Affairs and Housing Investigations Unit:

- Create a protocol for dealing with emergencies caused by breaches of the TPA
- Intervene directly with landlords who are allegedly breaching the TPA to provide for an immediate remedy, and a general deterrent

- **actually investigate all alleged offences under the Tenant Protection Act in a timely fashion**
- **lay charges where a breach by a landlord is found.**

**We recommend that the provincial government build social housing.**

## **Federal Government**

**We recommend that the federal government :**

- **recreate a national housing strategy**
- **build affordable housing.**

## **Other**

**We recommend that local public utilities commissions reconsider their current cut-off practices with respect to rental accommodation where the landlord is responsible for paying the account.**

**We recommend that local agencies providing referrals to local landlords compile referral lists in a way that recognizes landlords with good track records for protecting tenants' rights and who provide accommodation that meets property standards bylaw requirements.**

**We recommend that forum be created in our community so that local people can meet to discuss the need for advocacy, education and exploration of issues of homelessness, and the need for safe, adequate and affordable housing.**

## APPENDIX ONE

### Eviction Survey Results

*Two Surveys were conducted from May 2000 to August 2000 and from October 2000 to April 2001 by Hastings & Prince Edward Legal Services. Tenants' names were obtained from the Center for Equality Rights in Accommodation who, in turn, obtained the names from lists provided by the Ontario Rental Housing Tribunal (ORHT). We obtained these lists at a cost. These lists include situations only where a landlord had applied to the ORHT.*

*We then contacted the tenants by phone if the number was listed and mailed a request for the tenant to contact us if they wished to participate in the survey. All tenants were given an opportunity to participate. In total, 56 tenants participated in our survey.*

*What follows are the questions and the responses. A brief analysis follows the results. Finally, graphs are supplied.*

#### Questions asked and responses

1. *Are you aware that your landlord has filed an application against you at the Ontario Rental Housing Tribunal?*

May-August 2000  
2001

**30 % no**

**70 % yes**

October 2000-April

**21% no**

**79% yes**

From the responses obtained it is safe to conclude that at least two out of ten tenants are not being informed that a legal proceeding has been commenced against them. This information is *extremely* troubling. The eviction process as mandated by the *Tenant Protection Act* puts the onus on the landlord to serve the Notice of Application on the tenant. It is apparent that many landlords are not doing this. Further, our experience supports these findings.

These numbers are similar to those obtained by the Center for Equality Rights in Accommodation who conducted their own survey. Because a significant number of tenants are not being informed by their landlord that a legal proceeding has been commenced, we are recommending that the *Tenant Protection Act* be amended to require service by the ORHT *directly* onto the tenant.

2. *Did you receive a Notice of Hearing and a copy of the application?*

May-August 2000

October 2000-April 2001

**48% No**

**31% No**

**52% Yes**

**69% Yes**

The purpose of this question was to determine if tenants were being given an opportunity to participate in the legal proceeding. These numbers confirm that a significant number of tenants are not being *served* notices as required by the *Tenant Protection Act*. When the Center for Equality Rights in Accommodation asked a very similar question relating to actual notices the answer is reported to have been negative by 29% of the respondents.

3. *Did you file a dispute with the Tribunal?*

May-August 2000  
2001

October 2000-April

**19% yes**

**38% yes**

**81% no**

**62% no**

It is not surprising that a majority of tenants do not file disputes when a landlord applies to the ORHT to evict them. Many reasons may come into the play. We know that the vast majority of applications to the ORHT relate to arrears of rent. The common sense interpretation of "dispute" can easily be construed as "do you disagree that monies are owed".

There is no question that most tenants being evicted for arrears have not paid their rent. What tenants may not realize is that despite agreeing that they have not paid the landlord they still have the *right* to "dispute" because they either require time to pay or the tenant wants to bring forward a defense of serious disrepair or harassment on the part of the landlord.

These defenses are allowed under the *Tenant Protection Act* and are a valid grounds to dispute a landlord's application to evict. Certainly, our clinic spends a great deal of our time assisting tenants file such defenses, often with positive results. Rarely, however, have we encountered a tenant who has been able to file a defense of disrepair or harassment on their own successfully. This is where legal assistance and an effective legal outreach strategy is vital.

It is common to find confused tenants at the hearing location because they did not realize the need to file a dispute. Usually, if no dispute is filed then the hearing is cancelled and tenants are not informed of this prior to the hearing. These tenants took the Notice at face value and showed up expecting to be heard. Under the previous *Landlord and Tenant Act* such a written dispute was not required.

4. *Did you know that, in most cases, unless you file a dispute within five days after receiving the Notice of Hearing that the hearing is cancelled and an order against you is automatically issued?*

May-August 2000  
2001

**59% No**

**41% Yes**

October 2000-April

**55% No**

**45% Yes**

Tenants receive a Notice of Hearing stating the time, date and place of the hearing. Also included is a copy of the actual application and dispute form. Typically, this "package" contains at least 9 pages of materials. Tenants have only five days to respond in writing for this hearing to occur. If the tenant does not file a dispute within the five days then the hearing is cancelled and a default order is issued.

This means that the tenant has *only five days* to obtain legal advice, draft documents and gather evidence in their defense! To make matters worse,

If the landlord serves the documents on a Friday night (this happens quite commonly) then the tenant has only *two* working days to obtain legal advice, draft a dispute and gather evidence.

Imagine being faced with losing your home with the added burden of only having two days to summons witnesses and obtain a Municipal Building Inspector's Report or a police occurrence report. Tenants under these circumstances must balance the need to meaningfully dispute in a complicated legal process or spend these precious days tapping into scarce community resources. Landlords are given ten days when a tenant files an application. Small Claims Court applications allow for 20 days to dispute.

5. *Were you confused by the Tribunal forms?*

May-August 2000  
2001

October 2000-April

**70% Yes**

**69% Yes**

**30% No**

**31% No**

The implications of tenants being confused by "forms" which give them little opportunity to obtain legal advice is disturbing to say the least. Surely, for a process to be fair and accessible, the tenant must be able to participate. If notices and forms are confusing this may result homelessness.

6. *Are you confused by the Tribunal process?*

May-August 2000  
2001

October 2000-April

**81% Yes**

**66% Yes**

**19% No**

**31% No**

Clearly the vast majority of tenants are confused by a process that is mandated to give tenants (and landlords) an opportunity to participate. The

above two question and response is extremely disturbing. Our experience also tells us that many landlords are confused with this process as well.

7. *Do you have somewhere to go?*

May-August 2000  
2001

**81% No**  
**19% Yes**

October 2000-April

**69% No**  
**31% Yes**

The fact that so many tenants facing eviction had not located alternative accommodation is extremely troubling. It demonstrates the clear link between homelessness and evictions and the vital need for affordable housing in our community.

8. *Did you receive legal advice?*

May-August 2000  
2001

**77% No**  
**23% Yes**

October 2000-April

**76% No**  
**24% Yes**

Obviously, if the eviction process is *fast* and *confusing* for tenants on the verge of homelessness, then fast, accessible legal assistance is crucial. Again, the need for a proactive outreach strategy is imperative to tenants facing eviction.

### **Conclusions**

The first step in the eviction process for arrears of rent is for the landlord to deliver an N-4 Notice. This notice does not evict the tenant. The tenant does not need to vacate pursuant to this notice. However, the form states that "The tenant *must* vacate". Our survey could reach tenants after an Applications had

been filed. There is no way to determine how many tenants vacate when presented with an official form that tells them that they "must vacate". This notice misinforms tenants of their rights and *must* be amended.

Clearly, from the responses we obtained, tenants are not aware of their rights and are confused. If we are to halt needless and unfair evictions it is imperative that tenants be encouraged to exercise their rights. This means that the process must be straightforward and understandable.

The process allows very limited time to participate (obtain legal advice, file defense and gather evidence) and is open to abuse by landlords by trusting that landlords will serve notices. It is therefore imperative that the following occurs:

1. Forms must be changed so that tenants have a clear understanding of the process, their rights and options, as well as community resources.
2. More notice (at least ten days) is required to give tenants an opportunity to participate meaningfully at an eviction hearing.
3. Service of Notices on tenants must be done Ontario Rental Housing Tribunal.
4. The need to file a written dispute must be done away with.
5. An Early Intervention Project, such as that undertaken by the Centre for Equality Rights in Accommodation, is desperately needed in our community.



*Virtual* Constituency Office

## Main Menu

## Bill 36, 1999

<p>David's Private Member</p> <p>Bills</p> <p>Don Valley East News</p> <p>News Releases</p> <p>Queens Park Reports</p> <p>Hansard Excerpts</p> <p>Request Special Congratulations</p> <p>Government Services Information &amp; FAQs</p> <p>Tenant's Guide</p> <p>How Government Works in Ontario</p> <p>Online Photo Album</p> <p>Featured Links</p> <p>HOME PAGE</p> <p>CONTACT DAVID</p>	<p><b>An Act to ensure fairness and reasonable access to justice for Ontario's tenants by amending the Tenant Protection Act, 1997</b></p> <p>Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:</p> <p>1. Section 85 of the Tenant Protection Act, 1997 is amended by adding the following subsection:</p> <p style="padding-left: 40px;">Six-month limitation period</p> <p style="padding-left: 80px;">(2) An order evicting a person shall not be enforced more than six months after the day on which it can first be enforced.</p> <p>2. Subsection 129 (1) of the Act is amended by striking out "sections 130 to 139" and substituting "sections 129.1 to 139".</p> <p>3. The Act is amended by adding the following section:</p> <p style="padding-left: 40px;"><b>OUTSTANDING WORK ORDERS</b></p> <p style="padding-left: 40px;">No increase above guideline if work order outstanding</p> <p style="padding-left: 40px;">129.1 (1) Despite anything else in this Act, a landlord shall not increase the rent charged to a tenant or to an assignee under section 17 during the term of their tenancy by more than the guideline if a work order affecting the residential complex has been made, the period for compliance with the work order has passed and it has not been complied with.</p> <p style="padding-left: 40px;">Kinds of work orders</p> <p style="padding-left: 40px;">(2) Subsection (1) applies to,</p> <p style="padding-left: 80px;">(a) an inspector's work order under section 155;</p> <p style="padding-left: 80px;">(b) a property standards officer's work order under a by-law,</p> <p style="padding-left: 80px;">(i) passed under section 151.1 of the Building Code Act, 1992,</p> <p style="padding-left: 80px;">(ii) passed under any special Act respecting maintenance and occupancy standards that is in force in the municipality,</p> <p style="padding-left: 80px;">(iii) passed under any general or special Act respecting health and safety standards for occupants of buildings or structures.</p> <p>4. Section 135 of the Act is repealed.</p> <p>5. Section 175 of the Act is repealed and the following substituted:</p> <p style="padding-left: 40px;">Service of application and notice of hearing</p> <p style="padding-left: 40px;">175. When an applicant files an application, the Tribunal shall, within the times set out in the Rules,</p> <p style="padding-left: 80px;">(a) give a copy of the application to all the parties other than the applicant; and</p> <p style="padding-left: 80px;">(b) if a notice of hearing is issued in respect of the application, give a copy of the notice to all the parties.</p> <p>6. (1) Paragraphs 1 and 2 of subsection 177 (1) of the Act are repealed.</p> <p style="padding-left: 40px;">(2) Subsection 177 (2) of the Act is repealed and the following substituted:</p> <p style="padding-left: 80px;">Same</p> <p style="padding-left: 80px;">(2) The time for filing a dispute shall be within the time provided for in the Rules.</p> <p>7. Subsection 181 (3) of the Act is repealed and the following substituted:</p> <p style="padding-left: 40px;"><b>Exception</b></p> <p style="padding-left: 40px;">(3) The largest increase that can be mediated under this section for a rental unit that is not a mobile home or a land lease home is equal to the sum of the guideline and 4 per cent of the previous year's lawful rent.</p> <p>8. The Act is amended by adding the following section:</p> <p style="padding-left: 40px;"><b>Statement re payment under order</b></p> <p style="padding-left: 40px;">191.1 When the Tribunal receives satisfactory proof that money payable under an order has been paid in full, it shall,</p> <p style="padding-left: 80px;">(a) give the person who provides the proof a statement that the payment requirements of the order are satisfied;</p> <p style="padding-left: 80px;">(b) keep a copy of the statement in its file relating to the proceeding; and</p> <p style="padding-left: 80px;">(c) give a copy of the statement to any person to whom the Tribunal has previously given access to information about the proceeding.</p> <p>9. Paragraphs 1 and 2 of subsection 192 (1) of the Act are repealed.</p> <p><b>Commencement</b></p> <p>10. This Act comes into force on the day that is three months after the day it receives Royal Assent.</p> <p><b>Short title</b></p> <p>11. The short title of this Act is the Tenant Protection Amendment Act (Towards Fairness for Tenants), 1999.</p> <p><b>EXPLANATORY NOTE</b></p> <p>The Bill makes the following amendments to the Tenant Protection Act, 1997:</p>
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1. Catch-up increases that exceed the guidelines (often called "maximum rent") are no longer allowed (sections 4 and 7 of Bill, section 135 and subsection 181 (3) of Act).
  2. Rent may not be increased beyond the guidelines if there is an outstanding work order (sections 2 and 3 of Bill, subsection 129 (1) and section 129.1 of Act).
  3. Applications and notices of hearing will be given to parties by the Tribunal rather than being served by the applicant (section 5 of Bill, section 175 of Act).
  4. An application to terminate a tenancy or to evict a person will no longer be dealt with by a default process, but requires a hearing, and written disputes are no longer obligatory. The same changes are made with respect to landlords' applications for arrears of rent and other payments (sections 6 and 9 of Bill, section 177 and subsection 192 (1) of Act).
  5. An eviction order that is not enforced lapses six months after the day on which it can first be enforced (section 1 of Bill, subsection 85 (2) of Act).
  6. On receiving proof that payments under an order have been made in full, the Tribunal issues a statement to that effect. Copies of the statement remain in the Tribunal's file and are provided to persons (such as credit agencies) who have had access to the file (section 8 of Bill, section 191.1 of Act).
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1ST SESSION, 37TH LEGISLATURE, ONTARIO  
48 ELIZABETH II, 1999

1<sup>re</sup> SESSION, 37<sup>e</sup> LÉGISLATURE, ONTARIO  
48 ELIZABETH II, 1999

## Bill 36

## Projet de loi 36

**An Act to ensure fairness and  
reasonable access to justice for  
Ontario's tenants by amending the  
Tenant Protection Act, 1997**

**Loi visant à assurer aux locataires de  
l'Ontario un traitement équitable et  
un accès raisonnable à la justice  
en modifiant la Loi de 1997 sur la  
protection des locataires**

**Mr. Caplan**

**M. Caplan**

**Private Member's Bill**

**Projet de loi de député**

1st Reading     December 16, 1999  
2nd Reading  
3rd Reading  
Royal Assent

1<sup>re</sup> lecture     16 décembre 1999  
2<sup>e</sup> lecture  
3<sup>e</sup> lecture  
Sanction royale



## EXPLANATORY NOTE

The Bill makes the following amendments to the *Tenant Protection Act, 1997*:

1. Catch-up increases that exceed the guidelines (often called “maximum rent”) are no longer allowed (sections 4 and 7 of Bill, section 135 and subsection 181 (3) of Act).
2. Rent may not be increased beyond the guidelines if there is an outstanding work order (sections 2 and 3 of Bill, subsection 129 (1) and section 129.1 of Act).
3. Applications and notices of hearing will be given to parties by the Tribunal rather than being served by the applicant (section 5 of Bill, section 175 of Act).
4. An application to terminate a tenancy or to evict a person will no longer be dealt with by a default process, but requires a hearing, and written disputes are no longer obligatory. The same changes are made with respect to landlords’ applications for arrears of rent and other payments (sections 6 and 9 of Bill, section 177 and subsection 192 (1) of Act).
5. An eviction order that is not enforced lapses six months after the day on which it can first be enforced (section 1 of Bill, subsection 85 (2) of Act).
6. On receiving proof that payments under an order have been made in full, the Tribunal issues a statement to that effect. Copies of the statement remain in the Tribunal’s file and are provided to persons (such as credit agencies) who have had access to the file (section 8 of Bill, section 191.1 of Act).

## NOTE EXPLICATIVE

Le projet de loi apporte les modifications suivantes à la *Loi de 1997 sur la protection des locataires* :

1. Les augmentations de rattrapage supérieures au taux légal (fréquemment appelé «loyer maximal») ne sont plus permises (articles 4 et 7 du projet de loi, article 135 et paragraphe 181 (3) de la Loi).
2. Le loyer ne peut être augmenté d’un pourcentage supérieur au taux légal si un ordre d’exécution de travaux n’a pas été exécuté (articles 2 et 3 du projet de loi, paragraphe 129 (1) et article 129.1 de la Loi).
3. Le Tribunal remet une copie de la requête et de l’avis d’audience aux parties au lieu que ce soit le requérant qui en signifie une copie à celles-ci (article 5 du projet de loi, article 175 de la Loi).
4. Les requêtes en résiliation de la location ou en éviction d’une personne exigent la tenue d’une audience (jusqu’ici une audience n’était pas obligatoire en cas de non-contestation de la requête), et il n’y a plus aucune obligation de déposer des contestations écrites dans le cadre de ces requêtes. Les mêmes modifications sont apportées à l’égard des requêtes présentées par les locateurs en paiement de l’arriéré de loyer et d’autres sommes. (articles 6 et 9 du projet de loi, article 177 et paragraphe 192 (1) de la Loi).
5. L’ordonnance d’éviction qui n’est pas exécutée expire six mois après le jour où elle peut l’être pour la première fois (article 1 du projet de loi, paragraphe 85 (2) de la Loi).
6. Sur réception de la preuve que les sommes payables aux termes d’une ordonnance ont été payées intégralement, le Tribunal délivre une attestation à cet effet, il conserve une copie de l’attestation dans son dossier et en remet une à quiconque (une agence d’évaluation du crédit par exemple) a eu antérieurement accès au dossier (article 8 du projet de loi, article 191.1 de la Loi).

**An Act to ensure fairness and reasonable access to justice for Ontario's tenants by amending the Tenant Protection Act, 1997**

**Loi visant à assurer aux locataires de l'Ontario un traitement équitable et un accès raisonnable à la justice en modifiant la Loi de 1997 sur la protection des locataires**

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, édicte :

**1. Section 85 of the *Tenant Protection Act, 1997* is amended by adding the following subsection:**

**1. L'article 85 de la *Loi de 1997 sur la protection des locataires* est modifié par adjonction du paragraphe suivant :**

Six-month limitation period

(2) An order evicting a person shall not be enforced more than six months after the day on which it can first be enforced.

(2) L'ordonnance d'éviction d'une personne ne doit pas être exécutée plus de six mois après le jour où elle peut l'être pour la première fois.

Délai de prescription de six mois

**2. Subsection 129 (1) of the Act is amended by striking out "sections 130 to 139" and substituting "sections 129.1 to 139".**

**2. Le paragraphe 129 (1) de la Loi est modifié par substitution de «aux articles 129.1 à 139» à «aux articles 130 à 139».**

**3. The Act is amended by adding the following section:**

**3. La Loi est modifiée par adjonction de l'article suivant :**

**OUTSTANDING WORK ORDERS**

**ORDRE D'EXÉCUTION DE TRAVAUX NON EXÉCUTÉ**

No increase above guideline if work order outstanding

**129.1** (1) Despite anything else in this Act, a landlord shall not increase the rent charged to a tenant or to an assignee under section 17 during the term of their tenancy by more than the guideline if a work order affecting the residential complex has been made, the period for compliance with the work order has passed and it has not been complied with.

**129.1** (1) Malgré toute autre disposition de la présente loi, le locateur ne doit pas augmenter d'un pourcentage supérieur au taux légal le loyer demandé au locataire ou au cessionnaire visé à l'article 17 pendant la durée de leur location si un ordre d'exécution de travaux touchant l'ensemble d'habitation a été donné, que le délai imparti pour s'y conformer est expiré et qu'il n'a pas été exécuté.

Aucune augmentation supérieure au taux légal si un ordre d'exécution de travaux n'est pas exécuté

Kinds of work orders

- (2) Subsection (1) applies to,
- (a) an inspector's work order under section 155;
- (b) a property standards officer's work order under a by-law,
- (i) passed under section 151.1 of the *Building Code Act, 1992*,
- (ii) passed under any special Act respecting maintenance and occupancy standards that is in force in the municipality,

- (2) Le paragraphe (1) s'applique à ce qui suit :
- a) l'ordre d'exécution de travaux donné par l'inspecteur en vertu de l'article 155;
- b) l'ordre d'exécution de travaux donné par un agent des normes foncières en vertu d'un règlement municipal pris en application, selon le cas :
- (i) de l'article 151.1 de la *Loi de 1992 sur le code du bâtiment*,
- (ii) d'une loi spéciale concernant les normes d'entretien et d'occupation qui est en vigueur dans la municipalité,

Types d'ordres d'exécution de travaux

(iii) passed under any general or special Act respecting health and safety standards for occupants of buildings or structures.

**4. Section 135 of the Act is repealed.**

**5. Section 175 of the Act is repealed and the following substituted:**

Service of application and notice of hearing

**175.** When an applicant files an application, the Tribunal shall, within the times set out in the Rules,

- (a) give a copy of the application to all the parties other than the applicant; and
- (b) if a notice of hearing is issued in respect of the application, give a copy of the notice to all the parties.

**6. (1) Paragraphs 1 and 2 of subsection 177 (1) of the Act are repealed.**

**(2) Subsection 177 (2) of the Act is repealed and the following substituted:**

Same

(2) The time for filing a dispute shall be within the time provided for in the Rules.

**7. Subsection 181 (3) of the Act is repealed and the following substituted:**

Exception

(3) The largest increase that can be mediated under this section for a rental unit that is not a mobile home or a land lease home is equal to the sum of the guideline and 4 per cent of the previous year's lawful rent.

**8. The Act is amended by adding the following section:**

Statement re payment under order

**191.1** When the Tribunal receives satisfactory proof that money payable under an order has been paid in full, it shall,

- (a) give the person who provides the proof a statement that the payment requirements of the order are satisfied;
- (b) keep a copy of the statement in its file relating to the proceeding; and
- (c) give a copy of the statement to any person to whom the Tribunal has previously given access to information about the proceeding.

**9. Paragraphs 1 and 2 of subsection 192 (1) of the Act are repealed.**

Commencement

**10. This Act comes into force on the day that is three months after the day it receives Royal Assent.**

Short title

**11. The short title of this Act is the *Tenant Protection Amendment Act (Towards Fairness for Tenants), 1999.***

(iii) d'une loi générale ou spéciale concernant les normes de salubrité et de sécurité pour les occupants d'immeubles ou de constructions.

**4. L'article 135 de la Loi est abrogé.**

**5. L'article 175 de la Loi est abrogé et remplacé par ce qui suit :**

**175.** Lorsqu'une personne présente une requête, le Tribunal fait ce qui suit dans les délais impartis par les règles :

Remise de la requête et de l'avis d'audience

- a) il remet une copie de la requête à toutes les parties, à l'exclusion du requérant;
- b) si un avis d'audience est délivré à l'égard de la requête, il en remet une copie à toutes les parties.

**6. (1) Les dispositions 1 et 2 du paragraphe 177 (1) de la Loi sont abrogées.**

**(2) Le paragraphe 177 (2) de la Loi est abrogé et remplacé par ce qui suit :**

(2) Le délai imparté pour le dépôt de la contestation est celui qui est imparté par les règles.

Idem

**7. Le paragraphe 181 (3) de la Loi est abrogé et remplacé par ce qui suit :**

(3) L'augmentation de loyer la plus élevée qu'il est possible de fixer par la médiation prévue au présent article dans le cas d'un logement locatif qui n'est ni une maison mobile, ni une maison à bail foncier est la somme du taux légal et de 4 pour cent du loyer légal de l'année précédente.

Exception

**8. La Loi est modifiée par adjonction de l'article suivant :**

**191.1** Lorsqu'il reçoit la preuve suffisante qu'une somme payable aux termes d'une ordonnance a été payée intégralement, le Tribunal fait ce qui suit :

Attestation de paiement

- a) il remet à la personne qui a fourni la preuve une attestation de paiement;
- b) il conserve une copie de l'attestation dans le dossier de l'instance;
- c) il remet une copie de l'attestation à toute personne à qui il a donné antérieurement accès aux renseignements concernant l'instance.

**9. Les dispositions 1 et 2 du paragraphe 192 (1) de la Loi sont abrogées.**

**10. La présente loi entre en vigueur le jour qui tombe trois mois après le jour où elle reçoit la sanction royale.**

Entrée en vigueur

**11. Le titre abrégé de la présente loi est *Loi de 1999 modifiant la Loi sur la protection des locataires en vue du traitement équitable des locataires.***

Titre abrégé