

Annual Report on the Activities of the Rental Office

April 1, 2014 to March 31, 2015

Submitted by
Hal Logsdon
Rental Officer

The Role of the Rental Office

A Provider of Information to Landlords and Tenants

The Rental Office is a convenient and accessible place for landlords and tenants to obtain information regarding their rights and obligations. Many landlord-tenant problems are solved simply by providing landlords and tenants with information concerning their respective rights and responsibilities. Many tenants and a surprising number of landlords are unaware of the legislation that governs their relationship or the tenancy agreement that forms the contract between them. The provision of information is probably the single most important function of the office, often serving to eliminate conflict and problems before they start.

The Rental Office maintains a toll-free telephone number which can be used anywhere in Canada. We receive numerous calls each day seeking information concerning rights and obligations of landlords and tenants, and the process for filing applications and resolving disputes. Increasingly, we also receive and respond to e-mail inquiries which can be made via our webpage.

The Rental Office also provides written information, including a simple-to-read booklet outlining the major aspects of the *Residential Tenancies Act*, short fact sheets on selected topics, and numerous standard forms. All of this material was updated and revised to reflect the revisions to the Act which came into effect in September 2010. This material helps both landlords and tenants acquire an understanding of mutual rights and responsibilities to help solve problems before they start.

The Department of Justice maintains a website for the Rental Office that contains all of the written material, as well as a link to the legislation and a searchable database of rental officer decisions. The rental officer is also available to make presentations or participate in forums with tenants, property managers, or others involved in residential tenancy matters. We provide these services free of charge in the belief that informed and knowledgeable landlords and tenants are more likely to respect the rights and obligations of each other and less likely to end up in a conflict situation.

Dispute Resolution

Landlords and tenants are encouraged to attempt to resolve disputes themselves. Often, the information provided to the parties regarding their legal rights and obligations helps the parties resolve the dispute, but a dispute resolution process is available to both landlords and tenants. The dispute resolution process can be initiated by a landlord or tenant filing an *Application to a Rental Officer*. On the filing of an application, a rental officer may investigate to determine the facts related to the dispute. Applications involving the physical condition of premises are often best understood through an inspection of the unit. Similarly, applications involving third parties, such as utility suppliers are often investigated.

Occasionally, the investigation leads to a resolution of the dispute by agreement. For example, a tenant may file an application when a security deposit has not been returned and no statement of the deposit has been provided to the tenant. A brief investigation into the matter may reveal that the landlord was unaware of the new address of the former tenant or of his responsibility to produce a statement. The production of the statement may lead to agreement between the parties and the withdrawal of the application.

Occasionally, the parties will agree to a mediated solution to the problem without recourse to a formal hearing or the issuance of an order. If the parties wish to try to settle the issue by mediation, the rental officer will assist them in the resolution of the matter and the preparation of a mediated agreement.

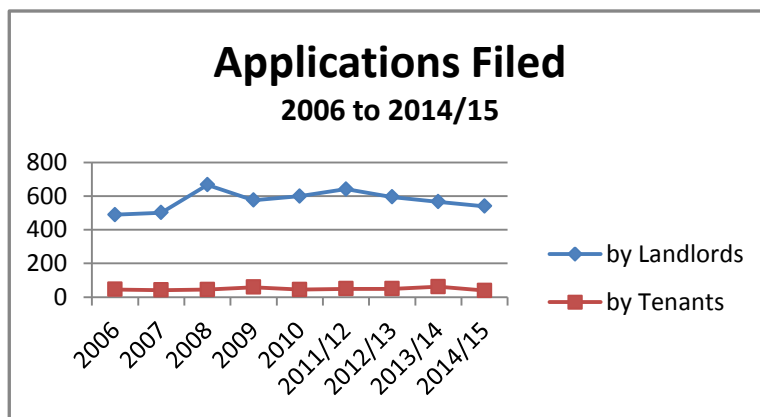
Often, landlords and tenants cannot agree or, more often, one of the parties wants a decision which can be enforced, should the other party fail to abide by that decision. In these cases, the rental officer will hold a hearing and, after hearing the evidence and testimony of both parties, render a decision. The rental officer will issue a written order along with reasons for the decision. Orders by a rental officer may be filed in the Territorial Court and are deemed to be an order of that court when filed. Most disputes are settled in this manner as the majority of disputes concern non-payment of rent and an enforceable decision is desired by the applicant.

Market Trends¹

The Yellowknife apartment vacancy rate decreased from a high of 5.9% in April 2014 to 2.8% in April 2015, as reported by Canada Mortgage and Housing Corporation. For units common to both surveys, the average rent for two-bedroom units decreased by 1.6% to \$1,682/month. The universe of rental units in the city increased for the first time since April 2008. A significant number of apartments were returned to the market after renovations and 27 newly constructed units were completed. Both the decrease in average rents and the rates of renovation no doubt reflect the more competitive market of last year.

Rental Office Activities

Hal Logsdon continued to serve as Rental Officer, Ms. Adelle Guigon continued to serve as Deputy Rental Officer, and Ms. Kim Powless continued to serve as the Rental Office Administrator during the 2014-2015 fiscal year.

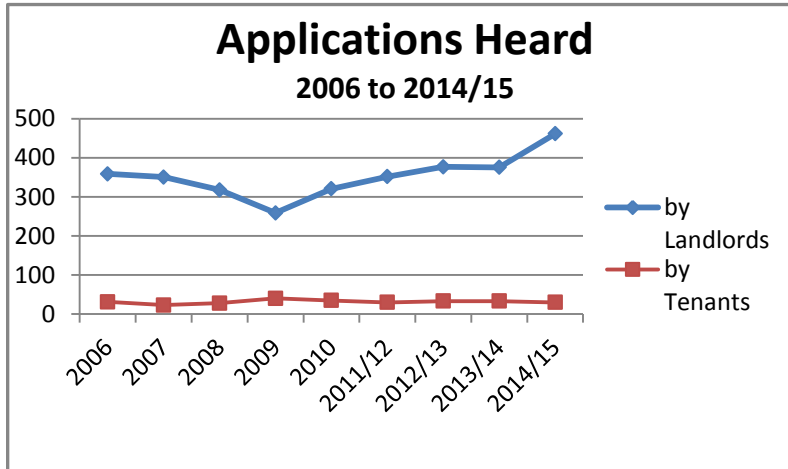


The number of applications filed during the 2014-2015 fiscal year declined by 5% compared to 2013-2014, but the number of hearings increased by almost 23%. The number of applications that are filed and subsequently withdrawn dropped significantly. Applications which are withdrawn by landlords are usually the result of the dispute being resolved prior to the hearing being held. Some landlords who file

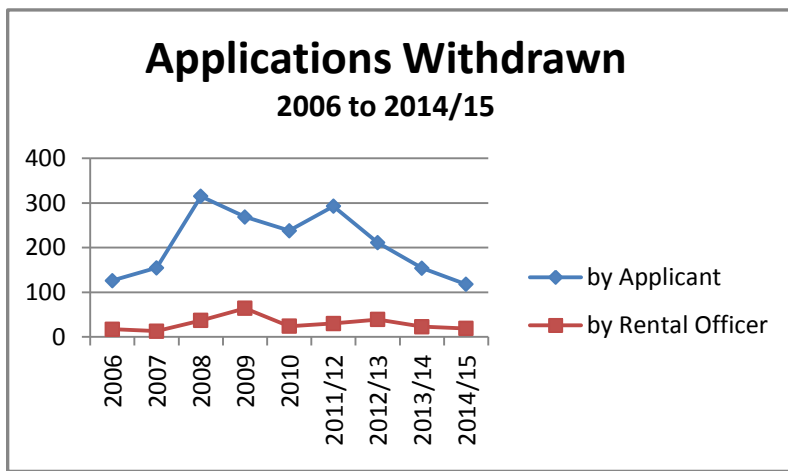
for orders to pay rent will routinely withdraw the application if the rent is paid. We saw a significant decrease in the number of applications withdrawn by landlords in 2014-2015, a trend which started in 2012-2013 and continues. It would appear that landlords, who file the majority of applications, have become less inclined to commence immediate legal action and more likely to reserve applications when other methods of collection have been unsuccessful.

¹Rental Market Report, Canada Mortgage and Housing Corporation, April, 2015

Applications withdrawn by a rental officer are usually the result of applicants failing to serve the filed application on the respondent. A rental officer may withdraw an application and close the file if the application is not served on the respondent within 14 days. An applicant's failure to serve the application is often due to the inability to locate the respondent, but may also indicate that the dispute has been resolved.



Landlord applications continue to comprise most of the applications filed and the majority of these applications involve the non-payment of rent. Many of these applications are undisputed by the tenant and result in an agreement between the landlord and tenant about how the arrears will be paid. In many cases of rental arrears, a rental officer is able to mediate an agreement between the parties concerning how the rental arrears will be paid and issue an order reflecting that agreement. For example, it may be established at a hearing that a tenant owes rent to the landlord who is seeking an order to pay the rent and terminating the tenancy agreement. The rental officer may be able to arrange an agreement between the parties which would result in the continuation of the tenancy agreement if the rental arrears are paid by a certain date or in a certain manner. The result is a conditional termination order which provides the tenant with an opportunity to resolve the problem and continue the tenancy without subjecting the landlord to additional risk.



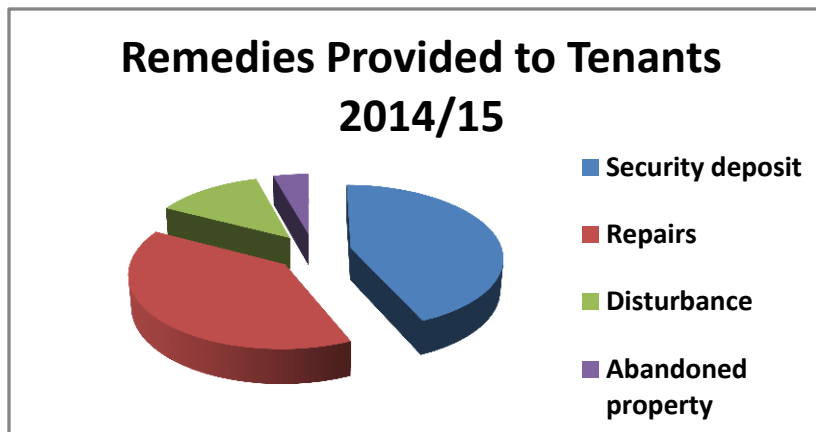
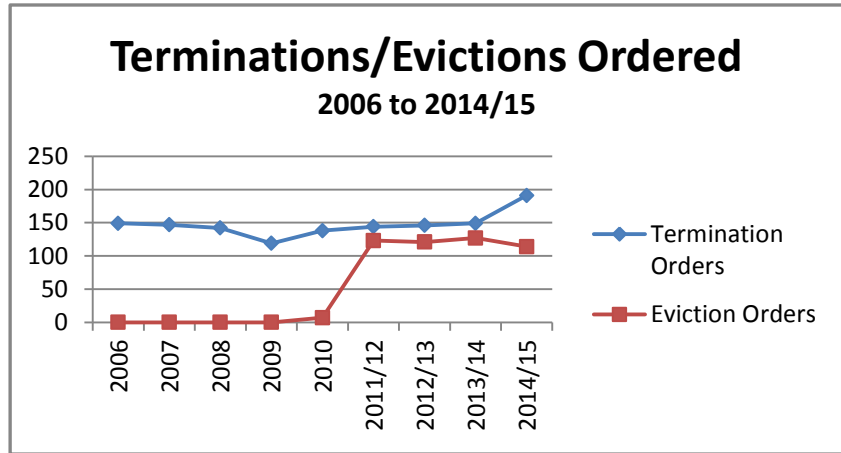
Commencing September 1, 2010, eviction orders could be obtained from a rental officer on the application of a landlord. Prior to the amendments, a rental officer could issue an order that terminated the tenancy agreement, but if the tenant remained in possession the landlord had to obtain an eviction order from the NWT Supreme Court. The number of termination orders granted has remained relatively constant at about 38% of applications heard. However, the number of eviction orders granted in 2014-2015 fell to 23% of landlord applications heard from the previous three-year average of 31%.

Landlords are able to apply for an order terminating the tenancy agreement and evicting the tenant in a single application. The eviction order expires six months after it takes effect unless it is filed in the NWT Supreme Court. Like termination orders, many eviction orders contain conditions which act to invalidate the order if the conditions are met, such as the payment of rent by a specific date.

The remedies most frequently ordered following the hearing of a tenant application are orders requiring the return of a retained security deposit and orders involving repairs to the rental premises.

If a landlord retains all or part of a security deposit, they are obligated to issue a statement to the tenant itemizing the deductions. If a tenant does not

receive a statement, objects to a deduction, or feels that the costs claimed are unreasonable, they may file an application. Only rental arrears and the costs to repair damages may be deducted. However, if a landlord fails to conduct the required inspections at the start and the end of a tenancy they may only deduct rental arrears from the security deposit.



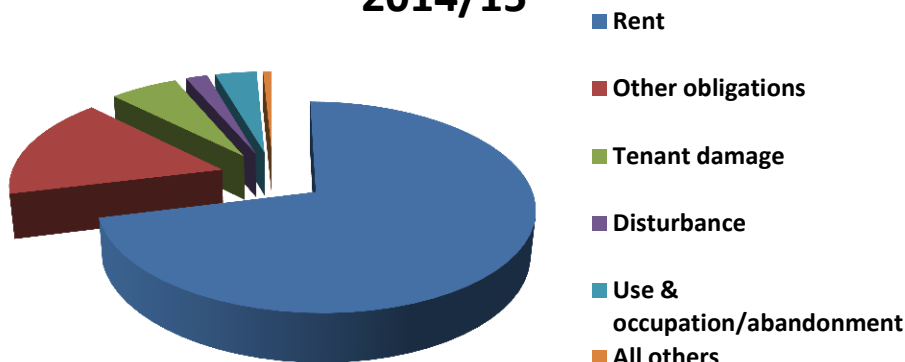
In most cases, a landlord is obligated to provide and maintain the rental premises in a good state of repair. If a landlord breaches this obligation a tenant may file an application requesting an order for relief. The tenant may also request an order requiring the rent be paid to a rental officer.

In 2014-2015, there were also orders issued involving the

landlord’s disturbance of the tenant’s quiet enjoyment or possession of the rental premises, and an order involving abandoned personal property.

Not surprisingly, the most common remedies provided to landlords involve non-payment of rent. Since subsidized public housing rent is based on the household income, there are also a considerable number of applications filed by public housing landlords seeking orders requiring tenants to accurately report their household income and/or terminating the tenancy agreement unless the tenant complies with that obligation. These remedies fall under section 45 of the Act which covers “other obligations contained in a tenancy agreement”. The higher proportion of applications received from public housing landlords has increased the number of remedies issued in this category over the past two years. There are also other obligations that fall into this category such as “no pets” provisions, parking rights, and responsibility for utilities.

Remedies Provided to Landlords 2014/15



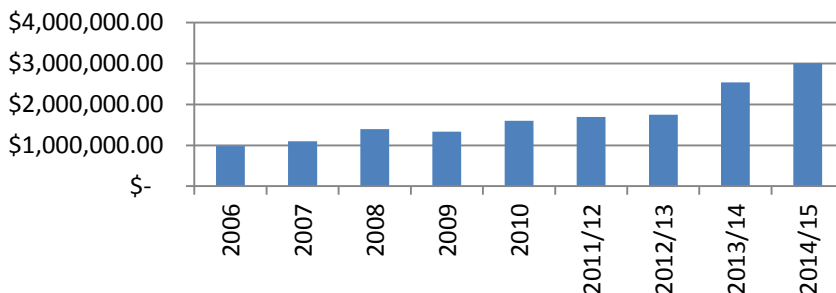
Tenants are obligated to repair any damages that are a result of their negligence or persons they permit in the premises or the residential complex. Most applications are made after the tenancy agreement has been terminated and the security deposit is not sufficient to cover the repair costs.

Landlords also apply for authorization to repair damages during the tenancy agreement and seek monetary relief for the repair costs.

Orders providing remedies for disturbance are also commonly issued. Tenants who disturb other tenants in the residential complex are in breach of section 43 of the *Residential Tenancies Act*. Tenants who permit others to enter the premises or residential complex are responsible for any disturbance they create. Landlords commonly seek eviction in cases of on-going or extreme disturbance.

Landlords are entitled to compensation for lost rent when a tenant abandons a rental premises. The landlord is only entitled to actual losses subject to their reasonable efforts to mitigate the loss. Landlords are also entitled to compensation for use and occupation of the rental premises after the tenancy agreement has been terminated if the tenant fails to return possession to the landlord. Compensation for both of these reasons was provided in 2014-2015.

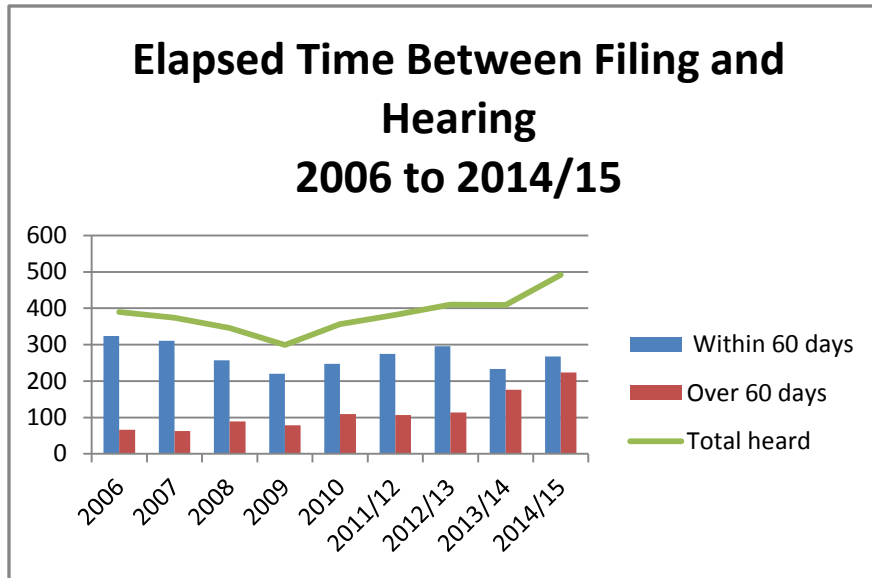
Total Value of Orders for Monetary Relief 2006 to 2014/15



Other remedies ordered include those for non-payment of security deposit, illegal activities, and public housing eligibility issues. These constitute a very small percentage of the total. The value of monetary relief ordered in 2014-2015 increased by 19% compared to the previous year. The total value of the relief exceeded \$3 million.

The length of time between the date an application is filed and the date it is heard depends on a number of factors, some of which are outside the control of the Rental Office. Once the application is filed, the applicant must serve a filed copy on the respondent within 14 days. Many applicants fail to meet this time limitation and we often extend the time for service. Users of the services occasionally complain about the length of time it takes to resolve a dispute and we continue to do what we can to make the administration of the process move as rapidly as possible.

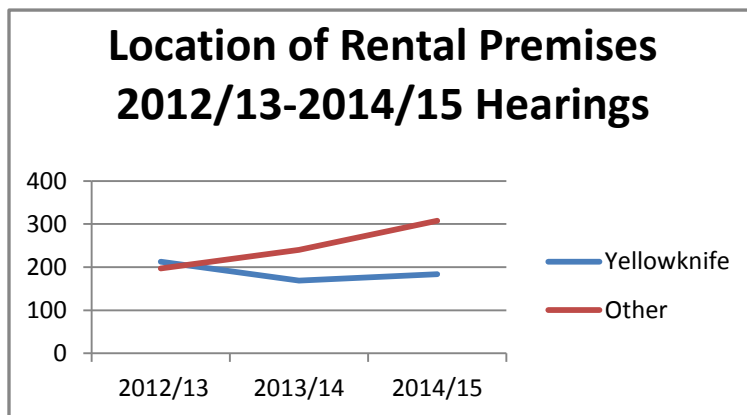
In 2013-2014, the time between filing an application and holding a hearing began to increase significantly, a trend that continued in 2014-2015 despite the appointment of a Deputy Rental



Officer. This trend coincided with the increased efforts of the NWT Housing Corporation and their agents to collect old rental arrears. We have now established that it is due to the increased number of hearings held outside of Yellowknife and the method we have been using to schedule those hearings.

Regular hearings are scheduled approximately every three weeks in Yellowknife. As soon as we

receive confirmation of service of the application on the respondent, the matter is scheduled for the next open hearing date. Consequently, most Yellowknife matters are heard in less than 60 days.



Housing associations/authorities often file multiple applications at a time. Previously we would often wait until all the filed applications in a given community were confirmed served before arranging a hearing room and scheduling the hearings. This resulted in longer times between the application and the hearing in communities outside of Yellowknife. Since most of the Housing Corporation's rental portfolio is outside of Yellowknife, their

increased efforts to collect old rental arrears has resulted in a higher proportion of hearings outside of Yellowknife and longer intervals overall between filing and hearing.

The introduction of cell phone service in NWT communities and the proliferation of cell phones have made it possible to conduct more hearings via 3-way teleconference facilities rather than renting a hearing room in the community. We now schedule hearings in communities outside of Yellowknife as soon as the service on the respondent is received. If we have multiple matters to hear, we will rent a hearing room, but if we have only a few we will schedule them by 3-way teleconference. We are confident that the changes to our scheduling process will reduce the overall time between application and hearing in 2015-2016.

Issues

Room mates

Yellowknife has some of the highest apartment rents in Canada. As well, a significant number of tenants work at remote worksites on a rotational basis. These two factors encourage tenants to rent a spare bedroom to another party in order to save money on an apartment that is underutilized. The resultant relationship between the parties looks like a landlord-tenant relationship, but is not recognized as such in the *Residential Tenancies Act*. The definition of “landlord” contained in the current Act excludes tenants from also being landlords. Consequently, there is no landlord-tenant relationship and the Act does not apply to these situations.

Inevitably, some of these relationships run into problems, leaving the parties without any defined rights, obligations, or protection under the Act. The Act provides no dispute resolution process for these kinds of relationship. Several other jurisdictions recognize this relationship in their legislation and are able to deal with disputes between the parties. During the coming year we intend to more fully research how these tenants and “room mates” might be recognized in the legislation, giving them better protection and a method to resolve disputes.

Disposition of Abandoned Security Deposits

Occasionally a tenant will abandon or vacate rental premises without leaving any forwarding address with the landlord. The *Residential Tenancies Act* requires a landlord to return any security deposit or pet deposit within 10 days or provide a statement of the deposit and deductions to the tenant. Section 18.2 of the Act extinguishes the right of the tenant to any balance owing to the tenant after one year if the landlord has made all reasonable efforts to locate the tenant. In my opinion, the Act should be amended to require that unclaimed security deposits be remitted to the Government of the NWT if unclaimed after one year.

Notice Before Entry where Abandonment is Suspected

Normally, a landlord must give written notice to a tenant 24 hours before they enter rental premises. There are several exceptions to this obligation including when the landlord has reasonable grounds to suspect that the tenant has abandoned the premises. In my opinion, the Act should be amended to require the landlord to post a notice on the entry door to the premises, stating that they believe the premises have been abandoned and intend to enter at a time no less than 24 hours after the posting of the notice.

**Statistics for the Year
April 1, 2014 to March 31, 2015
With comparisons to previous years**

Note: Annual reports prior to 2011 were based on the calendar year. Later reports are based on the fiscal year from April 1-March 31.

Applications to a Rental Officer

	2006	2007	2008	2009	2010	2011/12	2012/13	2013/14	2014/15
Applications Filed	534	544	711	635	643	690	644	628	579
By Landlords	489	502	667	576	599	641	595	566	540
By Tenants	45	42	44	59	44	49	49	62	39
Applications Heard	390	374	346	299	356	382	410	409	492
By Landlords	359	351	318	259	321	352	377	376	462
By Tenants	31	23	28	40	35	30	33	33	30
Applications Withdrawn	143	168	352	333	262	323	250	177	137
By Applicant	126	155	315	269	238	293	211	154	118
By Rental Officer	17	13	37	64	24	30	39	23	19

Hearings Held by Community and Type – 2014/15

Community	In Person	By Phone	Total
Behchoko	15	3	18
Colville Lake		2	2
Deline		2	2
Enterprise		1	1
Fort Good Hope		5	5
Ft. Liard		17	17
Ft. McPherson		8	8
Ft. Providence		7	7
Ft. Resolution	12	13	25
Ft. Simpson		11	11
Ft. Smith		16	16
Gameti		5	5
Hay River	28	26	54
Inuvik	32	14	46
Kakisa		1	1
Lutsel'Ke		15	15
Norman Wells		1	1
Trout Lake		1	1
Tsiigehtchic		2	2
Tuktoyaktuk		11	11
Tulita	12	1	13
Ulukhaktok	20	10	30
Wekweeti		2	2
Whati		14	14
Wrigley		1	1
Yellowknife	174	10	184
TOTAL	293	199	492

**Remedies Provided to Landlords
2014/15**

Remedy	Number of remedies
Non-payment of rent	727
Other obligations	167
Damage	62
Compensation for use and occupation/loss of future rent	38
Disturbance	20
Security deposit	4
Illegal Activities	2
Public housing eligibility	2

* Many orders contain multiple remedies. Therefore the total remedies applied, exceed the total number of orders. For example, there are three available remedies which may be applied for non-payment of rent. Often an order made for non-payment of rent contains more than one.

**Remedies Provided to Tenants
2014/15**

Remedy	Number of remedies
Security deposit	10
Repairs	9
Disturbance	3
Abandoned property	1

**Terminations/Evictions Ordered *
2006- 2014/15**

	2006	2007	2008	2009	2010	2011/12	2012/13	2013/14	2014/15
Termination Requested by Tenant	2	1	3	4	2	3	0	5	2
Termination Requested by Landlord	147	146	139	115	136	144	146	149	191
Terminations as % of Applications Heard	38%	39%	41%	40%	39%	38%	36%	38%	39%
Evictions Ordered	-	-	-	-	7	123	121	127	114
Evictions as % of Applications Heard	-	-	-	-	2%	32%	30%	31%	23%

* includes orders which terminate tenancy agreements or evict tenants only if specific conditions are not met.

**Value of Compensation Ordered
2009 – 2014/15**

	2009	2010	2011/12	2012/13	2013/14	2014/15
Total Orders Granting Monetary Relief	251	292	308	330	326	414
Total Value of Orders Issued	\$1,334,456	\$1,596,625	\$1,695,226	\$1,746,655	\$2,538,478	\$3,011,166
Average Value	\$5317	\$5468	\$5504	\$5293	\$7787	\$7273

**Elapsed Time between Filing Date and Hearing Date
Applications Heard During Period – 2006 to 2014/15**

	2006	%	2007	%	2008	%	2009	%	2010	%
0-30 days	131	33.6%	133	35.6%	90	26.0%	80	27%	88	25%
31-60 days	193	49.5%	178	47.6%	167	48.3%	140	47%	159	45%
61-90 days	45	11.5%	44	11.7%	59	17.1%	50	17%	65	18%
91-120 days	10	2.6%	10	2.7%	18	5.2%	15	5%	25	7%
120+ days	11	2.8%	9	2.4%	12	3.5%	14	4%	19	5%

	2011/12	%	2012/13	%	2013/14	%	2014/15	%
0-30 days	82	21%	88	21%	62	15%	68	14%
31-60 days	193	51%	208	51%	171	42%	200	41%
61-90 days	69	18%	91	22%	111	27%	121	24%
91-120 days	16	4%	16	4%	27	7%	58	12%
120+ days	22	6%	7	2%	38	9%	45	9%