LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

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The Northwest Territories Landlord and Tenant Act Review:

Residential Tenancies

Justice and Public Services

MAY, 1985

May 31, 1985

STIEN K. LAL
DEPUTY MINISTER

Review of the Landlord and Tenant Act, R.O. 1972, c.L-2

As per the agreement for service dated the 22nd day of March 1985, this Report has been prepared following your request for recommendations respecting the present Northwest Territories Landlord and Tenant Act.

As it was initially decided to restrict the scope of this Report to residential tenancies, this Report is therefore entitled: "The Northwest Territories Landlord and Tenant Act Review: Residential Tenancies".

I respectfully submit the accompanying Report.

Sincerely,

K McMillan

Kathleen McMillan
Contractor

PREFACE

On February 20, 1985, Richard Nerysoo, Minister of Justice and Public Services indicated a committment to review the existing Landlord and Tenant Act. He indicated the importance of this task, and requested a report be made available no later than the end of June 1985. This Report has been prepared in response to that request.

In reviewing the present landlord and tenant legislation, it was immediately decided to restrict the scope of this particular study to residential tenancies. This Report is therefore entitled: "The Northwest Territories Landlord and Tenant Act Review: Residential Tenancies".

Although this Report has not had the benefit of any secondary consultation, it is felt that the enclosed recommendations represent an equitable balance between the interests, expectations, rights, and obligations of both landlords and tenants.

I must further qualify that I am not a member of the legal profession, and any errors, omissions, or misinterpretations of legislation are the sole responsibility of the Contractor.

ACKNOWLEDGEMENTS

I wish to extend my appreciation and thanks to those who submitted written briefs and made oral presentations at the public hearings. Those briefs and presentations enabled me to grasp the significance of the issues concerning landlords and tenants throughout the Northwest Territories.

In presenting this Report I wish to acknowledge the assistance and cooperation of Mrs. Shirley Stevenson, Chief, Consumer Services, who acted as Department liaison for the duration of my study.

I am particularly grateful to Johan Boychuk, secretary, Consumer Services, who organized and completed all necessary arrangements for the public hearings with great patience and efficiency. It was largely through her unstinting time and effort that this Report was able to meet its deadline.

My thanks go also to Jo MacQuarrie, secretary, NWT Waterboard, and to Marie Coe, Editor of Hansard, Legislative Assembly, for providing the technical equipment necessary for taping and transcribing the oral presentations.

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The residential tenancies section of the Landlord and Tenand Act was enacted in 1972. Although the legislation was considered adequate for its time, the necessity and desire for legislative change has been evident in recent years. To keep pace with legislative trends evidenced throughout Canada, a thorough and comprehensive review of the existing Act was deemed necessary.

The objectives of this review are as follows:

(1) Review the existing Act, as well as any other Acts which may bear reference on this matter;

(2) review the corresponding landlord and tenant legislation found in the provinces of Canada and the Yukon Territory to determine current trends in other jurisdictions and identify areas of the Landlord and Tenant Act which do not coincide with these trends;

(3) to review any recent studies undertaken by any provincial law reform commissions regarding landlord and tenant legislation;

(4) to identify areas in the existing legislation which do not adequately address the needs and realities of the Northwest Territories;

(5) to review the feasibility of establishing a Tenancy Board, and recommend the duties and powers to be held by such a Board;

(6) to review the jurisprudence in this field, and advise on the constitutional issues respecting Section 96 of the Constitution Act, 1867;

(7) to review and discuss a system of rent control in the context of the Northwest Territories; and

(8) to complete a review which addresses the foregoing, outlining recommendations for legislative change to the Landlord and Tenant Act.

Responding to these objectives, the Contractor has, within the fifty day time frame, prepared the following report. The recommendations found within this text, represent the culmination of findings from various sources.

Public consultation was felt to be a necessary and fundamental aspect in the formulation of this Report. As such a total of eight full days of public hearings were held in five communities within the Territories. In addition to the information obtained through public hearings, the Contractor has received numerous written submissions from landlords, tenants, and other interest groups. The information gained from these sources has provided an awareness of the practicalities of day-to-day landlord and tenant relations, and was of great importance when formulating recommendations.

All jurisdictions in Canada have assisted the Contractor by providing information pertaining to their legislation. Although it was not the intent of this Report to provide a survey of legislation found in all common law jurisdictions, this information did however provide the base on which to compare and contrast the existing Landlord and Tenant Act.

The Contractor has obtained valued input from various members of both municipal and territorial governments. Of particular note is the information, direction, and consultation given by Mrs. Shirley Stevenson, Chief of Consumer Services.

It is held in the Contractor's opinion, that the recommendations found within this Report reflect the needs and realities of the Northwest Territories. The primary goal of the Contractor has been to provide recommendations for legislative change which ensure a balanced representation of rights and obligations for both landlords and tenants. It is felt that landlord and tenant legislation should create a forum through which both landlords and tenants can interact in a positive manner.

Briefly stated the recommendations found in this Report endeavour to position the NWT legislation in pace with that found in other Canadian jurisdictions. The Contractor has attempted to remove many of the antiquated common law concepts from the existing legislation. A Rentalsmans concept has been recommended to establish a dispute resolving body to deal with areas of common dispute between landlords and tenants. It should be stated at the outset, that the general jurisdiction of landlord and tenant matters will remain in the Court, and the Rentalsman will undertake only those functions as specifically allocated.

In conclusion it must be noted that the Contractor has not recommended that the government establish a system of rent control for the Territories. It is the Contractor's belief that rent controls, would be a short term program only in response to inflation. Under the existing rental market situation in the North, rent controls could conceivably create as many problems as they solve.

OVERVIEW OF SUBMISSIONS

SECTION TWO

2.1 Overview

Public consultation to the legislative review was viewed as a necessary and fundamental step in the preparation of this Report. It was felt that public input would best be accommodated by way of public hearings, allowing individuals by way of open forum to express their views and concerns regarding the existing Landlord and Tenant Act. As it was apparent that some individuals, be they landlords, tenants or other interest groups, would prefer to not be heard publicly, written submissions were encouraged. During the week of April 10th, 1985, advertisements were placed in all major newspapers in the North. These ads invited members of the public, landlords and tenants, and their respective groups and organizations to make submissions to the legislative review, and also to inform them of the dates when public hearings would be held in their respective communities. In addition to the print advertisement, public service announcements were placed on CBC North and all major radio stations. The television media was also used to encourage participation in this review, and thirty second information "spots" were placed on CBC North. To augment the print, radio, and television advertising campaign, a poster campaign was also undertaken. Posters indicating the intent of the review and a request for written submissions were sent to every community in the Northwest Territories. Although the time restraints imposed by the contract would not allow a public hearing to take place in every community, hearings were held in:

Yellowknife	April 16, 17, 18, Explorer Hotel
Fort Smith	April 22, 23, Town Council Office
Hay River	April 24, 25, Town Council Office
Pine Point	April 25, 26, Town Council Office
Frobisher Bay	May 1. Frobisher Inn

The decision to hold public hearings in these specific communities was based on the percentage distribution of population for the given Region. According to 1981 Census Canada Statistics, the Fort Smith Region which includes the communities of Yellowknife, Fort Smith, Hay River and Pine Point comprise 48.94% of the Territories total population. The capital city of Yellowknife comprises 20% of the total population of the Northwest Territories. The second largest Region by population distribution is that of Baffin, with Frobisher Bay as the administrative headquarters and largest community.

In response to the request for written submissions, a total of fifteen submissions were forwarded to the Contractor. Of these, six represent the views of tenants, six representing landlords, and the remaining three were forwarded from the Yellowknife Chamber of Commerce, the Minister of Local Government, and the President of the Western Arctic New Democratic Party.

With regard to the public hearings, only three individuals attended to make formal oral presentations. They were Bob MacQuarrie, MLA Yellowknife Centre; Don Routledge, Executive Director, NWT Council for Disabled Persons; and Arlene Hache, Consumers Association of Canada. In addition to the three formal oral presentations, a total of twenty-six individuals attended the public hearings to speak in confidence with the Contractor. These individuals although wishing to make their concerns known, requested a private or "round-table" discussion concerning the issues relating to landlord and tenant legislation. For the purpose of this Report these discussions have not been considered oral presentations. Of the twenty-six individuals speaking to the Contractor in confidence, sixteen were landlords with the remaining ten being tenants. Although these individuals will not be identified in the appendix which lists the names of individuals having made either oral presentation or written submission to the review, their concerns and recommendations have been included in the body of this analysis.

It is not clear to the Contractor why the response for the request for written submissions and attendance at public hearings was disappointingly low. It should be noted that several individuals have openly criticized the time frame imposed by the contract. In the view of some landlords and tenants, sufficient time had not been given to prepare and forward written submissions. It has further been suggested by some tenants that public hearings are considered intimidating, and many individuals are hesitant to make their views and concerns known publicly. An additional possibility which

may have lent itself to the low turnout for this particular review is the fact that the Special Committee on Housing has recently completed its public hearings and requests for submissions. There may have been some confusion on the part of landlords and tenants as to a "possible duplication" of this particular review.

The following represents a summary of all submissions made to the Contractor concerning the landlord and tenant legislative review. Included within this overview are the written submissions, formal oral presentations, as well as private or personal meetings with the Contractor.

2.2 Tenant Submissions

A recurring theme evident in all submissions made by tenants is the issue of maintenance and repair of residential premises. As succinctly stated by one tenant: "most of my problems with any and all of my landlords seemed to be associated with literally minimal or non-existent maintenance. Often problems with plumbing, heating, and electrical was repaired at my expense out of necessity, with no monetary compensation". At present many tenants feel they are in a position where landlords, by virtue of the tight rental market, control the power of the legislation. As an example, one tenant stated that pressuring a landlord into unit repair or maintenance generally results in a notice of termination of tenancy. As retaliatory evictions are difficult to prove most tenants feel a sense of helplessness regarding this issue.

Another Yellowknife tenant indicated that he was aware of one apartment block in the city which actually circulated a letter stating that no repairs would be done to that apartment complex. When questioning the landlord about this letter, the landlord blamed tenants for the condition of the common areas of the complex and felt; "if a tenant wanted the complex to be maintained to a certain level or standard, that it was the tenants responsibility". This tenant felt the conditions in the complex were "deplorable" and found it difficult to believe anyone living in the complex would take enough "pride in ownership" to attempt to repair the complex on their own initiative. This tenant identified the shortage of housing in Yellowknife to be the predominant factor precipitating this issue. He felt that until such time as more rental units were available in the present housing stock, that the practice of landlord neglect for repair and maintenance of rental units would continue. This individual spoke out strongly against the City Planning Department for not providing more land for development of rental apartment units. In his view the recent dramatic increase in the number of commercial stock available should be balanced with a comparable amount of land available for residential rental complex development.

All of the submissions received from tenants expressly indicated the belief that an increase in the number of available rental units in the private rental market would lessen the number and degree of problems currently experienced by most tenants.

Concerning the topic of rental increase, one tenant felt the existing legislation, which does not restrict the frequency of rental increases, allows landlords to take ad-

vantage of the current rental housing market shortage. Provided a notice to increase rent has been given three months prior to the date of the intended increase, landlords may legally increase the rent four times in any given year. This tenant strongly advocated a "one increase in a twelve month period" provision be included in the recommendations.

Of the six written submissions received from tenants, two currently reside in subsidized public housing administered under the NWT Housing Corporation. Both these tenants felt strongly about the present income escalator scale used by the Corporation. Both felt the 25% income assessment should be based on the net earnings and not on gross earnings. One tenant specifically indicated that the present rent/income scale creates a great deal of animosity between tenants of subsidized rental housing, as two neighbours with identical units may pay totally different amounts for housing. He further assessed the present procedure as being inequitable and unjust.

One tenant did address the area of landlord and tenant disputes by advocating an arbitration process where landlords and tenants could settle their disputes out of Court. This tenant indicated arbitration should be the first step in the dispute mediation process and that if the matter could not be handled by this process, only then should legal action be considered.

To summarize the concerns and recommendations of the written submissions presented to the Contractor by tenants, the following may be considered the main issues:

(1) Repair and maintenance obligations of the landlord should be outlined more clearly in the legislation. Remedies for their breach should be identified and the process by which to resolve disputes more easily accessible to the general public.

(2) The inclusion of rent controls in the Northwest Territories, and barring a full rent control program, the inclusion of the "one rental increase per twelve month period" provision.

(3) Tenants living in NWT Housing Corporation subsidized units should have their rent to income scale assessed against net and not gross income.

(4) That a system of arbitration be established in the Northwest Territories to assist in settling disputes between landlords and tenants without the formality of the present Court system.

2.3 Landlord Submissions

The landlord submissions generally addressed the Landlord and Tenant Act by referring specifically to sections currently found in the legislation. The concerns and recommendations of landlords may be grouped broadly into five topic areas, as identified hereunder.

The first area of concern for landlords centers on the often controversial topic of security deposits. All landlords strongly favoured an increase in the present amount of the security deposit. Most felt they required an amount equal to one months rent to provide the degree of financial protection required when damages are found on the premises. Most landlords felt complications tend to arise when they must utilize the Court to obtain costs which exceed the amount held by a security deposit. One landlord in particular stated "the problems encountered in collecting monies owing, is in a large part due to the highly transient population of Yellowknife and the difficulty in administering collection, especially if they have moved out of the Territories".

In a submission made by the NWT Housing Corporation a recommendation providing security deposits be based on a residential premises "economic rent", rather than on the actual rent paid should be included within this Report. In citing the NWT Housing Corporation submission, the following comments were made:

> "Damage deposits are a necessary provision to protect landlords against abuse of the premises by the tenant. In the current legislation, such deposits are geared to the monthly rent. In social housing, the damage deposit can not be defined as a percentage of rent charged according to income because the rent may vary between $32.00 and $400.00. Obviously, a social housing landlord's security damage must be based on something other than the rent. Cost should be the bench mark for damage deposits for social housing"

Another area of unanimous concern relates to the percentage interest rate paid on security deposits held by a landlord. The present 4% has been viewed as unrealistic and all submissions advocated an increase in the percentage rate.

The second major topic addressed by landlords concerns the somewhat contentious issue of repair and maintenance. Most felt the present legislation lacked clear direction, and landlords felt they would welcome a legislative provision which would identify standards to be maintained. Such standards should include services such as parking facilities, snow removal, and laundry facilities.

A third major area discussed turns to the topic of rent increases. All landlords voiced their objections to the introduction of rent controls for the Northwest Territories. When stating their case, most landlords felt rent controls would act to discourage developers from building, and hence aggravate an already tight rental market. The NWT Housing Corporation spoke strongly against any government policy which may inhibit rental market construction. As stated in their submission:

> "...the Corporation is concerned that no changes to the Act should curtail the production of rental units in the private sector. For many reasons, mostly associated with government intervention in housing, private rental housing is almost non-existent in most communities and in short supply in others. Because vacancy rates in Yellowknife are very low and market rents high, renters will call for restrictions on the frequency and magnitude of rent increases. But such actions will only aggravate the vacancy rates and we will end up with affordable housing but not nearly enough of it. The current conditions in Yellowknife are short term. The return on investment on rental accommodation has reached the level where entrepreneurs will build. What is required is an atmosphere which will allow them to produce rental properties without a lot of hitches. Land must be available in good locations at reasonable prices. Zoning must be conducive to private sector starts and the procedure for acquiring land and permits uncomplicated."

Bowling Green Developments Ltd. indicate their objections to rent control in somewhat the same manner, and state:

> "If rent controls are considered there will be little or no residential rental development. The risks are too high."

The fourth topic of discussion centers on the process of eviction for non-payment of rent or damage to a residential premise. Most landlords expressed their dissatisfaction with the legislative procedure which must be followed when attempting to regain possession of a residential premise. Most felt the present formal Court procedure is simply too time consuming and landlords should be entitled to a swift and efficient procedure of eviction. One landlord stated:

> "In cases of non-payment of rent or damage to the premises, it is necessary for both social and market landlords to receive a swift review and judgement. Because of the vast distances in the Northwest Territories and the infrequency of Court in outlying areas, many months may go by before a judgement is rendered. It is not uncommon for a landlord outside of Yellowknife to have to wait for six to eight months for an order of possession. Especially in the case of damages, there may be little left of the premises if a judgement is months in the making. A local review with the ability of the landlord to obtain judgement should be considered, perhaps by a Justice of the Peace".

The fifth and final topic of discussion directs attention to the establishment of a dispute resolving body other than that of the Court. Most landlords favoured a less costly, less formal, more expedient procedure for dispute resolution. As one landlord states:

> "Legislation should not be one sided, but it would be very difficult to legislate full cooperation, therefore, it may be more realistic to have a rental ombudsman to assure that tenants are given reasonable consideration and that landlords and their properties are also dealt with fairly."

Briefly the recommendations of the landlords are:

(1) Security deposits be increased to equal one months rent.

(2) The interest rate paid on security deposits be increased according to fair market value.

(3) That standards be set for maintenance and repairs of residential premises.

(4) Rent controls should not be established for the Northwest Territories.

(5) The eviction process for non-payment of rent or damage to a residential premise should be more expedient than that presently found through the Court system.

(6) The establishment of a dispute resolving body other than that of the Court.

2.4 Other Submissions

Three submissions were received from individuals not specifically representing either landlords or tenants. These submissions are reviewed hereunder.

The first submission was received from the Honourable Nick Sibbeston, Minister of Local Government. This submission addresses the issue of implementing Community Arbitration Boards to deal with landlord and tenant disputes throughout the Territories. The Minister expressed concern in the lack of coordination in service delivery to the general public, and recommends any proposed landlord and tenant arbitration boards be established within the existing structures found at the community level. "Using well established community councils ... is preferable to setting yet another new group in each community." Although the exact details of such a plan remain open for discussion, the Minister did "not forsee any insurmountable problems" in establishing such a system of service delivery.

The second submission was received from the Yellowknife Chamber of Commerce. The Chamber spoke strongly against any introduction of rent controls in the Northwest Territories. Justifying their stance the Chamber enumerated the following reasons:

> "(1) Due to the fluctuating costs in the North, it is not feasible to implement a fixed rate of rental increase. It is more reasonable to restrict the number of rent increases per year as an alternative.
>
> (2) Developers play a major role in the economic viability of Yellowknife and revenue acquired from existing buildings is invested back into the community resulting in a healthy economic environment for the city.
>
> (3) It is not realistic to forecast rent increase restrictions in the North on a long term basis. For example, the increases in cost for fuel or power over the years does not represent a gradual climb and greatly effects landlord's expenses. The difference in northern costs must be kept in mind at all times."

The Chamber also addressed the issue of security deposits and recommended the amount be increased to equal one full months rent. This recommendation was based on the belief that costs for repair to damaged units generally exceed one half months rent and that landlords do not at present have a strong recourse for compensation for costs. The third area addressed by the Chamber of Commerce centers on notification of termination of tenancy. The Chamber felt landlords should have the right to serve twenty four hour notice to terminate tenants under circumstances where malicious damage to a premise has occurred. Further the Chamber indicated that such a provision would protect the landlords property and also keep maintenance costs down. The Chamber felt the present system whereby a landlord must give thirty days notice to terminate has been an avenue of abuse for tenants. The Chamber states:

> "There are instances in which notices of termination of tenancy are given and after the thirty days plus, considerable additional damage has been caused."

The fourth and final topic addressed by the Chamber of Commerce dealt with the establishment of a landlord/tenant dispute board. The Chamber visualized the powers of this board to be extensive, allowing landlord and tenant disputes to be resolved without the expense and timely process currently afforded through the judicial system. The Chamber concluded their brief by suggesting that any amendments to the Landlord and Tenant Act should reflect an equally balanced approach taking into consideration the position of both landlords and tenants.

The third submission was received from the Western Arctic New Democratic Party. This submission addressed areas of concern within the existing legislation, and holds the position that the current legislation is very weak in protecting the rights of tenants. The New Democratic Party alluded to British Columbia legislation which incorporates rent review and security of tenure for tenants, and suggests that: "Surely the NWT can provide more caring and progressive legislation than British Columbia"!

This submission enumerated a number of proposed recommendations for changes to the existing Landlord and Tenant Act. These recommendations are listed as follows:

(1) That "at the very least, legislation should include a provision that landlords can not terminate a tenancy without cause".

(2) That "the period of notice required to terminate a tenancy be increased. For weekly tenancies fifty-six days be required, for longer tenancies one hundred and twenty days be required, and where the reason to terminate the tenancy is demolition, conversion, or repair, at least one hundred and eighty days should be given".

(3) That "landlords may increase the rent on a unit once per year by 3% without going to a Rent Review Board. The Rent Review Board should be an independent tribunal whose rulings can be appealed only to the Courts. It should be able to hear any dispute related to rent increases in a clear, fair and understandable format. This is needed in order to protect the rights of tenants and reduce the burden now imposed by the Courts being the only avenue of recourse (sic)".

(4) That the "term residential premises be defined in the legislation, and that mobile homes and units such as the YWCA be covered by that definition".

(5) That "the essential services can not be withheld until a tenant has been legally evicted by an official of the Court".

(6) That the procedure of distress "be abolished".

(7) That "landlords be required to post their name and address and their agents name and address on the premises".

(8) That "rent withholding be allowed to occur where the grievance is such that the tenant is unable to get the landlord to properly take care of the premise".

(9) That "tenants in employer-dependent housing should have the same rights as those of all renters, without fear of retaliation on the job. These tenants should also be protected by a minimum one hundred and twenty day notice if they are laid-off or leave their position for any reason."

(10) That "the Housing Authorities be required to treat all tenants fairly with regards to their rights as tenants".

(11) That "the law clearly state that blatant or defacto racism will not be tolerated, and that everyone has the right to apply for and rent any housing they wish to".

2.5 Oral Presentations

Despite the extensive advertising campaign requesting oral presentations for the public hearings, only three individuals presented formal oral submissions. The following represents an overview of these presentations.

The NWT Council for Disabled Persons, represented by the Executive Director, Don Routledge presented the following recommendations:

(1) That "the Landlord and Tenant Act include a covenant which stipulates that a landlord would keep an up-to-date directory of all residents in apartment buildings to facilitate their exit during a fire or an emergency".

(2) That the proposed legislation "include provisions which oblige landlords to immediately dispose of snow from all entrances and exits thus ensuring the safe entrance and exit of all tenants".

(3) "With respect to apartments for disabled persons, ... that landlords should install aids and appliances which will not only improve the quality of lifestyle of the individual but improve the overall safety of the individual."

(4) "Whenever possible a landlord should provide a unit close to a fire escape ... and accordingly, landlords should have the power to place a (disabled) individual on a priority list for an apartment in an accessible building."

(5) That "a standard lease should include a separate section for disabled persons ... (which) can indicate what level of assistance they might require during an emergency, and if requested, the landlord would be obliged to send carbon copies of all correspondence with the tenant to their legal guardian".

(6) That the proposed legislation include "an anti-discriminatory covenant ... to ensure disabled persons receive equal treatment with respect to the occupancy of accommodation".

The second formal oral presentation was given by Arlene Hache, representing the Consumers Association of Canada. The recommendations proposed during this presentation have been summarized as follows:

(1) The existing Landlord and Tenant Act should expressly extend its jurisdiction to cover tenancy agreements for mobile homes, boarding houses, and the NWT Housing Corporation.

(2) That the proposed legislation establish a Tenancy Board which represents the interests of both landlords and tenants. This Board shall be responsible for:

(a) assessing the entire housing situation;

(b) educating the public regarding the rights and responsibilities of both landlords and tenants;

(c) receive complaints and mediate disputes between landlords and tenants;

(d) investigating breaches of the legislation;

(e) enforcing the provisions of the Act;

(f) laying prosecution where necessary; and

(g) reviewing and recommending changes to the legislation.

(3) The proposed legislation should establish a system of rent control for the Northwest Territories and restrict the increase to 5%. Landlords may request an increase in excess of 5% by applying to the Rent Review Board.

(4) The proposed legislation should increase the amount of interest paid on security deposits, and require landlords to place all security deposits in trust accounts.

(5) The proposed legislation should include a provision whereby a landlord must provide two estimates of the cost to repair damages before being allowed to deduct any amount from a tenants security deposit.

(6) The proposed legislation should include a prescribed pre-tenancy inspection report, to establish the condition of the rental unit prior to the date on which the tenant is to take occupancy of the premise.

(7) The proposed legislation should allow a landlord to readily evict tenants for non-payment of rent, damages to the premise, or disturbing other tenants in the building.

(8) The proposed Act include the use of a Tenancy Agreement Form prescribed by legislation.

(9) The proposed legislation should increase the penalty section from an existing maximum of $1,000.00 to an amount as deemed appropriate.

Bob MacQuarrie, MLA Yellowknife Centre, presented the third and final formal oral presentation. The proposed recommendations have been summarized as follows:

(1) That the "Government of the Northwest Territories does not establish a rent control system".

(2) That the landlord and tenant complete a legislatively prescribed Tenancy Inspection Form, when entering into a tenancy agreement.

(3) That "a section be added to the Act ensuring landlords must sign a written tenancy agreement with every tenant".

(4) That "a section be added to the legislation to give effect to the intent that a tenancy agreement should specify what services are being provided by the landlord in a rental price. And, that landlords will maintain such services at a level that might be expected of a reasonably prudent home owner".

(5) That the legislation include provisions to ensure Consumer Services has increased jurisdiction and adequate legal authority when administering the Act, and further that "adequate resources, staffing, and budget have been made available".

(6) "That section 50 (of the existing Act) be amended to increase the security deposit to a full months rent, "making the amount payable over a three month period.

(7) "That section 51 be amended to include the interest rate in regulations rather than in the Ordinance itself. And that it be set to reflect the reality of the times."

(8) "That no landlord shall take advantage of a change either in ownership or in tenancy to increase the rental rate of any premise without three months notice being given to the tenant."

(9) That section 60 of the existing Act, which indicates a landlords responsibility to maintain the residential premise "should be extended to include the property on which the premise is located" and provide "a clear indication of the level of service required of a reasonably prudent home owner in the same community".

(10) That section 59 which refers to a landlords responsibility to install security locks on doors giving entry to the building, should be amended to include a provision whereby "landlords must maintain such devices in good working order". Contravention of this particular provision "should carry a significantly higher penalty than any other penalty provision found within the legislation".

(11) "That the Commissioner may make regulations as deemed necessary to administer this Act".

LANDLORD AND TENANT LEGISLATION

SECTION THREE

3.1 Overview

Landlord and tenant law has evolved from the common law of England. The common law, in its simplest term, refers to the rules and principles which have been established through actual cases and court decisions over time. The growth of law relating to landlord and tenant has not however been the exclusive property of the courts, and legislative intervention has been frequent.[1] Some of the earliest statures regarding landlord and tenant relationships date back to 1266.[2]

"At common law no distinction is drawn between the law applicable to residential tenancies and that applicable to industrial and commercial tenancies. It was therefore evident in the early 1960's that common law was not functioning efficiently in resolving problems between landlords of residential premises and their tenants".[3] In the early 1960's there came a call for legislative reform. In Canada, Ontario was the first to heed this call, and in 1968 the Ontario Law Reform Commission published An Interim Report on Landlord and Tenant Law Applicable to Residential Tenancies. This report identified areas which required immediate legislative action, and summarized the need for legislation to deal with residential tenancies. The Commission's report may be considered the precursor of remedial legislation, not only in Ontario, but in all the common law jurisdictions of Canada.

Another contribution to the modernization of landlord and tenant law was made through publication in 1976 of the Report on Landlord and Tenant Law by the Ontario Law Reform Commission. As succinctly stated in the fifth edition of Williams and Rhodes, Canadian Law of Landlord and Tenant:

> "during the past decade, enormous changes have been wrought and experimentation has been indulged in on a massive scale. The forces within the body politic that generated the demand for the emergence of landlord and tenant law from its thralldom to outmoded concepts also called for speedier justice and more expeditious methods for resolving, in an informal manner, the differences that arose in such profusion between lessors and leassees of residential premises." (p.iii)

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1 Law Reform Commission of B.C., Dept of Attorney-General, Landlord and Tenant Relationships: Residential Tenancies, 1973, p.9

2 Ibid, p.9

3 Ibid, p.9

At present all jurisdictions in Canada have enacted legislation of a remedial kind with regard to a landlord and tenant relationship. The primary purpose of this legislation is an attempt to provide a clear statement of the rights and obligations of these parties and to provide an easily accessible process for securing the enforcement of these rights. Generally the law governing residential tenancies can be considered more restrictive than that governing commercial tenancies. The reason for this is the belief that the parties entering into a residential tenancy are generally not accustomed to entering into contracts, and therefore the law provides a measure of built-in protection.

The following legislation has been examined throughout the duration of this review. Although it is not the mandate of this study to present a survey of all legislation in Canada, these jurisdictions did however provide a basis on which to compare and contrast the existing Landlord and Tenant Act of the Northwest Territories.

Alberta:	The Landlord And Tenant Act, R.S.A. 1980, c.L-6
British Columbia:	Residential Tenancy Act, R.S.B.C. 1979, c.365
Manitoba:	The Landlord And Tenant Act, R.S.M. 1970, c.L-70
New Brunswick:	The Residential Tenancies Act, R.N.B. 1975, c.R-10.2
Newfoundland:	The Landlord And Tenant (Residential Tenancies) Act S.N. 1973, No.54
Nova Scotia:	Residential Tenancies Act, S.N.S. 1970, c.13
Ontario:	Residential Tenancies Act, R.S.O. 1980, c.452
Prince Edward Island:	Residential Tenancies Act, 1983, No.42
Saskatchewan:	The Residential Tenancies Act, R.S.S. 1978, c.R-22
Yukon Territory:	Landlord And Tenant Act, R.O.Y.T. 1971, c.L-2

3.2 The Landlord and Tenant Act, R.O. 1972, c.L-2

(a) Format of the Act

The Landlord and Tenant Act, R.O. 1972, c.L-2 governs tenancies in the Northwest Territories. Part IV of the Act applies to tenancies of residential premises notwithstanding the preceeding three Parts of the Act of any agreement or waiver to the contrary. Section 49 of the Act provides:

> "Except as specifically provided in this Part this Part applies to tenancies of residential premises and tenacy agreements notwithstanding any other Ordinance or Parts I, II, III of this Ordinance or any agreement or waiver to the contrary entered into or renewed before and subsisting when this part comes into force or entered into after this Part comes into force."

The provisions found in Parts I, II, and III, of the existing Landlord and Tenant Act deal primarily with leasehold estate concepts, which are often found incompatible and confusing when dealing with residential tenancy agreements which are generally a matter of contract. [4] As it is felt that perhaps no other legislation is as widely read and interpreted as landlord and tenant legislation, it would seem advisable that the Landlord and Tenant Act be divided into two parts.[5] One governing residential tenancies and another governing commercial tenancies.

The Contractor recommends that:

Part IV of the existing Landlord and Tenant Act be repealed and replaced with a new Residential Tenancies Act relating only to residential tenancies (hereafter the "proposed Act") and that Parts I, II, and III of the Landlord and Tenant Act be preserved as a separate Act and known as the Commercial Tenancies Act.

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[4] Law Reform Commission of B.C., Dept of Attorney-General Landlord and Tenant Relationships: Residential Tenancies, 1973, p.14

[5] Ibid, p.10

(b) Residential Premises Defined:

The term "residential premises" is defined as premises used for residential purposes, but does not include premises occupied for business purposes with living accommodations attached under a single lease (s.48(b)). In its present form, this definition does not clarify the Act's application to tenancy agreements concerning mobile homes and cooperative housing, caretaker premises, transient living accommodations, vacation homes, "living care units", educational institutions, or the Crown. Each of these areas will be addressed hereunder.

Mobile Homes and Cooperative Housing:

The existing Landlord and Tenant Act does not clearly define mobile home tenancies. This void has presented a number of concerns for both tenants and those responsible for administering the Act. It may be assumed that while many of the features of the proposed Residential Tenancies Act should be applicable to tenancies involving mobile homes, there are a number of issues concerning these which are quantitatively and qualitatively different, and thus would require a separate Act. [6] A separate Act to deal specifically with moblie homes would therefore be desirable, but outside the mandate of this Report. Until such time as mobile home legislation is developed, the existing definition of "residential premises" should be expanded to include these types of tenancies.

At present the existing Landlord and Tenant Act also does not address cooperative housing, an area which has become increasingly popular throughout Canada. The NWT does have a Cooperative Associations Act which governs the incorporation, objectives, by-laws, management and administration of cooperative. By virtue of the formulation of a housing cooperative, it has been shown through experience that the implied by-laws respecting ownership and occupancy found within the Housing Cooperative's Constitution are found to be quite similar to the normal statutory conditions of landlord and tenant legislation. By virtue of this understanding it would be deemed desirable that housing cooperatives be exempt, by way of statutory definition, from the proposed Residential Tenancies Act.

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[6] Law Reform Commission of B.C., Dept of Attorney-General Landlord and Tenant Relationships: Residential Tenancies, 1973, p.23

The Contractor recommends that:

The definition of "residential premises" in the proposed Act include mobile homes and "pads" until specific legislation is enacted with respect to tenancies in mobile home parks.

That a definition of housing cooperatives be included in the proposed Act, and housing cooperatives be exempt from the proposed Residential Tenancies Act.

Caretaker Premises:

As section 48 of the Landlord and Tenant Act exempts residential premises which are occupied for business purposes with living accommodations attached, it is not clear as to the application of this particular section to residential premises which are occupied by a caretaker or resident manager of an apartment building. It would be considered desirable that the status of the caretaker's suite be clarified.

The Contractor recommends that:

The proposed Act contain a statutory definition of the term "caretaker's suite", to be included in the definition of "residential premises", but that the recommendations relating to tenant security of tenure should not apply to the caretaker's suite.

Tenant or Licensee:

Section 77 of the Act also specifies that Part IV will apply to room accommodation, where a person in any residential premises owned or operated by him for the purpose provides both room and board for five or more tenants. "At common law there are two distinct and separate relationships by which one person can occupy the premises of another. The relationships are that of landlord and tenant, and licensor and licensee. The essential difference is said to be that while a tenancy passes an interest in land, a licence will not. The distinction, at common law, between the interest of the tenant and that of the licensee such as a lodger, seems to rest on the answer to two questions - does the occupant have exclusive possession and did the parties intend to create a tenancy? If the answer to both is yes, a tenancy is created. If the answer to both is no, then the interest of the occupant is that of a licensee.[7] As both the tenant and the licensee

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7 Law Reform Commission of B.C., Dept of Attorney-General Landlord and Tenant Relationships: Residential Tenancies 1973, p.16

may enjoy many of the same benefits, their rights and obligations are somewhat different. To clarify the Acts application to transient living accommodations, vacation homes, and "living care units" (such as provided by penal institutions, temporary shelter homes, homes for the aged, or educational institutions) it may be deemed desirable to exempt these types of occupancies from the proposed Residential Tenancies Act.

The Contractor recommends that:

The scope of the proposed Act be the same as the scope found in Part IV and that its provision should extend to occupancies which intend to create a tenancy agreement.

Section 77 of the existing Act be repealed.

That by statutory definition, transient living accommodations, vacation homes, and "living care units", be exempt from the proposed Residential Tenancies Act.

(c) The Crown

As expressly stated in section 9(3) of the NWT Housing Corporation Act:

> "Property of the Corporation is the property of Her Majesty and title thereto may be held in the name of the Corporation"

The Crown as a landlord, is an increasingly frequent consequence throughout Canada. As noted previously, in the Northwest Territories the Crown is considered to be the major landlord, currently owning 4,227 units in 48 communities, as administered by the NWT Housing Corporation. The Corporation is currently not distinguished from any other landlord in the existing landlord and tenant legislation.

It is not held within the knowledge of the Contractor, whether the Corporation's activities and practices have generally conformed to the provisions of the existing legislation. It must be qualified at this time, that the mandate of this Report did not include an evaluation of the current policies and practices of the NWT Housing Corporation. Further it is felt that the Corporation may only be reviewed by the body responsible for its creation - the Legislative Assembly

of the NWT. This responsibility is presently being addressed by the Special Committee on Housing which has proposed in its Interim Report released in November 1984,:

> "... to undertake a formal review of the Northwest Territories Housing Corporation in order to assess the performance, organization, and objectives of that agency."(p.45)

It should be noted that the NWT Housing Corporations' compliance with the existing landlord and tenant legislation would be more a matter of policy then strict legal requirement.[8] The Crown, at common law, is not bound by a statute unless there is an express statement to the contrary. Section 13 of the Interpretation Act R.O. c.52,s.1 reads:

> "No provision in an enactment is binding on Her Majesty or affects Her Majesty or Her Majesty's rights or prerogatives in any manner whatsoever unless it is expressly stated therein that Her Majesty is bound thereby."

The words "unless expressly stated" seem to permit an option with respect to the decision of binding the Crown to any particular piece of legislation. The decision therefore remains: Should the Crown be bound to the provisions of the proposed residential tenancies legislation?

It may be said that any law which has application to a relationship between two individuals should also have application to a relationship between the Crown and an individual.[9] As the basic underlying principle of all residential tenancy legislation is to provide protection for both landlords and tenants, it may be concluded that this principle would be greatly underminded if it did not apply to the largest landlord in the Northwest Territories. A trend toward binding the Crown is evident in the jurisdictions of Alberta, Saskatchewan, Manitoba, Ontario, and Newfoundland. Each of these jurisdictions have expressly bound the Crown to the provisions of their residential tenancy legislation. The remaining provinces and the Yukon Territory allude to legislative applicability, but only insofar as to exclude the Crown from specific sections of the statute. These jurisdictions have not expressly bound the Crown At present the Northwest Territories is the only jurisdiction to remain silent in this matter.

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8 Law Reform Commission of B.C., Dept of Attorney-General Landlord and Tenant Relationships: Residential Tenancies 1973, p.18

9 Ibid, p.19

Although it may be desirable that the provisions found within the proposed residential tenancies legislation be applicable to the Crown, it must be acknowledged that public housing does place the Crown in a unique position as a landlord. To illustrate the Crown's uniqueness, the following cites but one example. Residential premises administered by or for the Government of Canada, the Northwest Territories or a municipality which have been financed under the National Housing Act (Canada) may contain certain provisions for the adjustment of rent in accordance with a prescribed formula. As is the case with most subsidized housing for low income groups, the rent payable varies with the tenant's income level. This "income escalator" policy may be encumbered if the provisions of the proposed residential tenancies legislation were made applicable to the Crown.[10] To illustrate this example, the following scenerio is provided:

> A tenancy agreement between the Crown and an individual is entered into in January 1985. As a tenant of low-cost subsidized housing, the rent is assessed at 25% of gross income, or $200.00 per month. In February, the tenant changes employment, and realizes a substantial increase in income. When assessing 25% it is established that the tenant should now be obligated to pay $400.00 a month. The Crown, bound by a provision of the proposed Residential Tenancies Act, must provide a 90 day notice of rental increase. Hence this tenant would begin paying $400.00 a month for the unit in June 1985. If the recommendation to limit the frequency of rental increases to one in a 12 month period is adopted, this tenant would be bound to a rent scale of $400.00 per month until June 1986. Should the tenant during this given year, again realize a substantial increase in income, the Crown would not be allowed to increase the rent scale until July 1986.

This scenerio clearly illustrates the extent to which a provision of the proposed Residential Tenancies Act would undermine an integral policy of the NWT Housing Corporation's subsidized housing program.

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10 Law Reform Commission of B.C., Dept of Attorney-General, Landlord and Tenant Relationships: Residential Tenancies 1973, p.20

Any recommendation to bind the Crown, must provide a provision to allow the Crown exemption from specific sections of the legislation which may interfere or encumber the programs and policy objectives of the NWT Housing Corporation.

The Contractor recommends that:

The Crown be bound by the proposed Residential Tenancies Act, with a provision to exempt the Crown from specified sections of the legislation.

Specifically the proposed Act should exempt residential premises administered by or for the Government of Canada, the Northwest Territories or municipalities which have been financed under the National Housing Act 1954 (Canada) and contain provisions for the adjustment of rent in accordance with a perscribed formula.

Further this recommendation be TABLED pending the release of the Special Committee on Housing Report.

REVIEW OF EXISTING LEGISLATION
SECTION FOUR

4.1 COMMON LAW

Section 54 of the existing Landlord and Tenant Act states:

> "The doctrine of interesse termini is abolished, and all tenancy agreements are capable of taking effect at law or in equity from the date fixed for commencement of the term, without actual entry or possession."

"Interesse termini" is based on the premise that a tenant's interest is one in land. It may therefore be summized that the abolishment of this doctrine infers that the relationship between landlord and tenant is one of contract, and moves away from the notion that the tenant has a leasehold estate conferring an interest in land. [1]

Most jurisdictions in Canada have moved toward defining the landlord and tenant relationship on a purely contractual basis. It is felt that for the purposes of residential tenancies, leasehold estate concepts can be eliminated, and contractual concepts such as the doctrine of frustration, the obligation to mitigate damages, and the interdependence of material covenants may be adopted.

The Contractor recommends that:

The relationship between a landlord and tenant be defined on a purely contractual basis.

4.1.1. The Interdependence of Material Covenants

A tenancy agreement will contain a number of different covenants which have been agreed to by the parties. As an example, the landlord covenants to provide premises for use by the tenant, in exchange for which the tenant covenants to pay rent to the landlord. Under the common law of landlord and tenant, such covenants and the obligations they create are "independent"; if one party fails to honour a covenant, this wil have no effect on

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[1] Law Reform Commission of B.C., Dept of Attorney-General Landlord and Tenant Relationships: Residential Tenancies, 1973, p.95

the other party's obligation to honour their covenants. Using the same example as above, if the landlord fails to provide a habitable premise, the tenant under common law rules of landlord and tenant, would not have the right to withhold all or a portion of the rent. The common law of contract, however, provides that material covenants are "dependent", and a breach of a material covenant by one party will excuse the other party from further performance.[12]

Most of the current residential landlord and tenant legislation has introduced common law contract rules relating to the breach of a material covenant. It should further be noted that of the jurisdictions allowing an interdependence of covenants, most restrict the remedies available for their breach. In this way, the landlord and tenant have mutual obligations and the failure to live up to one's obligation will give the other specified rights.[13]

The Contractor recommends that:

The common law rules respecting the effect of the breach of a material covenant by one party to a contract on the obligation to perform by the other party, be applied to tenancy agreements. The proposed Act deem certain covenants to be included in tenancy agreements and set out remedies available for their breach.

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12 Residential Tenancy Commission of Ontario, Cross Canada Survey of Landlord and Tenant Legislation

13 Ibid

4.1.2 Frustration of Contract

"At common law, in the absence of express agreement to the contrary, the liability of the tenant to pay rent remains, even though the leased premises can no longer be used for their intended purpose. For example, if a unit were destroyed by fire a tenant would be obligated to continue to pay the rent despite the event which had rendered the obligation unconscionable."[14] This common law rule has been criticized and considered unfair to tenants, and now most of the current residential landlord and tenant legislation serves to make the doctrine of frustration of contract applicable to residential tenancy agreements.

The doctrine of frustration of contract operates to discharge contractual obligations when a contract becomes impossible to perform because of such occurrences as fire and flood.[15] When the tenancy agreement has been frustrated, the tenancy is deemed to have terminated on the date the performance became impossible to fulfill.

The Contractor recommends that:

The doctrine of frustration of contract should be made applicable to residential tenancies and that the Frustrated Contracts Act 1956 should be made expressly applicable.

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14 Law Reform Commission of B.C., Dept of Attorney-General Landlord and Tenant Relationships: Residential Tenancies, 1973, p.109

15 Residential Tenancy Commission of Ontario, Cross Canada Survey of Landlord and Tenant Legislation

4.1.3 Mitigation of Damages

There is a duty on the part of the plaintiff to "mitigate damages", that is to take all reasonable steps to minimize the loss suffered as a result of the defendant's breach of contract. At common law however, there is no duty placed on the landlord to mitigate damages arising from the abandonment or breach of tenancy agreement by a tenant.[16] In other words the landlord need not make a determined effort to find a new tenant if he can collect from the first tenant. Most of the current landlord and tenant statutes include a provision designed to incorporate the duty to mitigate in the legislation of residential tenancies. Generally these provisions are worded:

> "Where a tenant abandons the premise in breach of the tenacy agreement, the landlords right to damages is subject to the same obligation to mitigate his damages as applies generally under the rule of law relating to breaches of contract."

While the wording of this provision was to implement the objective of a landlords obligation to try and re-rent the abandoned premises, it in reality may not have that effect.[17] It is therefore deemed advisable that in addition to the plantiff's duty to mitigate, a landlord be further obligated to again rent the residential premise at a reasonalbe economic rent. The Contractor recommends the adoption of a provision to "mitigate damages" such as that found in section 48 of the British Columbia Residential Tenancy Act.

The Contractor recommends that:

> Where a landlord and tenant become liable to the other for damages as a result of a breach of the tenancy agreement or this Act, the landlord or tenant entitled to claim damages has a duty to mitigate his damages. And without limiting the above section, where a tenant terminates a tenancy agreement or violates or abandons residential premises, other than in accordance with this Act and the tenancy agreement, the landlord has a duty to again re-rent the residential premises at a reasonably economic rent.

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16 Residential Tenancy Commission of Ontario, Cross Canada Survey of Landlord and Tenant Legislation

17 Law Reform Commission of B.C., Dept of Attorney-General, Landlord and Tenant Relationships: Residential Tenancies, 1973, p.138

4.1.4 Distress

At common law a landlord has the right to seize the goods and chattels of a tenant who is in default in the payment of rent. This process is known as "distress", and came into practice in 1267. Current residential landlord and tenant legislation reflects a trend to abolish this remedy. At present the Northwest Territories is the only jurisdiction in Canada where distress is still permitted and sections 21 to 24 of the statute set out the procedure for this remedy.

The Contractor recommends that:

The remedy of distress be abolished with respect to residential tenancies.

REVIEW OF EXISTING LEGISLATION

SECTION FOUR

4.2 STATUTORY RIGHTS AND OBLIGATIONS

"At common law, obligations found between a landlord and tenant were primarily established by negotiation between the parties.[18] Most tenancy agreements under common law did not provide a desirable balance of interests between the landlord and tenant. In the interest of providing more protection for tenants, most legislation has now codified specific rights and obligations of both landlords and tenants, and further outlines the methods for their enforcement. These rights and obligations will be examined hereunder.

4.2.1 The Tenancy Agreement

A development which has had considerable effect in respect to the landlord and tenant relationship, is the trend toward the incorporation of a standard lease document for residential tenancy agreements. The jurisdictions of Nova Scotia, New Brunswick, Ontario, Manitoba, and Quebec have all adopted a standard form of lease to be used for written residential tenancy agreements. A copy of these documents may be found in Appendix "A".

In the fifth edition of Williams & Rhodes, Canadian Law of Landlord and Tenant, the benefits of adopting a standard lease form procedure are indicated in the following quote:

> "The advantages of such a standard form are undoubted if the problem is looked at only from the point of view of the tenant, who is thereby protected against unnecessarily severe terms that are sometimes imposed by the landlords, and the courts and advisory bureaus will, it is hoped, thereby have their task of contractual interpretation greatly simplified. It would be the expectation of the supporters of such a scheme that the law as it affects the relationship of landlord and tenant of residential premises would then be able to develop in such a way as to provide a much greater measure of certainty, with respect to residential problems, than has existed in the past."(p. 17-32)

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18 Law Reform Commission of B.C., Dept of Attorney-General, Landlord and Tenant Relationships: Residential Tenancies, 1973, p.111

Although all jurisdictions in Canada do not specifically prescribe the use of a standard lease form, all provinces and the Yukon Territory do provide a provision stipulating that when any written tenancy agreement is entered into, a copy of the agreement must be provided to the tenant within a specified time. All jurisdictions in Canada further stipulate that when a copy of the tenancy agreement is not delivered to the tenant in accordance with this provision, the obligations of the tenant cease until such time as a copy is delivered. It is interesting to note that in addition to the foregoing provision, the provinces of Newfoundland (s.6(4)) and Nova Scotia (s.5(2)) further stipulate a landlords obligation to provide to the tenant a copy or reproduction of the residential tenancies legislation. In these two provinces failure to fulfill this obligation could allow a tenant in Newfoundland to withhold rent, and in Nova Scotia to terminate the agreement. Although the intent of this provision is quite obvious, it is questionable as to whether the responsibility of providing the tenant with a copy of the Residential Tenancies Act falls within the purview of a landlords responsibility.

The Contractor recommends that:

The proposed Residential Tenancies Act include by regulation a prescribed form for written residential tenancy agreements, and that any tenancy agreement in writing shall be deemed to be in the form as prescribed.

Where a tenancy agreement in writing is executed by a tenant, the landlord shall deliver to the tenant an executed and completed original copy of the agreement within twenty-one days after the execution and delivery of the agreement by the tenant to the landlord.

Every landlord shall within sixty days after the proposed Act comes into force deliver or cause to be delivered to any tenant with whom he has entered into a written agreement, an executed and completed copy of the lease and each renewal thereof unless the tenant has already received such a copy.

Where a landlord does not deliver or cause to be delivered a copy of the tenancy agreement or renewal thereof to the tenant in accordance with this preceding section, the obligations of the tenant under the agreement are suspended until the landlord complies with this section. Further, where a dispute arises

between a landlord and his tenant as to whether the landlord has complied with the foregoing section, the onus of proof of such compliance rests upon the landlord.

Prior to completing this section of the Report it should be noted that of the jurisdictions which prescribe a standard lease form, most provide a provision whereby the landlord and tenant may by mutual consent stipulate additional rights and obligations for the tenancy agreement. In particular, Ontario further provides that any addition to the standard lease form must not only conform to the provisions of the Residential Tenancies Act, but also be deemed "reasonable". The determination as to whether the additional rights and obligations included in a tenancy agreement are reasonable is made by the Residential Tenancy Commission of Ontario. The inclusion of the following provision would allow greater flexability in the establishment of a tenancy agreement between the landlord and tenant, and also provide a measure of protection in doing so.

The Contractor recommends that:

A landlord and tenant may agree to any addition to the Standard Residential Tenancy Form which does not alter any right or duty as stated in the proposed Act or the Standard Residential Form.

Further, a landlord or tenant may apply to a Rentalsman's Office to determine whether a rule or obligation is deemed "reasonable".

4.2.2 Relief Against Acceleration Clauses

Acceleration clauses were at one time a common feature found in fixed term tenancy agreements.[19] Such clauses normally provide that if a tenant defaults under the obligation to pay rent, all or a portion of the future rent due for the term of the tenancy would become immediately due and payable. As this clause has often been deemed unfair, most current residential tenancy legislation declare such a provision void and unenforceable.

The jurisdictions of Ontario (s.7), Saskatchewan (s.20(16)), Prince Edward Island (s.15), New Brunswick (s.22), and British Columbia (s.5) all contain a provision which is similar to that found within the Yukon Territory (s.76):

> "Any term of a tenancy agreement that provides that, by reason of default in payment of rent due, or in observance of any obligation of the tenant under a tenancy agreement, that the whole or part of the remaining rent for the tenancy becomes due and payable, is void and unenforceable."

At present the NWT legislation (s.61) and that of Manitoba (s.99) do not provide a provision whereby acceleration of rent is deemed void. These two jurisdictions do however provide relief against an acceleration clause if the tenant pays the arrears rent or performs the obligation required; "At any time before or after the commencement of an action for the enforcement of the rights of the landlord and before judgement".

The Contractor recommends that:

Section 61 of the existing Landlord and Tenant Act be repealed and that a provision prohibiting acceleration of rent be included in the proposed Residential Tenancies Act.

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19 Residential Tenancy Commission of Ontario, Cross Canada Survey of Landlord and Tenant Legislation

4.2.3 Locks And Access

All legislation in Canada contains a provision forbidding the alteration of locks giving entry to the rented residential premise by either the landlord or the tenant, except by mutual consent. This provision is found in section 58 of the existing Landlord and Tenant Act. It is interesting to note that although Albertas' legislation does contain a similar provision, it has been expanded to allow a tenant to install security devices which may be used only when the individual is within the residential premise and the device can be removed without damage to the property of the landlord. Although devices such as bolt-locks would allow a certain measure of security for a tenant, it is questionable whether under an emergency circumstance such a device would be desirable.

The Contractor recommends that:

Section 58 of the existing Landlord and Tenant Act not be amended.

An additional provision which is found in the existing Landlord and Tenant Act is that dealing with safety devices found on the residential premise. Section 59 of the Act states "Every landlord who rents residential premises to a tenant shall install or cause to be installed on the premises, including the door giving entry to the premise, devices necessary to make the premises reasonably secure from unauthorized entry." The jurisdiction of Manitoba also contains a similar provision. Although this provision may be deemed desirable, enforcement of such a provision has been difficult in the past.

The Contractor recommends that:

Section 59 of the existing Act include a provision whereby a landlord's non-compliance to this section would be an offence liable on summary conviction to a fine not more than $500.00.

Regarding the topic of access to residential premises by third parties, most legislation in Canada does provide a provision whereby a landlord shall not impose restrictions on entry by political canvassers. These provisions are worded to include access by candidates and/or their authorized representatives when canvassing or distributing election material for election to The House of Commons, the Legislative Assembly, or any office in municipal government.

The Contractor recommends that:

A provision allowing entry by political canvassers to a residential premise be included in the proposed Residential Tenancies Act.

4.2.4 Landlord Right Of Entry/Tenant Right Of Privacy

All jurisdictions in Canada have strictly defined a landlords right of entry to a rented residential premise. Consistent in all jurisdictions is the provision that a landlord has right of entry to a premise in the case where an emergency may exist, or where the tenant or an adult person lawfully on the premise has given consent at time of entry. All jurisdictions further stipulate that written notice of entry must be given to a tenant at least twenty-four hours before the proposed time of entry, and furthermore specify the time of entry. The existing Landlord and Tenant Act does include such a provision in section 52, and restricts the hours of entry for a landlord to the hours of 8:00 a.m. and 5:00 p.m. The NWT is the only jurisdiction in Canada to restrict the landlords hours of entry to so-called "office" hours. Most jurisdictions do allow a landlords right of entry to extend to at least 8:00 p.m.

The Contractor recommends that:

The scope of the proposed section dealing with a landlords right of entry be the same as the scope found in section 52 of the existing Landlord and Tenant Act, but the permitted hours of entry extend to 8:00 p.m.

4.2.5 Security Deposits

Prior to 1970, the topic of security deposits was considered to be one of the most controversial and widely discussed subjects pertaining to landlord and tenant law. Since that time this topic has become the subject of a considerable amount of legislative activity, as indicated by Williams & Rhodes, Canadian Law of Landlord and Tenant (5th ed.):

> "The practice whereby landlords, particularily of residential properties, demanded deposits of varying amounts of money to be made by tenants as security to provide for the cost of tenant's repairs at the end of a lease term, caused a great deal of criticism that in turn has brought about the wide spread enactment of laws to control and regulate the practice, at least in residential tenancy situations. It was contended by the critics that many landlords held these security deposits without payment of interest and were often very slow in relinquishing such sums at the termination of the tenancies to which they related."(p.6 - 67)

To deal with these problems, most of the current residential landlord and tenant legislation clearly defines the terms and imposes restrictions regarding the amount and use of security deposits.

A security deposit is defined in the existing Landlord and Tenant Act as:

> "... money or any property or right paid or given by a tenant of residential premises to a landlord or his agent or to anyone on his behalf to be held by or for the account of the landlord as security for the performance of an obligation or the payment of a liability of the tenant or to be returned to the tenant upon the happening of a condition."(s.48(c)).

In addition to defining the term "security deposit" the Act in section 51, further outlines restrictions on the amount of damage deposit which may be requested, as well as the interest which must be provided on that amount. This section also addresses restrictions on the use of the

security deposit. Each of these areas will be addressed separately hereunder.

Under the existing legislation a landlord in the Northwest Territories can not require a tenant to pay a security deposit in an amount which would exceed one half month's rent. This amount restriction is also found in the jurisdictions of British Columbia, Manitoba, Newfoundland, and Nova Scotia. With the exception of Saskatchewan which stipulates a maximum security deposit of $125.00, all other provinces and the Yukon Territory restrict the amount a landlord can request for a security deposit to an amount which is not to exceed one month's rent. A trend toward increasing the amount of a security deposit to one month's rent may indicate a stronger stance toward protecting the landlord from such concerns as expressed in a previous section of this Report.

The Contractor recommends that:

The amount of a security deposit shall not exceed one month's rent.

To prevent this recommendation from presenting an undue financial burden on tenants within the Northwest Territories it may be desirable to include a provision whereby tenants would be able to pay the total amount of the deposit over a specified time period. At present Saskatchewan is the only jurisdiction to permit such a practice, and section 30 (2) of their Act sets out the procedure.

The Contractor recommends that:

The amount due and payable for the security deposit may at the discretion of the tenant be paid over a three month period with:

a) 50% of the amount paid at the commencement of the tenancy; and

b) the remaining 50% of the amount to be paid within two months of the demand for that deposit.

When further examining the current definition of security deposit, it must be noted that some landlords have expressed the desire that the term "rent" as it is found in section 50 (1) be clarified. In particular, some employers who provide residential premises to individuals at a subsidized rental rate question if the amount of the security deposit is assessed on the actual, or subsidized amount of the rent paid. For example, if the "economic rent" for a unit is $800.00 per month, but by virtue of subsidy the tenant is paying $200.00 per month, would the security deposit as required by current legislation be $400.00 or $100.00? The definition of rent as presently found in section 48(a) of the existing legislation is:

> "The amount of any consideration paid or required to be paid by a tenant for occupancy of residential premises and the cost of any ancillary service or accommodation or thing that the landlord provides for the tenant."

The foregoing definition would appear to limit a security deposit to an amount based on the actual subsidized rent paid by a tenant. It is doubtful if a security deposit based on a subsidized rent would ensure that an employer who is also a landlord, achieves the level of protection this provision intends to provide.

The Contractor recommends that:

The proposed Act expand the current definition of rent to include a definition of "economic" rent for the sole purpose of determining the amount of a security deposit.

The proposed Act include a provision to allow landlords of subsidized units to request a security deposit in an amount that does not exceed one month's "economic" rent.

It should be noted that the majority of concerns and disputes regarding the topic of security deposits do not generally stem from the determination of the amount of the deposit requested. Most disputes concerning security deposits arise when all or part of the deposit has been retained by the landlord for alleged damages to the residential premise. As it is difficult to determine whether damages were in existence prior to entering into the tenancy agreement, disputes of this nature are often difficult to resolve. The province of Nova Scotia (s.12(2)) includes

a provision whereby the landlord and tenant must, upon entering into a tenancy agreement, sign a form as prescribed by regulation which sets out the condition and contents of the premise. This pre-tenancy agreement would not only assist in the resolution of any disputes, but would foreseeably tend to alleviate the cause for many disputes.

The Contractor recommends that:

When a security deposit is taken the landlord and tenant must sign a form as prescribed by regulation which sets out the condition and contents of the premises. The landlord shall ensure that a fully executed duplicate copy of this form is delivered to the tenant upon receipt of all or a portion of the security deposit.

In addition to prescribing the amount the landlord may request for a security deposit, all jurisdictions in Canada with the exception of New Brunswick legislate the amount of interest a landlord must pay when in possession of the tenant's security deposit. The amount of interest ranges from a high of 12% in Nova Scotia to a low of 4% in the Northwest Territories. Given that the Bank of Canada prime lending rate has ranged between 11 3/4% and 10 1/2% for the past six months, it is apparent that the present interest rate should be raised accordingly. To allow for subsequent changes in the fluctuating rate of interest, it may be desirable that the interest rate be established by regulation. This is not to assume that subsequent changes would occur frequently, however when a change is required it may be achieved more expediently.

The Contractor recommends that:

The landlord shall credit interest to the tenant on the full amount of the security deposit at a rate of 8% per annum while the security deposit is held by the landlord.

The rate of interest to be paid on the full amount of the security deposit may be determined by regulation.

Turning to the subject of a landlords restriction on the use of security deposits, it should be noted that several jurisdictions in Canada stipulate a landlord must hold all security deposits in trust. The benefits of such a provision are quite obvious. For example if a landlord declares bankruptcy, the tenants would generally lose their security deposit since their only redress would be to approach the bankrupt previous owner for payment when the tenancy agreement was terminated. The new landlord would have no obligation to return a security deposit not held in his possession. As this situation did occur in Yellowknife last year, and was further complicated by the fact that the owner of the residential premise was an absentee landlord, it may be deemed desirable that provisions specifying the protection of a tenant's security deposit be included in the proposed Act.

The Contractor recommends that:

Security deposits shall be maintained by the landlord in an account designated as a trust account in a chartered bank, credit union, loan or trust company found within the Northwest Territories, and shall be kept separate and apart from monies belonging to the landlord.

A person who acquires the interest of a landlord in residential premises has the rights and is subject to the obligations of the previous landlord with respect to all subsisting tenancy agreements and all security deposits held in trust by the original landlord.

With regard to the return of a security deposit, section 51 of the existing Act sets out the procedures to be followed upon termination of the tenancy agreement. Essentially the landlord has three possible courses of action available:

(1) return the deposit in full including interest to the tenant within ten days,

(2) deliver a statement of account where all or part of the deposit has been retained in accordance with the conditions agreed to by the tenant, showing the amount to be retained and return the balance of the deposit within ten days,

(3) deliver an estimated statement of account for repairs, and estimated balance within 10 days, and within thirty days return to the tenant a balance of the deposit and a final statement of account.

Where a landlord fails to return all or part of a security deposit with interest to a tenant in accordance with this section, whether or not a statement of account was delivered to the tenant, the tenant may take proceedings to recover the whole of the deposit or that part of the deposit to which the tenant claims to be entitled (s.51(4)). The only avenue of "proceedings" available in a situation regarding a dispute over the whole or part retention of the security deposit, is at present, through summary application to the Court. This process has been criticized by tenants who feel intimidated and frustrated with the cost, formality and duration of time needed to resolve such disputes. As a result many tenants do not pursue the matter and simply accept the loss of the deposit, despite the belief there is a claim to which they are entitled. It should be noted that a prior recommendation included a provision requiring all landlords who require a security deposit to complete with the tenant a prescribed pre-tenancy inspection report. Such a report will in all likelihood lessen the number of disputes in the area of security deposits. However, when disputes do arise it may be deemed desirable to provide an avenue of redress other than the Courts.

A number of tenants and landlords have expressed favour in the establishment of a dispute resolving body to deal with recurring and frequent disputes, such as that concerning the disposition of security deposits. Section 87 of the Manitoba Landlord and Tenant Act describes the jurisdiction of the Rentalsman in the case of disputes over security deposits. Essentially this section extends a considerable amount of power and authority to the Rentalsman and thereby provides access to a convenient forum for the resolution of disputes outside of the Courts.

The Contractor recommends that:

The proposed Residential Tenancies Act include a provision allowing a Rentalsman to intervene and have binding powers of arbitration concerning disputes arising from the disposition of security deposits.

It must be stated that the general jurisdiction in landlord and tenant matters should remain in the Courts, and the Rentalsman will only undertake those functions which are specifically allocated to him. The general functions, power, authority and administration of the dispute resolving function of the Rentalsman is discussed at considerable length in section 4 of this Report.

4.2.6 Repair And Maintenance

In the matter of repair obligations, under common law, landlords were under no obligation to provide or maintain rental premises in a good state of repair. In fact it was normal to impose the repair obligation on the tenant.[20] Most jurisdictions now impose on a landlord the duty to repair and maintain the rented premises. In addition to the landlords responsibilities, a corresponding duty is placed on the tenant to keep the rented premises clean, repair damages caused by his own or guests' wilful or negligent conduct, and take all reasonable precautions to avoid causing a nuisance or a disturbance.

The statutory provisions outlining a landlord's responsibility for repair and maintenance is found in section 60 of the Landlord and Tenant Act. Examining the landlord's responsibility, the Act provides that:

> "A landlord is responsible for providing and maintaining the rented premises in a good state of repair and fit for habitation during the tenancy and for complying with health and safety standards, including any housing standards required by law, and not withstanding that any state of non-repair existed to the knowledge of the tenant before the tenancy agreement was entered into."

Although this section clearly imposes on a landlord the duty to provide and maintain premises that are "fit for habitation", to "maintain them in a good state of repair", and "to comply with any housing standards required by law", this section of the Act has been frequently criticized and questioned by tenants. The Courts have frequently been called upon to interpret the meaning of the phrase "good state of repair" and "fit for habitation". As this phrase may be considered rather subjective, it is felt that a more comprehensive definition would be desirable. Section 8(1) of the British Columbia Residential Tenancy Act contains a definition of a landlord's obligation to repair which qualifies to a greater extent the nature of the landlord's obligation, as it pertains to any given Region or local.

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20 Law Reform Commission of B.C., Dept of Attorney-General Landlord and Tenant Relatiohships: Residential Tenancies, 1973, p.111

The Contractor recommends that:

The proposed Act define the landlord's obligation to repair as follows:

A landlord shall provide and maintain residential premises and residential property in a state of decoration and repair that:

(a) complies with health, safety and housing standards required by law; and

(b) having regard to the age, character and locality of the residential property, make it reasonably suitable for occupation by a reasonable tenant who would be willing to rent it.

The most common area of dispute between landlords and tenants is the landlord's failure to provide services, and/or effect repairs to the premises. Under present law there is no provision preventing the landlord from cutting off vital services other than the requirement that the premises be "fit for habitation". Further, if a landlord fails to effect repairs to the premises which he is obligated by section 60 to do, the tenant has virtually no power to enforce his rights. A tenant does not have the right, under the existing legislation to withhold rent if a landlord does not fulfill a statutory obligation. Section 76(2) of the Act does provide that violation of section 60 is an offence liable to a fine not exceeding $1,000.00. At present the Court may impose a fine upon a landlord, but this is not to say that the landlord may prefer to pay the Court's fine as opposed to providing extensive repairs to the premise. It would appear that the only course of action a tenant has in a situation of this kind would be to terminate the tenancy agreement.

The Contractor recommends that:

The proposed Act contain a provision where it is deemed a covenant in the tenancy agreement that when a service or a facility is reasonably related to a tenants continuous use and enjoyment of the residential premises, the landlord shall not discontinue providing such services except by order of the Rentalsman.

> Where the Rentalsman determines that a landlord has violated his duty under this section, or has failed or may fail to provide a service or facility which he is obligated to provide, the Rentalsman may order that a tenant affected by the breach pay to the Rentalsman all or a portion of the rent payment. The Rentalsman may use any money paid to him by the tenant to carry out the repairs or provide the service or facility.

Turning now to the topic of a tenant's obligations in respect of cleaning and repair, section 60(2) of the Act provides that a tenant shall:

> "(a) be responsible for ordinary cleanliness of the rented premises;
>
> (b) take reasonable care of the rented premises and repair damage to the rented premises caused by his wilful or negligent conduct or such conduct by persons who are premitted on the premises by him; and
>
> (c) take all reasonable precaution to avoid causing a nuisance or disturbance to other tenants in the building by any person resident in his rented premises or by others who are permitted on the premises by him."

Although the principle of section 60(2) may be considered reasonable, it may further be desirable to extend the above noted definition to include not only "rented premises", but also the "residential property" on which the premise is located. This would clearly indicate that a tenants responsibility for reasonable cleanliness would extend to the property and not only to the "rental unit". Further it should be noted that reasonable wear and tear to the residential premises would not be included in the definition of damage.

The Contractor recommends that:

The proposed Act contain a provision similar to that found in section 60(2) of the existing Act, and that the tenant's obligations to maintain an orderly standard of cleanliness be extended to include the residential property.

Ordinary wear and tear shall not constitute damage to the premises.

4.2.7 Abandonment Of Premises by Tenant

Situations arise where a tenant may abandon personal property. In one example a tenant may, without giving the proper notice of termination, vacate the rented premises leaving some or all of his personal property behind. In another example, a tenant may lawfully terminate the tenancy agreement but neglect to take all of his personal goods with him. In both these situations the landlord is placed in a position of having to dispose of a tenants personal property. Most of the legislation has remained silent on this issue, except with respect to the landlords duty to mitigate his damages when the tenant has abandoned the premises.

The provinces of Saskatchewan, Manitoba, and Alberta have provided statutory guidelines to be followed by a landlord when in possession of a tenants abandoned personal goods. In the NWT the legislation has remained silent with regard to the procedure a landlord must follow when in possession of a tenants abandoned goods. The Contractor recommends the adoption of the statutory guidelines found in section 65 of the Residential Tenancies Act of Alberta.

The Contractor recommends that:

The proposed Act contain a provision which outlines the procedures to be followed by a landlord when in possession of a tenants abandoned goods.

(1) Where the tenancy of a person has been terminated, or where a tenant has vacated or abandoned the residential premises formerly occupied by him, and has left property in the premises the Rentalsman, upon being satisfied that after reasonable attempts made by the person who is the owner of the premises to determine the whereabouts of the former tenant that he can not be located or, if the former tenant has been located he does not make reasonable arrangements for the disposition of the property, may authorize the person who is the owner of the premises to remove the property from the premises and sell it or otherwise dispose of it.

(2) Where a person removes, sells or otherwise disposes of property under subsection (1) in accordance with an order of the Rentalsman under the subsection, the person shall, after deducting such amount from the proceeds of the sale in respect of costs incurred by him as he would be authorized to retain if the property were goods sold pursuant to a distress for rent, and after deducting any arrears of rent and damages that the Rentalsman has ordered to be paid to him pay the remaining proceeds to the Rentalsman to the credit of the former tenant and if the former tenant does not claim the proceeds within six months after the money was paid to the Rentalsman forward the money to the Minister of Finance for deposit in the consolidated fund.

(3) Where a person removes, sells or otherwise disposes of property under subsection (1) in accordance with an order of the Rentalsman made in respect of the property under that subsection, neither the person nor the Rentalsman nor any person acting on behalf of the Rentalsman shall be liable in any action taken by the owner in respect of the removal or disposition of the property.

4.2.8 Other Duties

In addition to those obligations previously mentioned, some legislation include various other duties of both landlords and tenants. When surveying the various jurisdictions in Canada it is interesting to note that some of these additional duties are imposed as statutory obligations, while others are imposed by implication. Examples of additional statutory conditions placed on landlords include:

1. A tenancy agreement delivery provision as outlined in section 4.2.1 of this Report. (p.38-39)

2. A posting provision whereby a landlord must conspicuously post the legal name and address for service of the landlord, and a copy of the legislation pertaining to residential tenancies.

3. A provision which outlines implied covenants as deemed at common law to be a part of every tenancy agreement.

Examples of additional duties placed on tenants include:

1. A provision that a tenant shall conduct himself in such a manner as not to interfere with the possession or occupancy of other tenants.

2. Such implied covenants as deemed at common law to be a part of every tenancy agreement.

The foregoing should not be regarded as an exhaustive list, however they do serve to further clarify the rights and obligations of a landlord and tenant when entering into a tenancy agreement.

The Contractor recommends that:

The proposed Act contain a posting provision whereby a landlord must conspicuously post the legal name and address for service of the landlord, and also post a notice indicating the address and location of the Office of the Rentalsman.

The proposed Act include an outline of implied covenants for both landlords and tenants as deemed at common law to be a part of every agreement:

(a) That the landlord will provide possession of the residential premise on the date so specified;

(b) that the tenant will have quiet enjoyment of the premise;

(c) that the premise is fit for habitation;

(d) that the tenant treat the premise in a "tenant like" manner; and

(e) that the tenant will pay rent.

That the proposed Act retain section 60 (2)(c) of the existing Act which specifies that a tenant shall conduct himself in such a manner as to avoid causing a nuisance or disturbance to other tenants in the building.

Prior to completing this section, it should be noted that the NWT Council for Disabled Persons recommended the inclusion of a statutory provision requiring all landlords of multi-unit dwellings to keep an up-to-date directory of all residents in their apartment buildings. It was indicated by the Council and supported by the Yellowknife Fire Department, that a directory which indicates the exact location of disabled persons, senior citizens, children or any other individual requiring special assistance would greatly enhance the effectiveness of a building evacuation in a fire or emergency situation.

The Contractor recommends that:

The proposed Act contain a provision whereby a landlord of a multi-unit dwelling must maintain a current tenant directory which would indicate those tenants who may require special assistance in an emergency situation.

4.2.9 Penalties And Breach Of Statutory Duty

In the context of statutory rights and obligations it is necessary to discuss the question of penalties. The existing Act specifically designates certain provisions which when breached are liable on summary conviction to a fine.

In reference to section 51(1) of the existing Act, a landlord who unlawfully retains a security deposit or fails to pay interest on a security deposit is liable on summary conviction to a fine not exceeding $500.00. The Act further identifies additional areas which when contravened are liable on summary conviction to a fine not exceeding $1,000.00. Briefly stated these are:

a) section 50(1)- Where a landlord unlawfully requires a security deposit in an amount exceeding that prescribed by legislation;

b) section 53(1)- Where a landlord increases the rent without having given proper notice as prescribed by the legislation;

c) section 60(1)- Where a landlord fails to provide and maintain the rented premises in a good state of repair and fit for habitation;

d) section 74(1)- Where a landlord unlawfully takes possession of a rented premise;

e) section 76(3)- Where a landlord gives a tenant notice to quit because the tenant has complained to a government authority or has attempted to secure or enforce his rights.

It has been suggested that the peralties provided in the existing act are not substantial enough to prevent contravention of the above noted obligations. Individuals who advocate an increase in the penalty amount generally feel a stricter penalty will present a stronger deterrent. It should be noted that a trend toward increasing the penalty amount is evident in other jurisdictions. The provinces of British Columbia and Prince Edward Island have increased the penal consequence on some of the above noted provisions

to an amount not exceeding $2,000.00. In addition Prince Edward Island, Newfoundland, and New Brunswick further provide that a person who contravenes a specified obligation may be found guilty of an offence and liable to imprisonment.

The Contractor recommends that:

The proposed Act retain the existing "offences and penalties" provisions found in the current legislation, and increase the fine to an amount not exceeding $2,000.00.

LANDLORD AND TENANT LEGISLATION

SECTION FOUR

4.3 TERMINATION OF TENANCIES

At present a tenant of residential premises receives little or no security of tenure. That is to say, a tenant may have his tenancy agreement terminated without cause provided proper notice has been given by the landlord. It has been suggested by many tenants that the present "one month's notice" to terminate month-to-month tenancies has been an avenue of abuse for landlords throughout the Territories. The ideal balance of equality of power between landlord and tenant relations is considerably weakened by the fact that a termination of a tenancy generally carries more serious economic and social consequences for the tenant than a landlord.[21] This issue tends to be further aggravated in those communities where the vacancy rate is exceedingly low. The premise that free market economic competition in the area of rental accommodation will serve as a market "watch dog" must be re-examined when land and housing are in short supply. To point a fact, it has been suggested that the limited tenant representation at the public hearings could be a reflection of tenant concern that retaliatory eviction would be forthcoming if a landlord were aware of a tenant's complaint to a "government authority". It is obvious that tenants may be less likely to enforce their rights as long as a question of tenant security remains. Retaliatory eviction is particularly difficult to prove when a landlord may terminate a tenancy for any reason whatsoever.

With respect to tenant security the following sections will examine the legislation presently found in the NWT, as well as that found in other jurisdictions. It should be noted that when a system of security of tenure is in existance, the statutory provisions governing procedures of termination are necessarily more complex.

4.3.1 Security Of Tenure

Tenants in the NWT are not guaranteed infinite security of tenure and landlords are free to terminate tenancies at the end of their period or fixed term, as long as the notice of termination provisions in the Act are complied with. Tenants are protected to some degree against retaliatory evictions, since an order for possession will

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21 Law Reform Commission of B.C., Dept of Attorney-General Landlord and Tenant Relationships: Residential Tenancies, 1973, p.62

not be granted by a Court if it is shown that the notice to quit was given because of the tenant's reasonable attempt to secure or enforce his legal rights, or complain to any government authority (s.74(2)). However, as noted previously, retaliatory evictions are often difficult to prove.

Section 74(1) may also be considered to provide a limited degree of protection for a tenant, as a landlord may not regain possession of a residential premise without first obtaining an order for possession through the Courts, unless of course, the tenant has vacated or abandoned the premises. The present legislation places tenants in a position where their tenure may be considered "insecure".

As the landlord and tenant relationship should not be assessed solely from a tenant's point of view, it is interesting to note that landlords have also expressed considerable concern with regard to this area of the legislation. Most landlords have cited a number of reasons why tenant security should not be increased. The most common reason rests on the purely economic assumption that terminating a tenancy without cause is not in the landlords best interest. This economic assumption does, however, lose considerable merit when a vacancy rate is as low as that presently found in Yellowknife. It is reasonable to assume that under the current market situation a termination of tenancy in Yellowknife would involve more serious economic consequence for a tenant rather than a landlord.

Another major concern of landlords in reference to security of tenure rests with the belief that landlords would find it difficult to terminate any tenancy in general, and that a landlord would become obliged to carry "undesirable" tenants at the annoyance of other tenants.

In the final analysis, it is the Contractor's view that a system of tenant security which is administered fairly and incorporates easily accessible remedies for dispute, would not place an unfair burden on landlords.

The Contractor recommends that:

A system of security of tenure be included in the proposed Act.

Security of tenure will:

(a) provide tenants with a right to continue a tenancy by prohibiting unjustified terminations;

(b) provide landlords with an ability to terminate the tenancy of any tenant who does not comply with their statutory obligations; and

(c) provide landlords with the ability to regain possession of the premises for the purpose of demolishing the premise, for the purpose of personal use, or when the tenancy has been a condition of employment and the employment has been terminated by either party.

4.3.2 Form Of Notice To Terminate/Notice Period Required

Termination of tenancies are presently governed by sections 63, 64, and 65 of the existing Act. Sections 63 and 64 set out the procedure to be followed when terminating a tenancy. Section 65 sets out the time limits within which the notice to terminate must be given.

Section 63 and 64 read as follows:

"63.(1) A landlord or a tenant may give notice to terminate either orally or in writing, but a notice pursuant to section 65 by a landlord to a tenant is not enforceable unless it is in writing

(2) A notice in writing shall

(a) be signed by the person giving the notice or his agent,
(b) identify the premises in respect of which the notice is given,
(c) state the date on which the tenancy is to terminate or that the tenancy is to terminate on the last day of the period of the tenancy next following the giving of the notice, and
(d) state the reason for the termination of the tenancy.

(3) A notice may state both

(a) the date on which the tenancy is to terminate, and
(b) that the tenancy agreement is to terminate on the last day of the rental payment period, as defined in section 65, following the day on which the notice is given in accordance with that section,

and if it does state both, and the date on which the tenancy is to terminate is incorrectly stated, the notice is nevertheless effective to terminate the tenancy as provided under paragraph (b).

(4) A notice need not be in any particular form, but a notice by a landlord to a tenant may be in Form D of the Schedule and a notice by a tenant to a landlord may be in Form E of the Schedule.

(5) A landlord shall not charge his tenant any fee for a notice to vacate residential premises. 1972(2nd),c.20, s.1,"76".

64. (1) Notice by a tenant to a landlord may be given personally to the landlord or his agent, or may be sent to him by registered mail at the address where the rent is payable; and notice by a landlord to a tenant may be given personally to the tenant or may be sent to him by registered mail at the address of the tenant.

(2) Where a tenant cannot be given notice by reason of his absence from the premises or by reason of his evading service, the notice may be given to the tenant

(a) by giving it to any adult person who apparently resides with the tenant;
(b) by posting it up in a conspicuous place upon some part of the premises; or
(c) by sending it by registered mail to the tenant at his latest known post office address.

(3) Subsection (2) applies, mutatis mutandis, to service of a notice by a tenant. 1972 (2nd),c.20,s.1,"77"."

In examining the notice to terminate and comparing the NWT procedure with that of other jurisdictions there appears to be little need to severely modify the existing procedure. The only area which would require slight modification is found in section 63(4) which stipulates the actual written notice of termination need not be in any particular form. It may be deemed desirable that the notice referred to in the above noted section be in a prescribed form.

The Contractor recommends that:

The proposed Act retain section 63 and 64 of the existing legislation which govern the procedures to terminate a tenancy agreement.

That the proposed Act prescribe by regulation a form to be used by landlords when terminating a tenancy agreement.

Section 65 of the present legislation specifies the time limits within which notice to terminate must be given. Briefly stated this section defines such terms as "rental payment period" and the "term of tenancy", and further outlines the time periods to be observed when terminating periodic or fixed term tenancies. Where the term of tenancy is less than twelve months, the notice must be given on or before the last day or any rental payment period to be effective on the last day of the ensuing rental payment period. Where the term is twelve months or more, notice of termination must be given at least sixty days prior to the expiry date of the agreement. These time stipulations are found to be consistent with those of other jurisdictions, and as a result there appears to be little need to amend this section of the existing legislation.

The Contractor recommends that:

The proposed Act retain parts 1, 2, 3, and 4 of section 65 of the existing Act.

Prior to concluding the examination of the notice period required to terminate a tenancy agreement, consideration must be given to section 65(6) which reads:

"(6) Notwithstanding any other provision of this Ordinance, where

(a) the tenants are a married couple and because of the deterioration of health and physical condition of the spouse who pays the rent, the tenants are unable to pay their rent,
(b) the tenant is unmarried or a widow or widower and because of the deterioration of health and physical condition of the tenant he or she is unable to pay the rent,
(c) the tenants are married couple and one of the spouses dies and the income of the surviving spouse is insufficient to pay the rent, or

(d) the tenant is unmarried or a widow or a widower who dies during the term of the tenancy agreement,

the tenant, his heirs, assigns or legal personal representative may terminate the tenancy agreement by giving notice, accompanied where applicable by a medical certificate, to the landlord in accordance with subsection (3) or (4), as the case may require; and thereafter the tenant, his heirs, assigns or legal personal representative are relieved of any liability under the tenancy agreement after the date of the termination thereof. 1972(2nd),c.20,s.1,"78"."

This special provision applies to tenants who have under specific circumstances become unable to pay the rent. Although the intent of this section is clear, it is questionable if any degree of relief would be provided since notice must be given in accordance with the time period required to terminate any agreement. It should be noted that the province of Manitoba has a similar provision in its legislation but does allow termination on one months notice in such circumstances.

The Contractor recommends that:

Section 65(6) of the existing Landlord and Tenant Act not be included in the proposed legislation.

In conclusion, specific reference should be made to the time frame required to terminate a tenancy agreement in relation to a mobile home site. The Contractor recommends adoption of a time frame similar to that found in the Yukon Territory's Landlord and Tenant Act.

The Contractor recommends that:

Where a landlord gives notice to terminate a tenancy in relation to a mobile home site, three months notice to terminate must be given, and the tenancy shall not terminate in any of the months of December, January, or February.

4.3.3 Termination Of Tenancy Agreement

A major arguement against establishing a system of security of tenure has been voiced by landlords on the belief that undesirable tenants will be difficult if not impossible to evict from a residential premise.

To ensure that a system of security of tenure does not provide undue hardship on a landlord and is considered fair, most legislation clearly outlines and identifies those situations under which a landlord may give notice of termination. Further, most legislation also includes provisions which allow "early termination" in those situations when a tenant has committed a substantial breach of the tenancy agreement.

The present legislation does not clearly identify the reasons under which a landlord may terminate a tenancy agreement. This lack of clear direction has been a source of dispute and confusion for many tenants, as well as those responsible for administering the Act. The Contractor recommends the adoption of codified "grounds" necessary to terminate an agreement. The following recommendation has been adopted from section 27 of the Residential Tenancy Act of British Columbia.

The Contractor recommends that:

A landlord may, at any time, give the tenant a notice of termination in accordance with the form and notice required, where any one of the following events has occurred:

(a) The conduct of the tenant, or of a person permitted in or on the residential premise or property by him, has been such that the enjoyment of other occupants in the residential property has been unreasonably disturbed on a persistent basis;

(b) the tenant, or a person permitted in or on the residential property or residential premise by him, has caused extraordinary damage to the residential premise or to the residential property, and has failed

to rectify the damage within a reasonable time after receiving written notice to do so from the landlord;

(c) occupancy by the tenant has resulted in the residential property or residential premises being damaged to an extent that exceeds reasonable wear and tear, and the tenant has failed within a reasonable time after the damage occurred to take the necessary steps to repair the damage;

(d) the tenant has failed to give, within the specified time required, the security deposit as requested under the tenancy agreement;

(e) the safety or other lawful right or interest of the landlord or other occupants in the residential property has been seriously impaired by an act or omission of the tenant or a person permitted in or on the residential premise or residential property by him;

(f) the tenant has breached a reasonable material term of the tenancy agreement and has failed to rectify the breach within a reasonable time after receiving written notice to do so from the landlord;

(g) the tenancy agreement has been frustrated;

(h) the residential premise must be vacated to comply with an order by a Territorial, regional or municipal government authority respecting zoning, health, safety, building or fire prevention standards;

(i) the landlord requires possession for the purpose of carrying out repairs or renovations that can not be done with the tenant in occupation;

(j) the landlord requires possession for the purpose of demolishing the premise;

(k) the landlord requires the premises for his own occupancy or for the occupancy of his parents, spouses parents, son or daughter.

Although the foregoing does not represent an exhaustive list of the grounds or reasons necessary before a landlord may terminate a tenancy agreement, it does however, assist in clarifying this issue for both landlords and tenants.

For situations such as non-payment of rent, most jurisdictions allow landlords to access an "early termination" procedure to dislodge tenants who are in arrears of rent. Section 66 of the Landlord and Tenant Act allows the landlord to terminate a tenancy agreement when a tenant neglects or refuses to pay the rent within seven days of the date on which the rent was due and payable. Early termination procedures, or "speedy evictions" as they are often referred, are considered to be a measure of financial protection for landlords. Although the existing Act does allow a landlord to terminate a tenancy for non-payment of rent, the necessary procedures to be followed have been criticized as being both time consuming and costly. Following the present procedures a landlord must first terminate the tenancy agreement effective on the date when the rent fell due and, should the tenant not go out of possession of the premise, the landlord must then apply to a judge or magistrate for an order of possession. To expedite the procedure of early termination some jurisdictions have included provisions whereby the Rentalsmans Office has both the power and authority to intervene in situations of non-payment of rent and when necessary, issue orders for eviction. The following recommendations are based on the model presently used in the Residential Tenancancies Act of Prince Edward Island, sections 20 and 22.

The Contractor recommends that:

When a tenant fails to pay the rent due within a period of seven days of the date fixed in the tenancy agreement for that payment, at any time following that period the landlord may serve a notice on the tenant requesting the payment of the rent and shall serve a copy of the notice on the Rentalsman.

Where the rentalsman is served with a notice under this section he shall investigate the matter and notify the landlord and tenant of the results of his investigation within five days of the service of notice.

Following investigation where the Rentalsman finds that the rent has not been paid he shall authorize the landlord to serve on the tenant a notice to quit in the form prescribed by regulation.

Where the rent is to be paid once each month or less often, the notice to quit is to be effective on the last day of the month in which it is served unless all of the rent due is received within seven days of service of the notice to quit on the tenant.

With respect to any tenancy agreement where the rent is to be paid more often than once a month the notice to quit is to be effective on the last day of the week following the week in which the notice is served unless all of the rent due is received prior to that day.

The acceptance by a landlord of arrears of rent or compensation for use or occupation of the premises after notice of termination of the tenancy has been given does not operate as a waiver of the notice or as a reinstatement of the tenancy or as the creation of a new tenancy unless the parties so agree.

Where:

(a) A tenant has not vacated the residential premises as required in a notice to quit; and

(b) the landlord so requests in the form prescribed by regulation,

the Rentalsman, after holding a hearing, may issue an eviction order in the form prescribed by regulation.

Where:

(a) A landlord has served on the tenant a notice to terminate the tenancy; or

(b) a tenant has served on the landlord a notice to terminate the tenancy,

and the tenant has not vacated the premise on the date stated in the notice of termination, the landlord may apply to the Rentalsman for an order of eviction.

Where a landlord applies, the Rentalsman shall conduct an investigation and may issue an eviction order in the form prescribed by regulation.

REVIEW OF EXISTING LEGISLATION

SECTION FOUR

4.4 DISPUTE RESOLUTION

Under the existing Landlord and Tenant Act of the Northwest Territories, the power to resolve disputes between landlord and tenant is vested solely with a Territorial Court Judge. The only manner in which to effect enforcement of the rights and obligations created by the Act is by means of application to the Court.

For certain matters, summary applications may be made to a Judge (s.69). Landlords are afforded summary procedures when applying for an Order of Possession or for a Judgement for arrears of rent or for compensation for use and occupation by an overholding tenant. An affidavit containing certain required information must be filed, and a hearing is held to determine the matter. In the case of summary application under section 69 of the Act, a judge has the power to grant an Order of Possession, give judgement for an amount so proven, and award costs as deemed appropriate.

The general impression gained by the Contractor from written submissions and oral consultation is that both landlords and tenants favour a reduction in the role of the Court and strongly advocate the incorporation of an alternate dispute resolving body. It has been contended that certain specific aspects of landlord and tenant relations are the subject of recurring and frequent disputes, and that the Court system may not be the most accessible and expedient system for their resolution.

Both landlords and tenants have expressed frustration over the delay experienced in the Courts and further, feel intimidated by the formality and cost the court procedure may involve. Specifically, many tenants hold the view that a revised Act would be of little benefit unless an expedient, accessible, and informal procedure for dispute resolution is made available.

The belief that some of the functions, power, and authority of landlord and tenant legislation should be transferred from the Courts to an alternate administrative body is not a new concept. In Williams and Rhodes, Canadian Law of Landlord and Tenant, reference is made to a Report published

in 1968 by the Ontario Law Reform Commission which addresses this concept and states:

> "... however much the law might be changed to redress the balance of advantage as between landlord and tenant, there would still remain a fertile field for oppressive tactics by harsh and unreasonable landlords so long as the benefits of modern legislation were denied to disadvantaged members of the community because of ignorance and fear of reprisals. The Commission also recognized that it was not always the landlord who was at fault when a lack of harmony occurred in the leasehold relationship, and it considered that positive steps were needed in order to bring about a better understanding between landlords and tenants and so that both sides could have easy access to informational and conciliatory services, provided in such a manner that disputes could be resolved in an atmosphere of informality without recourse to litigious proceedings." (p. 17-14.2)

Responding to this need, most jurisdictions have established Landlord and Tenant Advisory Boards and/or Offices of the Rentalsman. The functions of Landlord and Tenant Advisory Boards differ considerably from that of the Rentalsman, as most do not have extensive dispute resolving power. The functions of Alberta's Landlord and Tenant Advisory Board is as follows:

(a) to advise landlords and tenants in tenancy matters;

(b) to receive complaints and seek to mediate disputes between landlords and tenants;

(c) to disseminate information for the purpose of educating and advising landlords and tenants concerning rental practices, rights and remedies;

(d) to receive and investigate complaints of conduct in contravention of legislation governing tenancies.

Some Boards, such as those established under section 49 of the Landlord and Tenant Act of Alberta have no legal clout to compel either a landlord or a tenant to abide by their ruling. These Boards have nevertheless gained considerable credibility and do provide a valued service to the community. Some provinces have extended the powers given to their Boards. In Newfoundland (s.7(14)) a Board has the same power as that of a magistrate when making an order respecting a contravention or failure to comply with a statutory condition provided in the legislation. In Nova Scotia (s.10(5)) a Board's decision under arbitration is binding, with landlord and tenant arbitrators possessing the same functions and powers as those appointed under the Arbitration Act.

Landlord and Tenant Advisory Boards are generally comprised of three or five individuals appointed provincially by the Lieutenant-Governor in Council. One member is designated as a chairman with three members constituting a quorum. "A basic premise held by most advocates of Landlord and Tenant Advisory Boards is that a balance of both landlord and tenant representation will be present. The desirability of such representation may be challenged on the assumption that a landlords' representative might have a predisposition to decide in favour of the landlord, and a tenants' representative in favour of a tenant," [22] thus leaving the final decision to rest with the Chairman. To dispose of this bureaucratic formation many jurisdictions have adopted a rentalsman concept.

The rentalsman's concept was first adopted by the province of Manitoba in 1970. Since that time the provinces of Saskatchewan, New Brunswick, Prince Edward Island and the Yukon Territory have followed suite establishing similar legislation to that found in Manitoba. This legislation authorizes the appointment of administrative officials with wide powers to mediate, investigate, and arbitrate disputes between landlords and tenants of residential premises. A clear division of jurisdiction between the Office of the Rentalsman and the Court is evident in all legislation. Simply stated the Rentalsman undertakes only those functions specifically allocated to him, with the general jurisdiction in landlord and tenant matters remaining in the Courts. The essence of this legislation rests with the speedy resolution of those aspects of landlord and tenant relations which are subject to recurring and frequent dispute. At the written request of both landlord and tenant a Rentalsman will arbitrate disputes pertaining to the disposition of security deposits; the enforcement of the landlord's

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[22] Law Reform Commission of B.C., Dept of Attorney-General Landlord and Tenant Relationships: Residential Tenancies, 1973, p.26

obligation to maintain habitable premises and to repair; the enforcement of the tenant's obligation to maintain cleanliness and repair damages caused by him and his guests; a landlords claim for arrears in rent and compensation for an overholding tenant; and a landlords claim for possession.

The Contractor recommends that:

The proposed Act authorize the appointment of administrative officials known as Rentalsmen, to have exclusive jurisdiction over specified advisory, investigatory, mediatory, arbitrative, and educative functions.

Matters arising out of:

(a) the proposed Act; and

(b) the general law of landlord and tenant over which the Rentalsman is not allocated specific jurisdiction should continue to be within the jurisdiction of the Courts.

4.4.1 Functions Of The NWT Rentalsman

The most vital functions of the Rentalsman should be those as adopted from section 75.3 of the Landlord and Tenant Act of the Yukon Territory:

(1) To provide information and advice to landlords and tenants in tenancy matters;

(2) to receive complaints from and to mediate or arbitrate disputes between landlords and tenants;

(3) to disseminate information for the purposes of advising landlords and tenants about residential premises, rights and remedies, and the initiation and conduct of legal proceedings; and

(4) to investigate complaints about conduct in contravention of this proposed Act in its application to residential tenancies.

(a) Information and Education

A major function of the Rentalsmans office will be to inform and advise landlords and tenants of tenancy matters and to assist in the prevention of disputes. The benefit of a thorough educational program must not be understated. To facilitate the needs of the North, educational materials, be they written or oral, should be prepared in a text which is easily read and translated. To prevent confusion and/or frustration by the general population, informational materials should be available for release prior to the enactment of the proposed legislation.

(b) Mediation

Although the Rentalsman will have the power to make a binding decision in the areas of his jurisdiction, this should not underemphasize the importance of the attempt to mediate between the parties prior to the enforcement of a decision. "The Rentalsman must attempt to bring forth an amicable atmosphere between landlord and tenant, and gain a reputation of credibility by attempting to mediate and avoid making strict adversaries of the parties."[23]

(c) Arbitration

"A Rentalsman will not arbitrate a dispute except upon written request by both the landlord and the tenant."[24] To be an effective and expedient process the Rentalsman's role to arbitrate must be binding, and without judicial review. This position would not be effective if it were limited to "encouraging" prosecution instead of initiating and conducting those proceedings designated to fall within a Rentalsman's jurisdiction. It must be emphasized that to be quick, efficient, and effective a Rentalsman must not be leary of judicial review which would circumvent his powers of binding arbitration.[25]

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23 Law Reform Commission of B.C., Dept of Attorney-General, Landlord and Tenant Relationships: Residential Tenancies, 1973, p.37

24 Ibid, p.40

25 Ibid, p.40

4.4.2 Division of Jurisdiction

When establishing a Rentalsman system for the Northwest Territories, it is necessary to have a clear definition of a system of dividing the jurisdiction between those functions specifically allocated to the Rentalsman, and those allocated to the Courts. Most provinces, as well as the Yukon Territory have adopted a system similar to that found in Manitoba. Basically the jurisdiction in landlord and tenant matters remain with the Courts, and the Rentalsman undertakes only those functions as specifically allocated. To illistrate, a Rentalsman would have the authority to direct repairs to a premise, but would not have the authority to proceed with legal action resulting from a neglect to effect such repairs.

Under the proposed Act, the Rentalsman should have the jurisdiction to mediate or arbitrate any dispute between landlord and tenant in respect of the following areas:

(a) A dispute with respect to the continued possession and occupancy of the residential premises by tenant;

(b) a dispute as to arrears or non-payment of rent;

(c) a dispute with respect to compensation claimed by the landlord for the use and occupancy of residential premises by the tenant after the expiration or termination of the tenancy;

(d) a dispute as to damages caused to residential premises, the common areas or the property of which they form a part by the tenant or their guests;

(e) any other dispute with respect to the performance by the landlord or by the tenant of an obligation under the tenancy agreement or those found within the statutory rights and obligations of the legislation;

(f) a dispute with respect to hidden rent increases and/or rent increases with the intentions to evict; and

(g) the disposition of abandoned goods.

Basically stated the above noted provisions would allow a Rentalsman to intervene in those areas considered to be of frequent and common dispute.

In an attempt to apportion jurisdiction between the Rentalsman and the Courts, consideration must be given to the Arbitration Act R.O.,c.3,s.1. Of the provinces empowering their Rentalsman to act as an arbitrator, most have exempted the process of landlord and tenant arbitration from the application of such legislation.

The Contractor recommends that:

In the proposed Act the Office of the Rentalsman be given the following general functions:

(a) To provide information and advice to landlords and tenants in tenancy matters;

(b) to receive complaints from, and to mediate or arbitrate disputes between landlords and tenants;

(c) to disseminate information for the purpose of advising landlords and tenants about residential premises, rights and remedies, and the initiation and conduct of legal proceedings; and

(d) to investigate complaints about conduct in contravention of the proposed Residential Tenancies Act.

A Rentalsman may mediate or arbitrate any dispute between a landlord and a tenant in respect of the following:

(a) A dispute with respect to the continued possession and occupancy of the residential premise by a tenant;

(b) a dispute as to arrears or non-payment of rent;

(c) a dispute with respect to compensation claimed by the landlord for the use and occupancy of the residential premises by the tenant after the expiration or termination of the tenancy;

(d) a dispute as to damages caused to residential premises, the common [illegible] or the property of which [illegible] form a part by the tenant or their guests;

(e) any other dispute with respect to the performance by the landlord or by the tenant of an obligation under the tenancy agreement or those found within the statutory rights and obligations of the legislation;

(f) a dispute with respect to hidden rent increases and/or rent increases with the intention to evict; and

(g) the disposition of abandoned goods.

The Arbitration Act will not apply to an arbitration under the proposed Residential Tenancies Act.

4.4.3 Powers Of The NWT Rentalsman

Given the wide range of functions under the jurisdiction of the Rentalsman, consideration must be given to the power this office must hold.

To be effective, a Rentalsman must be afforded the powers to investigate all matters thoroughly and be able to gain access to records and premises. Further the Rentalsman under the proposed Act should not be bound by the technical rules of legal evidence and be given authority to act upon oral or written evidence, whether or not it has been obtained under oath or affirmation. As the major advantage of the Rentalsman concept rests with the speed and informality with which this official may act, imposing strict rules of evidence would greatly detract from a Rentalsmans effectiveness. The following recommendations regarding the powers of the NWT Rentalsman have been adopted from those currently found in sections 75.4, 75.5, and 75.6 of the Landlord and Tenant Act of the Yukon Territory.

The Contractor recommends that:

For the purposes of arbitrating a dispute a Rentalsman has the following powers:

(a) To enter upon and inspect the rented premises at any reasonalbe time;
(b) to require the attendance of witnesses and to receive their testimony;
(c) to administer oaths and affirmations; and
(d) to establish rules of procedure.

In the conduct of arbitration the Rentalsman is not bound by the technical rules of legal evidence, and the Rentalsman may act upon evidence given orally or in writing obtained in such a manner as the Rentalsman considers proper, whether or not the evidence is given on oath or affirmation.

As previously noted a Rentalsman will not arbitrate a dispute unless both the landlord and tenant have agreed in writing. To ensure the powers of the Rentalsman are not underminded by a threat of judicial review, any decision on the arbitration must be final and binding and not subject to appeal in any Court. To give effect to any decision on arbitration, the Rentalsman must have the power to file with the Clerk of the Court any order made, and that such orders would become an order of the Court, enforcable as a judgement.

The Contractor recommends that:

A Rentalsman shall not arbitrate a dispute except upon the written request of both landlord and tenant.

Where a landlord and tenant have requested arbitration neither may withdraw the dispute from arbitration and the decision of the Rentalsman is final and binding on both of them.

The Rentalsman may make such orders relating to the obligations of the landlord or the tenant to each other in respect of the tenancy as the Rentalsman considers necessary to give effect to his decision on the arbitration.

The Rentalsman may file with the Clerk of the Court a copy of an order made by him as certified by him to be a true copy, and the order then becomes an order of the Court and may be enforced as a judgement of the Court.

It must further be noted that a Rentalsman will not mediate or arbitrate those disputes found to be held within the jurisdiction of the Court, or those deemed to be frivolous or vexatious.

The Contractor recommends that:

A Rentalsman will not mediate or arbitrate a dispute where:

(a) the landlord or the tenant has commenced proceedings in a Court for the resolution of the dispute;

(b) the dispute has been previously resolved by the Court or it remains before the Court;

(c) where the dispute is of such a serious nature that it should be dealt within Court only;

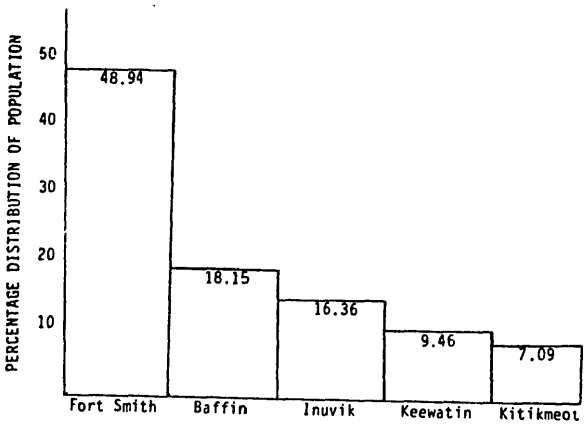
(d) where the complaint is frivolous, vexatious, or concerns a trivial matter; and

(e) where the complaint primarily effects some person other than the complainant and the complainant does not have a sufficient personal interest in it.

4.4.4 Administration

The benefit of establishing a Rentalsman concept for the Northwest Territories will only be actualized if all regions of the Territories are equally accessible to the services offered by this Office. Criticisms may potentially be aimed at any Rentalsman scheme which may appear to serve and facilitate only those needs of individuals located in one or two of the major urban centres. To overcome this potential problem, decentralization of the Rentalsmans operation would be deemed desirable.

A decentralized operation may best be found using the administrative Regions established by the Government, as these tend to reflect the internal ethnic, historical, and economic differences within the Territories. As noted in the following graph, the Regions of Fort Smith, Baffin, and Inuvik comprise the majority of the population by distribution, and would require a Rentalsman's Office in each of the administrative headquarters of Yellowknife, Hay River, Frobisher Bay, and Inuvik. The Regions of Keewatin and Kitikmeot which comprise a relatively small proportion of the population could be served by falling under the jurisdiction of Frobisher Bay and Inuvik respectively.



Source: 1981 Census of Canada
Government of the NWT
Bureau of Statistics

The Contractor recommends that:

The Executive Member may designate one or more persons as Rentalsmen who shall in addition to carrying out such duties as required by this Act, carry out such other duties and perform such functions as may be prescribed.

A Rentalsman may be designated from among persons employed in the government service and may be required to serve within a specified area of the Territories.

LANDLORD AND TENANT LEGISLATION

SECTION FOUR

4.5.1 Notice Of Rent Increase

As stated in section 53 of the Landlord and Tenant Act, a landlord may increase the rent payable under a tenancy agreement by giving the tenant three months written notice. This provision has been criticised by many tenants who have experienced situations where their rent has been lawfully increased as many as three times in a given year. To prevent the occurrence of such situations, most legislation does restrict the frequency of rent increases to "one increase per twelve month period".

The Contractor recommends that:

Notwithstanding a change of landlord, the landlord shall not collect an increase in rent from a tenant until twelve months have expired following:

(a) the date the last lawful increase in rent for that tenant became effective; or

(b) where there has been no previous increase in rent for that tenant, the date the existing rent was first established.

No landlord shall increase the rent for a residential premise without first having notified the tenant in writing at least three months prior to the date the rent increase is to be effective.

An increase in rent by a landlord contrary to the foregoing section is void and unenforceable.

To prevent landlords from increasing rent through the introduction of a surcharge for such services as parking facilities, it would be deemed desirable that the Standard Residential Tenancy Agreement Form clearly indicate the rent to be charged, and the services to be included within that amount.

The Contractor recommends that:

The Standard Residential Tenancy Agreement Form indicate the amount of rent to be charged and the services to be included within that amount. Any increase in the amount charged for such services must adhere to the requirements outlined in the preceding recommendation.

When introducing a system of security of tenure such as that proposed in section 4.3.1 of this Report, consideration should be given to discriminatory rent increases. This situation occurs when a landlord increases the rent over and above the amount charged to other tenants living in comparable units. The intent of this practice is to force the tenant to vacate the premise.

The Contractor recommends that:

The Rentalsman be given power to investigate and determine whether a rent increase is discriminatory with the intent to force the tenant to vacate the premise.

4.5.2 Rent Control

In 1941, Canada experienced its first exposure to rent control when the federal government imposed a nation-wide rent freeze as part of the war-time effort. Federal Wartime Leasehold Regulations expired on April 30th, 1951, however, most provinces continued rent control until the end of 1954.

The concept of rent control again surfaced in Canada in 1975, when the federal government imposed mandatory wage and price quidelines to battle what was then considered "rampant" inflation. Responding to the federal directive, a system of rent control existed in all provincial jurisdictions by mid 1976. Most provinces viewed this anti-inflation program as 'temporary' in scope, but it is interesting to note that in 1985 all provinces except Alberta and British Columbia have rent control in place. (A summary to current rent control programs has been included in Apprendix "c").

When assessing rent controls in the context of the housing situation in the Northwest Territories, a number of issues emerge. Of primary importance is the availability of rental market stock. In recent years the Northwest Territories has experienced exceedingly low vacancy rates with rental market demand far exceeding supply. The Special Committee on Housing recently identified houisng to be the most urgent priority of the government of the Northwest Territories . It has long been relized that the NWT must endeavor to create an economic climate which will attract private investment into the housing sector. Private capital is needed to produce sufficient rental housing to meet annual needs.

As the attractiveness of rental investment is directly related to potential returns, the existence of rent controls can not help but reduce the supply of new rental housing. Rent controls are a major impediment to new rental construction as they tend to keep market rents below the level necessary to make new rental production a long term viable investment.

Another area to be addressed when assessing rent controls concerns the cost of housing in the North. As a result of the high cost of accommodation many employers provide housing allowances for their employees. A survey conducted by the Chamber of Commerce in 1983, indicated 89% of employers surveyed were providing a housing subsidy. These have in essence created what may be considered a "false" housing economy. Social inequity has been created with the existence of housing subsidies. This situation will be further aggravated by the introducation of rent control. As a system of rent control does not make a distinction between

those who require housing assistance and those who do not, the financial assistance offered is generally not directed to those individuals who pay excessive proportions of their income on rent. Rent controls would assist the vast majority who would not require such assistance, while providing insufficient assistance to those individuals who would benefit the most.

The Contractor recommends that:

A system of rent control not be established in the Northwest Territories.

REVIEW OF EXISTING LEGISLATION

SECTION FOUR

4.6 CONSTITUTIONAL ISSUES

For a number of years the constitutional validity of provincially created administrative bodies has been questioned, particularly with respect to Section 96 of The British North American Act, 1867 (now The Constitution Act, 1867). Section 96 reads as follows:

> "The Governor-General shall appoint the judges of the Superior, District, and County Courts in each province except those of the Courts of probate in Nova Scotia and New Brunswick."

This Section has often been interpreted as excluding the right of a province to appoint officers exercising powers analogous to those traditionally associated with Judges of the type recognized and referred to in this Section.

Over the years, the Courts have laid down a number of tests to determine whether a particular administrative body violates Section 96. In 1981, the Supreme Court of Canada brought down a landmark decision in Reference Re Residential Tenancies Act, 1979 (Ont.) (1981), 123 D.L.R. (3d) 554 (S.C.C.). This case was heard by the Ontario Court of Appeal and then ascended to the Supreme Court of Canada. The Attorneys-General of Ontario, Quebec, Nova Scotia, British Columbia, Manitoba, Saskatchewan, Alberta, and Canada, as well as a federation of tenants and a federation of landlords, were all represented at the hearing before the Supreme Court of Canada. As well, Counsel was appointed by the Court to present argument against the validity of legislation. The questions put to the Ontario Court of Appeal were as follows:

> "(1) Is it within the Legislative authority of the Legislative Assembly of Ontario to empower the Residential Tenancy Commission to make an order evicting a tenant as provided in the Residential Tenancies Act?
>
> (2) Is it within the Legislative authority of the Legislative Assembly of Ontario as provided in the Residential Tenancies Act, 1979 to empower the Residential Tenancies Commission to make orders requiring landlords and tenants to comply with obligations imposed under that Act?"

The Ontario Court of Appeal concluded that it was not within the Legislative authority of Ontario to empower the Residential Tenancy Commission to make eviction orders and compliance orders as provided in the Residential Tenancies Act, 1979.

Dickson, J. (now, Chief Justice Dickson) wrote a lengthy, well reasoned, and very readable judgement on behalf of the unanimous Court.

Dickson, J.(Part II-pages 563-566) traces the development of landlord and tenant legislation in Ontario between 1968 and 1979, particularly the creation of an Advisory Bureaux in 1969 and the imposition of rent controls in 1975. The 1979 statute which was under attack, consolidated the Advisory Bureaux and the agency administrating rent controls, and created a forum for the resolution of disputes between landlords and tenants.

Dickson, J. notes (at page 566) that pursuant to Section 96, the Governor-General has sole power to appoint the Judges of the Superior, District, and County Courts in each Province. Further he states (at pages 566-567) the following:

> "...the intended effect of s.96 would be destroyed if a Province could pass legislation creating a tribunal, appoint members thereto, and then confer on the tribunal the jurisdiction of the Superior Courts."

After reviewing the jurisprudence at some length, Dickson, J. concludes (at pages 570-571) the following:

> "...an administrative tribunal may be clothed with power formerly exercised by s.96 Courts, so long as the power is merely an adjunct of or ancillary to, a broader administrative or regulatory structure. If, however, the impugned power forms a dominant aspect of the function of the tribunal, such that the tribunal itself must be considered to be acting 'like a Court', then the conferral of the power is ultra vires."

Dickson, J. then goes on to formulate a three-step test which may be summarized as follows:

1. A historical inquiry to determine whether or not the power or jurisdiction conferred on the tribunal is broadly conformable to the jurisdiction formally exercized by s.96

Courts. If it is not so conformable, that ends the matter. If it is identical or analogous to a power exercised by s.96 Courts at Confederation, then one must proceed to the second step of the inquiry.

2. A consideration of the function in question within the institutional setting of the tribunal to determine whether it is still to be considered a "Judicial" function when viewed in the institutional setting. "Where the tribunal is faced with a private dispute between parties, and is called upon to adjudicate through the application of a recognized body of rules in a manner consistent with fairness and impartiality, then, normally, it is acting in a 'Judicial capacity'." (pages 571-572) If such an inquiry indicates that the power is not being exercised "Judicially" then the Provincial scheme is considered valid. If, however, the power or jurisdiction is exercised in a "Judicial" manner, then it becomes necessary to proceed to the third and final step.

3. An analysis and review of the whole function of the tribunal in order to appraise the impugned function in its entire constitutional context. "It may be that the impugned 'Judicial powers' are merely subsidiary or ancillary to the general administrative functions assigned to the tribunal... or the powers may be necessarily incidential to the achievement of a broader policy goal of the Legislature... In such a situation the grant of Judicial power to provincial appointees is valid. The scheme is solely invalid when the adjudicative function is a sole or central function of the tribunal... so that the tribunal can be said to be operating 'like a s.96 Court'." (page 572)

After applying this test to the Residential Tenancy Commission, Dickson, J. states his conclusions at pages 579 to 582. The highlights of the conclusion are as follows:

1. "The Commission has authority to hear and determine disputes in accordance with rules of law, and by the authority of the law. It authorizes actions for which application is made. It has the power to impose penalties and sanctions and to award remedies for the infringement of rights. Disobedience of an order of the Commission is a penal offence. The Commission decides contractual and property rights between individual landlords and tenants and in doing so determines not only the right to land and property, but also other rights. In each case, there is an analysis of the law, an application of the applicable law to the particular facts, and then a judicial decision and a consequent order. It is difficult to conceive that when so acting the Commission acts otherwise than as a curial tribunal. In substance the tribunal is exercising judicial powers roughly in the same way as they are exercised by the Courts." (page 579)

2. "It appears upon reading the Act as a whole that the central function of the Commission is that of resolving disputes in the final resort by a Judicial form of hearing between landlords and tenants... The other functions of the Commission are either ancillary to this function (ie., the power to recommend policy or to advise the parties) or are separate and distinct from this Court power, and bear no relation to it (ie. the power over rent review)." (page 581)

3. "...the primary purpose and effect of the 1979 Act was to transfer jurisdiction over a large and important body of law, affecting landlords and tenants of 1,000,000 rental units, from the s.96 Courts where it has been administered

since Confederation, to a provincially appointed tribunal.

Here the chief role of the Commission is not to administer a policy or to carry out an administrative function. Its primary role is to adjudicate. The administrative features of the legislation can be characterized as ancillary to the main adjudicative function." (page 581)

4. "The Residential Tenancy Commission is charged with the function of interpreting contracts and enforcing contractual rights through the exercise of the impugned powers. The Commission is to be empowered to do what a Superior Court has always done... The statutory provisions conferring those powers are therefore invalid." (page 582)

The test formulated by Dickson, J. was applied in S.B.I. Management Ltd. v. 109014 Holdings Ltd. and Attorney-General of Alberta, (1981), 5 W.W.R. 714 (Alta.C.A.) to uphold a compensation order made by the Master of the Alberta Queen's bench pursuant to the Alberta Landlord and Tenant Act.

It was again applied by the Nova Scotia Court of Appeal in Re Burke and Arab; Attorney-General of Nova Scotia (Intervenor)(1981), 130 D.L.R. (3d) 38 (N.S.C.A.) to strike down provisions of the Nova Scotia Residential Tenancies Act, 1970 giving the Residential Tenancies Board the authority to resolve disputes between landlords and tenants, and to give relief, by ordering payment of money, providing for termination of the tenancy, or requiring the return of a security deposit.

The Nova Scotia Court of Appeal again referred to the Supreme Court of Canada decision in Re Fort Massey Realties Ltd. and Rent Review Commission (1982), 132 D.L.R. (3d) 516 (N.S.C.A.) In that case, the Court held that investigating a provincial tribunal with the authority to review and determine rent increases, and to order repayment of any excess payments, was not in contravention of Section 96, notwithstanding the powers involved a curial function. The scheme as a whole was held to be valid and the curial function merely ancillary.

The case of Curtis Investments Ltd. v. Tenancy Arbitration Bureau, (1982) 3 W.W.R. 465 (Man. Q.B.); affirmed (1983) 3 W.W.R. 575 (Man. C.A.) dealt with the validity of the

rent arbitration provisions in the Manitoba Landlord and Tenant Act. Scollin, J. (at page 466) stated as follows:

> "...the arbitral function in part IV of the (Landlord and Tenant) Act is an integral part of the rent review and control process. The review and control of rents never has been within the traditional ambit of the Courts. Indeed, in the above Reference at p.581, the Supreme Court treats the Commission's power over rent review as separate and distinct from this 'core' power of holding a Judicial hearing and giving judgement." The Manitoba Court of Appeal affirmed the decision of Scollin, J. and Monnin, J.A. (now Monnin, C.J.M.) stated (at page 575) as follows:
>
> "We are of the opinion that this appeal should be dismissed on the grounds that the awards of the panel of five arbitrators appointed pursuant to ... the Landlord and Tenant Act ... are valid since they were made by individuals who do not perform the function of judges appointed under s.96 of the Constitution Act, 1987.""

Two decisions which preceded the Supreme Court case are also noteworthy.

In Reference Re Proposed Legislation Concerning Leased Premises And Tenancy Agreements (1978), 89 D.L.R. (3d) 460 (Alta. C.A.), the Alberta Court of Appeal was asked to rule on the validity of proposed provincial legislation permitting a provincially or municipally appointed tribunal to grant orders for possession to a landlord in respect of premises occupied by a tenant, or to grant orders for specific performance of a tenancy agreement. The Court expressed some regret that the specific language of the proposed legislation was not before the Court. The Court held that the proposed legislation would be ultra vires the Alberta legislature and stated (page 473) that the legislation "is clearly purporting to cover a power or jurisdiction which could not have been other than what was within the contemplation of the framers of our Constitution as being within the purview of s.96."

The British Columbia Court of Appeal in Pepita v. Doukas, (1980) 1 W.W.R. 240 (B.C.C.A.) dealt with a provision in the British Columbia Residential Tenancy Act, 1977 permitting the

Rentalsman to order the termination of a tenancy and specify the date when a landlord is entitled to possession once determination as to the conduct of the tenant was such as to entitle the landlord to terminate the tenancy. The Court examined the underlying scheme and social policy of the legislation in question. It also examined the impugned functions in terms of Section 96. The Court held (pages 257-258) the impugned function was remedial and quasi-judicial, and that it was, therefore, distinguishable from the function performed by Section 96 Courts. The Court enumerated its reasons for reaching this conclusion as follows:

(1) The Rentalsman, while expected to exercise common sense and fairness and to follow procedural rules of natural justice, was not to be guided by law but by his sense of the social policy of the legislation. He was not bound to follow legal precedent and was not bound to follow his own previous decision.

(2) The Rentalsman did not have power to enforce compliance with his own orders. Compliance would have to be enforced through the Courts.

(3) The adjudicative function could be initiated by the landlord, another tenant, or the Rentalsman himself.

(4) "...the rights and obligations that the Rentalsman has the exclusive jurisdiction to determine are new statutory rights and obligations established by the Act itself. They are not contractual rights and obligations flowing from the tenancy agreement, nor are they part of the general law of the land that was adjudicated upon by the Courts before the Residential Tenancies Act was enacted." (page 257)

(5) The Rentalsman may try to [illegible] a dispute, and may seek the [illegible]nt of the parties to arbitra[illegible].

(6) "... the function ... is closely interwined with other quasi-judicial legislative and administrative

> functions that together form a total framework of functions. The function is not readily severable from the framework to leave a complete and comprehensive legislative scheme." (page 258)

Dealing specifically with landlord and tenant legislation in the Northwest Territories, the case of Canada Tungsten Mining Corporation Limited v. Reid, (1974) 1 W.W.R. 120 (N.W.T. Mag. Ct.); affirmed (1974) 1 W.W.R. 133 (N.W.T.S.C.) is of particular interest. Basically, a 1972 amendment to the Northwest Territories Landlord and Tenant Ordinance gave Magistrates the authority to grant a landlord an order for possession of rented premises. The authority of the Magistrate to make such an order was challenged on a number of grounds, including the constitutional validity of the provisions granting such powers. Magistrate de Weerdt (at pages 125-126) referred to sections 13 and 14 of the Northwest Territories Act, R.S.C. 1970, c. N-22 and concluded that these provisions placed the Commissioner in Council in a position similar to that of a provincial legislature in terms of division of legislative powers. He also reviewed the history of summary jurisdiction and Magistrates' Courts in England prior to 1867, and in the Northwest Territories prior to the creation of a Superior Court for the Territories, and concluded that the new provisions of the Landlord and Tenant Ordinance conferred jurisdiction which broadly conformed to the type of jurisdiction generally exercized in the Territories by summary jurisdiction Courts. He held, therefore, that he has jurisdiction to hear and determine applications for orders for possession pursuant to the Landlord and Tenant Ordinance, as amended.

The decision of Magistrate de Weerdt was followed by an application for prohibition which was made to the Northwest Territories Supreme Court. Morrow, J. essentially affirmed the decision of Magistrate de Weerdt with respect to the Constitutional validity of the Ordinance and with respect to the jurisdiction of the Magistrate to make orders for possession and concludes (at pages 139-140) as follows:

> "...the legislature is attempting to provide a summary method of disposing of the issues one might expect to arise between landlord and tenant, rent, problems as to the handling of security deposits, responsibility to repair, termination, possession, offences and penalties with respect to security deposits...

> It would appear to me that in the present legislation the Commissioner and Council is attempting to extend the facilities of the Magistrate's Court in the civil field so as to provide the type of summary hearings with respect to disputes as between landlords and tenants that has been well recognized down over the years as being within the 'provincial' field and is in no way an attempt to usurp the jurisdiction which normally falls to a Judge appointed under s.96 of the B.N.A. Act."

The above has essentially covered the concerns regarding the affect of Section 96 of the Constitution Act, 1867 as they pertain to the Northwest Territories. While a Rentalsman concept may be established for the Northwest Territories, it would be desirable that all recommendations for legislative change bear Section 96 in mind. The Contractor recommends the jurisdiction and powers of the Rentalsman be "tested" in accordance with the "three-step test" as applied by the Supreme Court of Canada in Reference Re Residential Tenancies Act, 1979 (Ont.) (1981), 123 D.L.R. (3d) 554 (S.C.C.).

LIST OF RECOMMENDATIONS
SECTION FIVE

LANDLORD AND TENANT LEGISLATION
SECTION THREE

The Contractor recommends that:

- Part IV of the existing Landlord and Tenant Act be repealed and replaced by a new Residential Tenancies Act relating only to residential tenancies (hereafter the "proposed Act") and that Parts I, II, and III of the Landlord and Tenant Act be preserved as a separate Act and known as the Commercial Tenancies Act.

  Format of the Act p.25

- The definition of "residential premises" in the proposed Act include mobile homes and "pads" until specific legislation is enacted with respect to tenancies in mobile home parks.

  That a definition of housing cooperatives be included in the proposed Act, and housing cooperatives be exempt from the proposed Residential Tenancies Act.

  Residential premises defined p.27

- The proposed Act contain a statutory definition of the term caretakers suite to include in the definition of "residential premises", but that the recommendations relating to tenant security of tenure should not apply to the caretaker's suite.

  Caretaker's suite p.27

- The scope of the proposed Act be the same as the scope found in Part IV and that its provision should extend to occupancies which intend to create a tenancy agreement.

  Application of the Act p.28

Section 77 of the existing Act be repealed. p.28

That by statutory definition, transient living accommodations, vacation homes, and "living care units", be exempt from the proposed Residential Tenancies Act.

- The Crown be bound by the proposed Residential Tenancies Act, with a provision to exempt the Crown from specified sections of the legislation. The Crown p.31

  Specifically the proposed Act should exempt residential premises administered by or for the Government of Canada, the Northwest Territories or municipalities which have been financed under the National Housing Act 1954 (Canada) and contain provisions for the adjustment of rent in accordance with a prescribed formula.

  Further this recommendation be TABLED pending the release of the Special Committee on Housing Report.

- The relationship between a landlord and tenant be defined on a purely contractual basis. Relationship defined p.32

- The common law rules respecting the effect of the breach of a material covenant by one party to a contract on the obligation to perform by the other party, be applied to tenancy agreements. The proposed Act deem certain covenants to be included in tenancy agreements and set out remedies available for their breach. Common law p.33

- The doctrine of frustration of contract should be made applicable to residential tenancies and that the Frustrated Contracts Act 1956 (2nd)(c.1,s.1) should be made expressly applicable. Frustration of contract p.34

- Where a landlord and tenant become liable to the other for damages as a result of a breach of the tenancy agreement or this Act, the landlord or tenant entitled to claim damages has a duty to mitigate his damages. And without limiting the above section, where a tenant terminates a tenancy agreement or violates or abandons residential premises, other than in accordance with this Act and the tenancy agreement, the landlord has a duty to again rent the residential premises at a reasonable economic rent.

Mitigation of damages p.35

- The remedy of distress be abolished with respect to residential tenancies.

Distress p.36

- The proposed Residential Tenancies Act include by regulation a prescribed form for written residential tenancy agreements, and that any tenancy agreement in writing shall be deemed to be in the form as prescribed.

Written tenancy agreement p.38

Where a tenancy agreement in writing is executed by a tenant, the landlord shall deliver to the tenant an executed and completed original copy of the agreement within twenty-one days after the execution and delivery of the agreement by the tenant to the landlord.

Copy to tenant p.38

Every landlord shall within sixty days after the proposed Act comes into force deliver or cause to be delivered to any tenant with whom he has entered into a written agreement, an executed and completed copy of the lease and each renewal thereof unless the tenant has already received such a copy.

Where a landlord does not deliver or cause to be delivered a copy of the tenancy agreement or renewal thereof to the tenant in accordance with this preceding section, the obligations of the tenant under the agreement are suspended until the landlord complies with this section. Further, where a dispute arises between a landlord and his tenant as to whether the landlord has complied with the foregoing section, the onus of proof of such compliance rests upon the landlord.

Compliance to this section p.38

- A landlord and tenant may agree to any addition to the Standard Residential Tenancy Form which does not alter any right or duty as stated in the proposed Act or the Standard Residential Form. Further, a landlord or tenant may apply to a Rentalsman's Office to determine whether a rule or obligation is deemed "reasonable".	Standard Residential Tenancy Form p.39
- Section 61 of the existing Landlord and Tenant Act be repealed and that a provision prohibiting acceleration of rent be included in the proposed Residential Tenancies Act.	Acceleration of rent p.40
- Section 58 of the existing Landlord and Tenant Act not be amended.	Alteration of locks p.41
- Section 59 of the existing Act include a provision whereby a landlord's non-compliance to this section would be an offence liable on summary conviction to a fine not more than $500.00.	Penalty for non-compliance p.41
- A provision allowing entry by political canvassers to a residential premise be included in the proposed Residential Tenancies Act.	Third party access p.42
- The scope of the proposed section dealing with a landlords right of entry be the same as the scope found in section 52 of the existing Landlord and Tenant Act, but the permitted hours of entry extend to 8:00 p.m..	Entry to premises p.43
- The amount of a security deposit shall not exceed one month's rent.	Security deposit p.45

- The amount due and payable for the security deposit may at the discretion of the tenant be paid over a three month period with:

  (a) 50% of the amount paid at the commencement of the tenancy; and

  (b) the remaining 50% of the amount to be paid within two months of the demand for that deposit.

Payment of security deposit p.45

- The proposed Act expand the current definition of rent to include a definition of "economic" rent for the sole purpose of determining the amount of a security deposit.

  The proposed Act include a provision to allow landlords of subsidized units to request a security deposit in an amount that does not exceed one month's "economic" rent.

"Economic" rent defined p.46

- When a security deposit is taken the landlord and tenant must sign a form as prescribed by regulation which sets out the condition and contents of the premises. The landlord shall ensure that a fully executed duplicate copy of this form is delivered to the tenant upon receipt of all or a portion of the security deposit.

Pre-inspection form p.47

- The landlord shall credit interest to the tenant on the full amount of the security deposit at a rate of 8% per annum while the security deposit is held by the landlord.

Interest paid on security deposit p.47.

  The rate of interest to be paid on the full amount of the security deposit may be determined by regulation.

Rate set by regulation p.47

- Security deposits shall be maintained by the landlord in an account designated as a trust account in a chartered bank, credit union, load or trust company found within the Northwest Territories, and shall be kept separate and apart from monies belonging to the landlord.

  Trust account p.48

  A person who acquires the interest of a landlord in residential premises has the rights and is subject to the obligations of the previous landlord with respect to all security deposits held in trust by the original landlord.

  Obligation of new landlord p.48

- The proposed Residential Tenancies Act include a provision allowing a Rentalsman to intervene and have binding powers of arbitration concerning disputes arising from the disposition of security deposits.

  Arbitration p.49

- The proposed Act define the landlord's obligation to repair as follows:

  Landlord's obligation p.52

  A landlord shall provide and maintain residential premises and residential property in a state of decoration and repair that:

  (a) complies with health, safety and housing standards required by law; and

  (b) having regard to the age, character and locality of the residential property, make it reasonably suitable for occupation by a reasonable tenant who would be willing to rent it.

- The proposed Act contain a provision where it is deemed a covenant in the tenancy agreement that when a service or a facility is reasonably related to a tenants continuous use and enjoyment of the residential premises, the landlord shall not discontinue providing such services except by order of the Rentalsman.

  Provision of services p.52

Where the Rentalsman determines that a landlord has violated his duty under this section, or has failed or may fail to provide a service or facility which he is obligated to provide, the Rentalsman may order that a tenant affected by the breach pay to the Rentalsman all or a portion of the rent payment. The Rentalsman may use any money paid to him by the tenant to carry out the repairs or provide the service or facility.

Rent paid to Rentalsman p.53

- The proposed Act contain a provision similar to that found in section 60(2) of the existing Act, and that the tenant's obligations to maintain an orderly standard of cleanliness be extended to include the residential property.

  Ordinary wear and tear shall not constitute damage to the premise

Tenant's obligation p.54

- The proposed Act contain a provision which outlines the procedures to be followed by a landlord when in possession of a tenants abandoned goods.

  (1) Where the tenancy of a person has been terminated, or where a tenant has vacated or abandoned the residential premises formerly occupied by him, and has left property in the premises, the Rentalsman, upon being satisfied that after reasonable attempts made by the person who is the owner of the premises to determine the whereabouts of the former tenant and he can not be located or, if the former tenant has been located he does not make reasonable arrangements for the disposition of the property, may authorize the person who is the owner of the premises to remove the property from the premises and sell it or otherwise dispose of it.

  (2) Where a person removes, sells or otherwise disposes of property under subsection (1) in accordance with an

Abandoned goods p.55

order of the Rentalsman under the subsection, the person shall, after deducting such amount from the proceeds of the sale in respect of costs incurred by him as he would be authorized to retain if the property were goods sold pursuant to a distress for rent, and after deducting any arrears of rent and damages that the Rentalsman has ordered to be paid to him pay the remaining proceeds to the Rentalsman to the credit of the former tenant and if the former tenant does not claim the proceeds within six months after the money was paid to the Rentalsman, foreward the money to the Minister of Finance for deposit in the consolidated fund.

(3) Where a person removes, sells or otherwise disposes of property under subsection (1) in accordance with an order of the Rentalsman made in respect of the property under that subsection, neither the person nor the Rentalsman nor any person acting on behalf of the Rentalsman shall be liable in any action taken by the owner in respect of the removal or disposition of the property.

- The proposed Act contain a posting provision whereby a landlord must conspicuously post the legal name and address for service of the landlord, and also post a notice indicating the address and location of the Office of the Rentalsman.

Posting provision p.57

- The proposed Act include an outline of implied covenants for both landlords and tenants as deemed at common law to be a part of every agreement:

Implied covenants p.58

(a) That the landlord will provide possession of the residential premise on the date so specified;

(b) that the tenant will have quiet enjoyment of the premise;

(c) that the premise is fit for habitation;

(d) that the tenant treat the premise in a "tenant like" manner; and

(e) that the tenant will pay rent.

The proposed Act retain section (60)(2)(c) of the existing Act which specifies that a tenant shall conduct himself in such a manner as to avoid causing a nuisance or disturbance to other tenants in the building.

- The proposed Act contain a provision whereby a landlord of a multi-unit dwelling must maintain a current tenant directory which would indicate those tenants who may require special assistance in an emergency situation.

Tenant directory p.58

- The proposed Act retain the existing "offences and penalties" provisions found in the current legislation, and increase the fine to an amount not exceeding $2,000.00

Offences and penalties p.60

- A system of security of tenure be included in the proposed Act.

Security of tenure p.62

Security of tenure will:

(a) provide tenants with a right to continue a tenancy by prohibiting unjustified terminantion;

(b) provide landlords with an ability to terminate the tenancy of any tenant who does not comply with their statutory obligations; and

(c) provide landlords with the ability to regain possession of the premises for the purpose of demolishing the premise, for the porpose of personal use, or when the tenancy has been a condition of employment and the employment has been terminated by either party.

- The proposed Act retain sections 63 and 64 of the existing legislation which govern the procedures to terminate a tenancy agreement.

  That the proposed Act prescribe by regulation a form to be used by landlords when terminating a tenancy agreement.

Termination of tenancy p.65

- The proposed Act retain parts 1, 2, 3, and 4, of section 65 of the existing Act.

  Section 65(6) of the existing Landlord and Tenant Act not be included in the proposed legislation.

Term of tenancy p.66

- Where a landlord gives notice to terminate a tenancy in relation to a mobile home site, three months notice to terminate must be given, and the tenancy shall not terminate in any of the months of December, January, or February.

Notice period for mobile homes p.67

- A landlord may, at any time, give the tenant a notice of termination in accordance with the form and notice required, where any one of the following events has occurred:

  (a) The conduct of the tenant, or of a person permitted in or on the residential premise or property by him, has been such that the enjoyment of other occupants in the residential property has been unreasonably disturbed on a persistent basis;

  (b) the tenant, or a person permitted in or on the residential property or residential premise by him, has caused extraordinary damage to the residential premise or to the residential property, and has failed

Just cause for termination p.68

to rectify the damage within a reasonable time after receiving written notice to do so from the landlord;

(c) occupancy by the tenant has resulted in the residential property or residential premises being damaged to an extent that exceeds reasonable wear and tear, and the tenant has failed within a reasonable time after the damage occurred to take the necessary steps to repair the damage;

(d) the tenant has failed to give, within the specified time required, the security deposit as requested under the tenancy agreement;

(e) the safety or other lawful right or interest of the landlord or other occupants in the residential property has been seriously impaired by an act or omission of the tenant or a person permitted in or on the residential premise or residential property by him;

(f) the tenant has breached a reasonable material term of the tenancy agreement and has failed to rectify the breach within a reasonable time after receiving written notice to do so from the landlord;

(g) the tenancy agreement has been frustrated;

(h) the residential premise must be vacated to comply with an order by a Territorial, regional or municipal government authority respecting zoning, health, safety, building or fire prevention standards;

(i) the landlord requires possession for the purpose of carrying out repairs or renovations that can not be done with the tenant in occupation;

(j) the landlord requires possession for the purpose of demolishing the premise;

(k) the landlord requires the premises for his own occupancy or for the occupancy of his parents, spouses parents, son or daughter.

- When a tenant fails to pay the rent due within a period of seven days of the date fixed in the tenancy agreement for that payment, at any time following that period the landlord may serve a notice on the tenant requesting the payment of the rent and shall serve a copy of the notice on the Rentalsman.

Failure to pay rent constitutes termination of tenancy p.70

When the Rentalsman is served with a notice under this section he shall investigate the matter and notify the landlord and tenant of the results of his investigation within five days of the service of notice.

Procedure p.71

Following investigation, where the Rentalsman finds that the rent has not been paid he shall authorize the landlord to serve on the tenant a notice to quit in the form prescribed by regulation.

Notice to quit p.71

Where the rent is to be paid once each month or less often, the notice to quit is to be effective on the last day of the month in which it is served unless all of the rent due is received within seven days of service of the notice to quit on the tenant.

With respect to any tenancy agreement where the rent is to be paid more often than once a month the notice to quit is to be effective on the last day of the week following the week in which the notice is served unless all of the rent due is received prior to that day.

The acceptance by a landlord of arrears of rent or compensation for use or occupation of the premises after notice of termination of the tenancy has been given does not operate as a waiver of the notice or as a reinstatement of the tenancy or as the creation of a new tenancy unless the parties so agree.

Order of eviction p.71

Where:

(a) A tenant has not vacated the residential premises as required in a notice to quit; and

(b) the landlord so requests in the form prescribed by regulation,

the Rentalsman, after holding a hearing, may issue an eviction order in the form prescribed by regulation.

Proceedings p.72

Where:

(a) A landlord has served on the tenant a notice to terminate the tenancy; and

(b) a tenant has served on the landlord a notice to terminate the tenancy,

and the tenant has not vacated the premise on the date stated in the notice of termination, the landlord may apply to the Rentalsman for an order of eviction.

Where a landlord applies, the Rentalsman shall conduct an investigation and may issue an eviction order in the form prescribed by regulation.

Jurisdiction of Rentalsman p.76

- The proposed Act authorize the appointment of administrative officials known as Rentalsmen, to have exclusive jurisdiction over specified advisory, investigatory, mediatory, arbitrative, and educative functions.

Matters arising out of:

(a) the proposed Act; and
(b) the general law of landlord and tenant over which the Rentalsman is not allocated specific jurisdiction should continue to be within the jurisdiction of the Courts.

Functions of Rentalsman p.79

In the proposed Act the Office of the Rentalsman be given the following general functions:

(a) To provide information and advice to landlords and tenants in tenancy matters;

(b) to receive complaints from, and to mediate or arbitrate disputes between landlords and tenants;

(c) to disseminate information for the purpose of advising landlords and tenants about residential premises, rights and remedies, and the initiation and conduct of legal proceedings; and

(d) to investigate complaints about conduct in contravention of the proposed Residential Tenancies Act.

Mediation and arbitration p.79

- A Rentalsman may mediate or arbitrate any dispute between a landlord and a tenant in respect of the following:

(a) A dispute with respect to the continued possession and occupancy of the residential premise by a tenant;

(b) a dispute as to arrears or non-payment of rent;

(c) a dispute with respect to compensation claimed by the landlord for the use and occupancy of the residential premises by the tenant after the expiration or termination of the tenancy;

(d) a dispute as to damages caused to residential premises, the common areas or the property of which they form a part by the tenant of their guest;

(e) any other dispute with respect to the performance by the landlord or by the tenant of an obligation under the tenancy agreement or those found within the statutory rights and obligations of the legislation;

(f) a dispute with respect to hidden rent increases and/or rent increases with the intention to evict; and

(g) the disposition of abandoned goods.

- The Arbitration Act will not apply to an arbitration under the proposed Residential Tenancies Act.

Arbitration Act p.80

- For the purposes of arbitrating a dispute a Rentalsman has the following powers:

Powers of Rentalsman p.81

(a) To enter upon and inspect the rented premises at any reasonable time;

(b) to require the attendance of witnesses and to receive their testimony;

(c) to administer oaths and affirmations; and

(d) to establish rules of procedure.

In the conduct of arbitration the Rentalsman is not bound by the technical rules of legal evidence, and the Rentalsman may act upon evidence given orally or in writing obtained in such a manner as the Rentalsman considers proper, whether or not the evidence is given on oath or affirmation.

- A Rentalsman shall not arbitrate a dispute except upon the written request of both landlord and tenant.

Where a landlord and tenant have requested arbitration neither may withdraw the dispute from arbitration and the decision of the Rentalsman is final and binding on both of them.

The Rentalsman may make such orders relating to the obligations of the landlord or the tenant to each other in respect of the

tenancy as the Rentalsman considers necessary to give effect to his decision on the arbitration.

The Rentalsman may file with the Clerk of the Court a copy of any order made by him as certified by him to be a true copy, and the order then becomes an order of the Court and may be enforced as a judgement of the Court.

- A Rentalsman will not mediate or arbitrate a dispute where:

  (a) the landlord or the tenant has commenced proceedings in a Court for the resolution of the dispute;

  (b) the dispute has been previously resolved by the Court or it remains before the Court;

  (c) where the dispute is of such a serious nature that it should be dealt within Court only;

  (d) where the complaint is frivolous, vexatious, or concerns a trivial matter; and

  (e) where the complaint primarily effects some person other than the complainant and the complainant does not have a sufficient personal interest in it.

No mediation or arbitration p.82

- The Executive Member may designate one or more persons as Rentalsmen who shall in addition to carrying out such duties as required by this Act, carry out such other duties and perform such functions as may be prescribed.

  A Rentalsman may be designated from among persons employed in the government service and may be required to serve within a specified area of the Territories.

Appointment of Rentalsman p.85

- Nothwithstanding a change of landlord, the landlord shall not collect an increase in

Notice of Rent increase p.86

rent from a tenant until twelve months have expired following:

(a) the date the last lawful increase in rent for that tenant became effective; or

(b) where there has been no previous increase in rent for that tenant, the date the existing rent was first established.

No landlord shall increase the rent for a residential premise without first having notified the tenant in writing at least three months prior to the date the rent increase is to be effective.

An increase in rent by a landlord contrary to the foregoing section is void and unenforceable.

- The Standard Residential Tenancy Agreement Form indicate the amount of rent to be charged and the services to be included within that amount. Any increase in the amount charged for such services must adhere to the requirements outlined in the preceding recommendation.

Services included in rent p.87

- The Rentalsman be given power to investigate and determine whether a rent increase is discriminatory with the intent to force the tenant to vacate the premise.

Rent increase with intent to evict p.87

- A system of rent control not be established in the Northwest Territories.

Rent controls p.89

APPENDIX A

Standard Residential Tenancy Agreement Forms

SOURCE:

William and Rhodes:
Canadian Law of Landlord and Tenant
5th Edition

Appendix 1

STANDARD RESIDENTIAL TENANCY AGREEMENT (MANITOBA)

Being a form for all written residential Tenancy Agreements between Landlord and Tenant in Manitoba; pursuant to subsection (1) of section 118 of The Landlord and Tenant Act [S.M. 1970, c. L70; and Manitoba Regulation 183/80, Schedule "A", Form 7].

IN THIS TENANCY AGREEMENT made in duplicate the day of , 19

Landlord.

BETWEEN

(name, address and phone number) referred to as the Landlord

Tenant.

AND

referred to as the Tenant

IT IS AGREED THAT

The Landlord will rent to the Tenant and the Tenant will rent from the Landlord the premises known as

Premises.

referred to as the rented premises

Type of Tenancy.
THE TENANCY IS TO COMMENCE , 19 , and to expire on , 19 .

(Leave expiry date blank if the Agreement is for a periodic tenancy and no set term is intended.)

Rent.
THE TENANT WILL PAY RENT to the Landlord at the rate of $ per in advance, for the duration of the tenancy. The rent due in the first instance being $ (pro-rated as necessary) and thereafter $ payable on the day of each

(state due day/date for rent payment)

IT IS FURTHER AGREED THAT

Other Occupants.

1. In addition to the tenant(s) only the following other persons may occupy the rented premises

1	4
2	5
3	6

together with any natural increase in the tenant's family but in any event not exceeding a total of persons.

Security Deposit.

2 The Landlord hereby acknowledges the receipt from the Tenant, on the signing of this Agreement, of a Security Deposit of $, being an amount not in excess of one half on one month's rent, which sum the Landlord will hold in trust, for the Tenant, as a security against the breach of those parts of this Agreement pertaining to arrears of rent and the Tenant's responsibility for cleanliness and damage. The Landlord will return this deposit to the Tenant within 14 days of the termination of the tenancy, with interest as may be prescribed from time to time by Regulation, compounded annually. If, for valid reason, the Landlord disputes the return of the Security Deposit, the Landlord shall forthwith comply with the provisions of Section 87(1.2) of The Landlord and Tenant Act. Under no circumstances will the Security Deposit be applied as part of the rent by the Tenant without the prior written consent of the Landlord.

Services.

3 The Tenant will pay, on demand, to the appropriate authority, the costs of the following services e.g. certain public utilities:–as supplied at the commencement of this tenancy in respect of the rented premises.

all others not listed being the landlord's responsibility.

Amenities.

4(1) The following privileges, amenities and facilities are the right of the Tenant and are granted to the Tenant for the duration of this Tenancy Agreement, the cost being included in the rent.

4(2) The following privileges, amenities and facilities are reserved to the Landlord or his designate and are not included within the scope of this Agreement.

Providing name and address to Tenant.

5(1) The Landlord shall provide to the tenant a copy of section 100 to 103 inclusive of The Landlord and Tenant Act together with the legal name of the Landlord and his address for service.

Conditions of Notice and Termination.

5(2) Unless otherwise agreed upon at the time a notice is given, this agreement may be terminated by

the landlord giving notice in writing to the Tenant; or

the Tenant giving notice, either orally or in writing, to the Landlord.

(Insert above any special notice provisions or state Statutory requirements)

Condition of Rented Premises.

6 An inspection of the premises may be made by both parties, or their agents, or their representatives, and the condition of the premises recorded on the attached condition report and signed by both persons present at the inspection. This inspection may be made prior to the commencement of the Tenancy and can be referred to in deciding as may be necessary, the disposition of the Security Deposit at the termination of the Tenancy and although this inspection in no way reduces the landlord's responsibility to repair and maintain as in section 14 of this Agreement, no promises for alterations, redecorations or remodelling will be binding unless noted on the attached Condition Report at the time of the inspection by both parties present.

Observance of Statute and By-laws.

7 Such requirements as are and may be enacted in law will be observed by all parties to this Agreement in respect of health, sanitation, fire, housing and safety standards.

Disputes and Arbitration.

8 In the event of any dispute between the Landlord and Tenant, either party or both may refer the dispute to the Rentalsman for the area, who, it is understood, will endeavor by mediation to settle the dispute. If the Rentalsman is unsuccessful in mediating the dispute he is obliged to refer the matter to the Director of Arbitration.

Care by Tenant.

9 The Tenant is responsible for the ordinary cleanliness of the rented premises, the amenities and facilities provided under section 4 of this Agreement, and for the repairs of damage caused by his willful or negligent conduct or that of persons who are permitted on the premises by him.

Use.

10 The Tenant will use the rented premises for residential purposes only and will not carry on, or permit to be carried on, any trade or business without the written consent of the Landlord.

Behavior.

11 The Tenant, his family or his guests will take all reasonable precaution to avoid causing a nuisance or disturbance to other tenants in the same building.

Sublet.

12 The Tenant has the right to sublet, assign, or otherwise part with possession of the rented premises, subject to the consent of the Landlord. Consent will not be arbitrarily or unreasonably withheld on proper application, and provided the form of assignment and acceptance, which forms part of

this Agreement, is completed.

Note: See footnote (1).

Rules and Regulations.

13 The Tenant will observe, and comply with, the Landlord's Reasonable Rules and Regulations which may be attached to, and form part of, this Agreement with such reasonable variations and modifications as may be added from time to time by way of notice from the landlord to the Tenant.

Care by Landlord.

14 The Landlord is responsible for providing and maintaining the rented premises, the amenities and facilities provided under section 4 of this Agreement in a good state of repair and fit for habitation during the tenancy, notwithstanding that any state of disrepair existed to the knowledge of the Tenant before this Tenancy Agreement was entered into.

Tenant's Copy of Agreement.

15 A fully executed duplicate copy of this Agreement will be delivered to the Tenant by the Landlord within twenty-one days after execution or within twenty-one days of the Tenant's delivery of the Agreement to the landlord for execution; and where a copy of the Agreement is not delivered within the time specified, the Tenant's obligations under this Agreement will thereby cease.

Privacy.

16(1) The Landlord has a right of access

(a) to show the premises to prospective tenants at reasonable hours after notice to terminate the tenancy has been given;

(b) in the case of an emergency; and

(c) after giving written notice to the Tenant of a least twenty-four hours before the time of entry, which time will be specified on the notice and shall be during daylight hours.

16(2) Nothing in this section is to be construed by either party as prohibiting entry with the consent of the Tenant given at the time of entry.

Peaceful Use and Occupation.

17 The Landlord, in the execution of this Agreement, is exercising a lawful power, and in so executing, grants to the Tenant the right of the full use and occupation of the rented premises with a security of tenure, according to the terms of this Agreement.

Range of Agreement.

18 Wherever throughout this Agreement there is any mention of, or reference to, the Landlord or the Tenant, that mention or reference shall be deemed

to extend to and include the heirs, executors, administrators, successors and assigns of the Landlord and the Tenant and sub-tenants of the Tenant as the case may be; and if the Landlord or Tenant shall be male, female, or a corporation, or if there be more than one Landlord or Tenant, the provision herein shall be read with all grammatical changes necessary. Further, the landlord will advise the tenant of any change of ownership within seven days of that change.

Signed, Sealed and Delivered.

WITNESS LANDLORD

WITNESS TENANT(S)

This Agreement is to be interpreted and executed with direct reference to The Landlord and Tenant Act and in conjunction with any Landlord's Rules and Regulations that may be attached hereto.

Any item or condition added to this Tenancy Agreement that contravenes any of the provisions of The Landlord and Tenant Act is void and has no effect.

Note: (1) Section 12 of this Tenancy Agreement may be omitted or cancelled where the premises are administered by or for the Government of Canada or Manitoba or a Municipality, or any agency thereof, developed and financed under The National Housing Act, 1954 (Canada).

Note: (2) Section 2 of this Agreement may be omitted; and if so omitted, section 2 should be lined diagonally across and be initialled by both parties to this Agreement.

APPENDIX 1

ASSIGNMENT AND ACCEPTANCE

I (We) hereby assign all my (our) right, title and interest in and to the within Tenancy Agreement and the remainder of the term unexpired thereunder to _____ heirs and assigns, and do also hereby guarantee, and remain liable for the prompt payment of the rent and the performance of the agreements on the part of the Tenant as therein mentioned, in the event of default by the assignee. The assignor does further grant to the assignee the right of exclusive possession and peaceful use and occupation of the premises herein described as sub-tenant for the unexpired portion of the term.

WITNESS ....

WITNESS ....

IN CONSIDERATION of the above assignment and the consent thereto of the Landlord, I (we)..... hereby assume and agree to make all payments and perform all agreements and conditions of the within Tenancy Agreement by the Tenant therein named to be made and performed from the .....day of.....19..... and I (we) agree that all rights and remedies of the Landlord against the Tenant under said Tenancy Agreement be available against me (us) to all intents and purposes as if I (we) had been named Tenant therein and as such had executed same.

WITNESS this .....day of .....19.....

WITNESS ....

WITNESS ....

CONSENT TO ASSIGNMENT

We hereby consent to the foregoing assignment of the Tenancy Agreement with the condition that no further assignment of the said tenancy agreement or subletting of the premises or any part thereof, shall be made without our prior consent.

Witness our hand and seal this ..... day of.....19.....

WITNESS ....
Landlord

(Form 8)

RENTAL UNIT CONDITION REPORT

PRINT OR WRITE CLEARLY

TOP COPY TO TENANT

CARBON COPY TO LANDLORD

G — Good
M — Missing
D — Damaged
B — Broken
S — Scratched or Marked

		Date (1) Condition at Commencement of Tenancy		Date (2) Condition at Termination of Tenancy	
EXTERIOR	Stucco and/or Siding				
	Front and Rear Entrance				
	Garbage Container(s)				
	Glass and Frames				
	Screens and Storm Windows				
	Grounds and Walks				
	Keys Issued				
	Keys Returned				
KITCHEN	Ceiling				
	Walls and Trim				
	Floor				
	Countertop				
	Cabinets and Doors				
	Range — Condition and Equipment				
	Sink and Stoppers				
	Closets				
	Refrigerator				
BASEMENT	Stair and Stairwell				
	Walls and Floors				
	Furnace, Water Heater and Plumbing				
LIVING ROOM DINING ROOM	Floor				
	Ceiling				
	Walls and Trim				
	Closets				

APPENDIX 1

STAIRWELL AND HALL	Treads and Landings					
	Walls and Trim					
	Ceilings					
	Closets					
BATHROOM	Ceiling					
	Floor					
	Walls and Trim					
	Cabinets and Mirror					
	Tub, Sink and Toilet					
	Closets					
BEDROOMS	Floor, Walls and Trim					
	Closets, Ceilings					
	Lighting Fixture — throughout					
	General Condition — Cleanliness					

Address of Rented Premises

Tenant's Forwarding Address (after termination of Tenancy)

Landlord or Agent's Signature

(1)

(2)

Tenant's Signature

(1)

Tenant (Name — print)

(2)

N.B. — Further comment and detail e.g. furniture, rugs, drapes, appliances and promises as to decorating and alterations to be noted and initialled overleaf.

Appendix 2

STANDARD RESIDENTIAL TENANCY AGREEMENT (ONTARIO)
[NOT PROCLAIMED]

[Schedule pursuant to the Residential Tenancies Act, R.S.O. 1980, c. 452]

INSTRUCTIONS FOR LANDLORD AND TENANT

IF YOU HAVE ANY QUESTIONS CONCERNING THIS TENANCY AGREEMENT OR YOUR RIGHTS AND OBLIGATIONS UNDER THE *RESIDENTIAL TENANCIES ACT*, YOU ARE INVITED TO ASK THE RESIDENTIAL TENANCY COMMISSION FOR ASSISTANCE. THE COMMISSION HAS BEEN ESTABLISHED TO ADVISE AND ASSIST THE PUBLIC ON ALL RESIDENTIAL TENANCY MATTERS. IN ADDITION, THE COMMISSION HAS POWER TO MEDIATE AND DECIDE DISPUTES BETWEEN LANDLORDS AND TENANTS.

This is the Standard Residential Tenancy Agreement, established under the *Residential Tenancies Act*.
This agreement is applicable to all residential tenancies in Ontario.
The agreement must be signed by both the landlord and the tenant, or their agents.
Two copies of the agreement must be completed, one of which is to be given to the tenant.
No part of the tenancy agreement may be altered or deleted, but additional benefits and obligations may be added.

TENANCY AGREEMENT

This tenancy agreement is made between:

_____, the landlord
Name

_____
Address

_____
Telephone
—and—

_____
Name (s)

_____, the tenant.

APPENDIX 2

Rental Unit

1. The landlord will rent to the tenant and the tenant will rent from the landlord the following rental unit:

_____

Apt. No. Street Name and Number

_____

City, Town, etc. Postal Code
(or other appropriate description)

Nature and Duration of Tenancy

2. COMPLETE EITHER (a) *OR* (b) AND CHECK (✓) WHICH IS APPLICABLE:

☐ (*a*) The tenancy is for a fixed term beginning on the _____day of _____, 19_____ and ending on the _____ day of _____, 19_____. (The tenancy will then automatically renew as a monthly tenancy unless terminated under the ***Residential Tenancies Act***);

☐ (*b*) The tenancy is periodic (e.g. weekly, monthly, etc.) beginning on the _____day of _____, 19 _____ and running from _____

(week to week, month to

_____

month, etc., as the case may be)

3. (*a*) The rent for the rental unit is $ _____ per _____ Rent

(week, month,

_____, payable in advance

etc., as the case may be)
for the duration of the tenancy. The first payment is $_____ (pro-rated as necessary) and thereafter $ _____per _____, payable on the (week, month, etc., as the case may be) _____ day of every _____

(week, month, etc., as the case may be)
Rent payments are to be made to _____

(Name and address

_____

where payment to be made)

(*b*) The rent mentioned above includes payment for all services and facilities (e.g. parking, utilities, appliances, etc.) promised by the landlord, including:

_____

_____

Provision of the following services and facilities is the responsibility of the tenant: _____

_____

Rent Deposit

4. THIS PROVISION IS OPTIONAL CHECK THE BOX (✓) IF THE PROVISION IS TO APPLY: ☐

   (*a*) The tenant agrees to pay the landlord a rent deposit in the amount of $_____, which will be applied only in payment of rent for the period immediately preceding the termination of the tenancy.

   (*b*) The landlord will pay annually to the tenant interest on the rent deposit at the rate of 9 per cent per year.
   The interest will be paid on _____ of each year. (Insert date)

Residential Tenancies Act

5. The landlord and the tenant promise to comply with all obligations imposed on them by the *Residential Tenancies Act*.

Additional Obligations

6. The landlord and the tenant promise to comply with any additional obligations set out below.

   (NOTE: *Additional benefits and obligations cannot conflict with the Residential Tenancies Act, and where an obligation concerns the tenant's use, occupancy or maintenance of the rental unit or residential complex or use of services and facilities provided by the landlord, the obligation cannot be enforced unless it is reasonable in all the circumstances).*

Reasonable Rules

7. The tenant promises to comply with the rules concerning the tenant's use, occupancy or maintenance of the rental unit or residential complex or use of services and facilities provided by the landlord that are set out below and as may, from time to time, be established or modified by the landlord, provided that the rules are in writing, made known to the tenant and reasonable in all the circumstances.

_____
Signature of Landlord or authorized agent

_____
Date Signature of Tenant(s)

APPENDIX 2

With regard to paragraphs 6 and 7 of this tenancy agreement, the landlord and tenant are referred to section 6 of the *Residential Tenancies Act* which provides:

Additions to standard form

6.—(1) In addition to the benefits and obligations contained in the form of tenancy agreement set out in the Schedule, a landlord and tenant may provide in a written tenancy agreement for other benefits and obligations which do not conflict with this Act, but where an obligation concerns the tennant's use, occupancy or maintenance of the rental unit or residential complex or use of services and facilities provided by the landlord, the obligation cannot be enforced unless it is reasonable in all the circumstances.

House rules to be reasonable

(2) A landlord shall not establish or modify, nor can he enforce, rules concerning the tenant's use, occupancy or maintenance of the rental unit or residential complex or use of services and facilities provided by the landlord unless they are in writing, made known to the tenant and reasonable in all the circumstances.

Where rule reasonable

(3) Unless shown to be otherwise, for the purposes of this section, a rule or obligation is reasonable where it is,

(*a*) intended to,

(i) promote fair distribution of services and facilities to the occupants of the residential complex,

(ii) promote the safety or welfare of persons working or residing in the residential complex, or

(iii) protect the landlord's property from abuse;

(*b*) reasonably related to the purpose for which it is intended;

(*c*) applicable to all tenants in a fair manner; and

(*d*) sufficiently clear in its prohibition, direction or limitation of the tenant's conduct to inform him of what he must do or must not do in order to comply with it.

Determination of reasonableness

(4) A landlord or a tenant may apply to the Commission to determine whether a rule or obligation is reasonable in all the circumstances.

Where compliance order not to issue

(5) Where the Commission determines that the tenant has breached

the obligation imposed by subsection 1 of section 40 (compliance with additional obligations), no order shall be made under clause *a* or *b* of subsection 4 of section 40 unless the Commission is of the opinion that the breach has resulted in damage beyond ordinary wear and tear to the rental unit or residential complex or unreasonable interference with,

(*a*) the safety; or

(*b*) the enjoyment for all usual purposes by the landlord or any tenant or members of their households,

of the residential complex or any rental unit.

Appendix 3

STANDARD DWELLING LEASE (QUEBEC)

[pursuant to Loi sur la Régie du logement, R.S.Q. 1977, c. R-8.1, Décret 338-82, Schedule I (1982 (114) G.O.Q. (II) 983)]

LEASE

Lease

Gouvernement du Québec
Régie du logement

Between the landlord:

(Name) _____

(Address) _____

(Telephone number) _____

"The landlord"

and the tenant:

(Name) _____

(Address) _____

(Telephone number) _____

"The tenant"

Description of premises

By this lease the landlord rents to the tenant the premises located at _____

_____

Use of premises

The premises will be leased as a dwelling.

Term

The term of the lease will be of _____ months, from the _____ day of _____ 19____

to the _____ day of _____ 19____

Rent

The total amount of the rent will be _____ dollars

($_____) which the tenant will pay the landlord in equal _____ (monthly, weekly or other)

and consecutive payments of _____ dollars ($_____),

each of which will be paid on the _____ day of each _____ (month, week or other).

Signing of the lease

Building rules

- Before making the lease, the landlord must give the tenant a copy of the building rules, if there are any. These rules, covering the use of services or common areas, for instance, then form part of the lease.

Copy of the lease

- The landlord must give his tenant a signed copy of the lease within ten days after its making.
- In the case of a verbal agreement, the landlord must also give the tenant a written document in which the compulsory provisions of the lease and his name and address are indicated.

Language of the lease

- The lease and accompanying documents must be written in French unless the parties agree that they are to be written in another language.

Notices

- Upon making the lease, the landlord must give his new tenant certain notices; these can be found on page 4.
- All notices must be given in writing in the same language as the lease, except the notice of a visit to the dwelling, which may be given verbally.
- It is assumed that the notice has been sent and received the same day as the postmark, if it is sent by mail.

Additional clauses

(Include here any additional clause which may be agreed upon by the parties: for instance, repairs, maintenance, painting, snow removal, janitor service, heating, description of the premises and of the furniture, etc.)

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

☐ The parties agree that the lease should be drawn up in English.

To signify our agreement, we have signed at _____

this _____ day of _____ 19____

_____
Landlord

_____
Tenant

Compulsory Provisions

The clauses that follow list the main obligations of tenants and landlords of rental housing in the normal course of events. It is therefore very important to be familiar with them. All the provisions of law which apply to the contract of lease are set forth in articles 1600 to 1665.6 of the Civil Code, which is on sale at the bookstores of the Éditeur officiel du Québec.

Any clause of a lease which does not conform to the provisions is null and void in regards to the landlord and the tenant.

If the tenant or the landlord does not respect his obligations, either one of the parties, after attempting to come to an amicable agreement, may appeal to the Régie du logement.

In the text of the lease, the word landlord corresponds to the word lessor in the law, and the word tenant, to lessee. The word dwelling refers to the dwelling and its services, accessories and appurtenances, even if these are covered by a separate lease.

Special provisions apply to the cases listed on page 4.

Rent

1. The rent is payable in advance on the first day of each payment period, unless the parties agree otherwise.

2. The rent is payable in equal instalments, except the last, which may be smaller.

The landlord may not demand any instalment of more than one month's rent.

3. The landlord may not demand postdated cheques for payment of the rent.

4. The landlord may not require advance payment for more than one rental period. If this period is greater than one month, he may not demand payment of more than one month's rent. Nor may he directly or indirectly demand any money as a deposit.

Obligations of the Landlord

5. The landlord must hand over and maintain the dwelling in good condition. It must also be clean when he hands it over.

6. The landlord must make sure that the tenant can peaceably enjoy the dwelling for the term of the lease.

7. The landlord is required to comply with the safety or health regulations imposed on him by the government or the municipality.

8. During the term of the lease, the landlord may not transform the dwelling or use it for purposes other than those for which it was rented.

9. A new landlord has the same rights and obligations with respect to the lease as the previous landlord.

Obligations of the Tenant

10. The tenant and the persons he permits to enter the building must behave in such a manner as not to disturb other tenants in their normal enjoyment of the premises.

11. The tenant must keep the dwelling clean.

12. The tenant is required to comply with the health or safety regulations imposed by the government or the municipality.

13. The tenant must not allow the dwelling to be overcrowded in such a manner as to contravene the regulations respecting the health, safety or occupancy standards imposed by the government or the municipality.

14. The tenant who knows of any substantial defect or deterioration to the dwelling must notify the landlord within a reasonable period of time.

15. The tenant may not transform the dwelling or use it for purposes other than those for which it was rented.

16. The tenant may not, without the consent of the landlord, use or keep in the dwelling any substance which is a fire hazard and which could have the effect of increasing the landlord's insurance premiums.

17. At the end of the lease, the tenant must not leave in the dwelling any moveable effects other than those belonging to the landlord.

Repairs

18. The tenant must allow urgent and necessary repairs to be carried out. In some cases, the landlord will have to compensate him.

19. The tenant may undertake urgent repairs that are necessary to the preservation or use of the dwelling if, after informing or trying to inform the landlord, the landlord has not acted within a reasonable time. However, the landlord may intervene to continue the work himself.

The tenant must account to the landlord for the repairs he has carried out and hand over the bills for the expenses he has incurred. The tenant may then withhold the amount of these expenses from his rent.

20. Ten days before undertaking any improvement or major repair that is not urgent, the landlord must notify the tenant. The notice must indicate

1. the nature of the work,
2. the expected starting date;
3. the duration;
4. the period of evacuation, if any;
5. other conditions governing the work, if they have any important consequences for the tenant.

The notice must be given one month in advance if there is to be a period of evacuation of over one week.

21. The landlord who has carried out repairs or made improvements must restore the dwelling to a proper state of cleanliness.

APPENDIX 3

Access to Dwelling and Visits

22. The tenant must permit the landlord to inspect the state of the premises, but the landlord must use this right in a reasonable fashion.

23. The tenant must allow the landlord or his representative to enter the dwelling to carry out repairs.

24. Except in cases of emergency, the landlord must give 24 hours' notice if he wishes to inspect the state of the premises, carry out repairs or visit with a prospective purchaser. This is the only type of notice which may be given verbally.

25. A tenant who has given his landlord notice of his intention of leaving the dwelling must allow prospective tenants to visit it. The landlord is not obliged to notify the tenant 24 hours in advance.

26. Except in cases of emergency, the tenant may refuse to allow anyone to visit the premises before 9 a.m. or after 9 p.m.

27. The tenant may require the landlord or his representative to be present when a prospective tenant or purchaser is visiting.

28. The locks on entrance doors to the dwelling may not be changed unless the tenant and the landlord both agree

Subletting and Transfer of the Lease

29. The tenant may not sublet his dwelling in whole or in part, or transfer his lease, without the consent of the landlord. The landlord may not refuse his consent without valid reason.

The tenant must give the landlord a notice indicating the name and address of the person to whom he intends to sublet the dwelling or transfer the lease.

30. The landlord who refuses to allow his tenant to sublet or transfer the lease must notify the tenant of the reasons for his refusal within ten days; otherwise the tenant may consider that he has consented.

The landlord who has agreed to a sublet or transfer of the lease may demand repayment of reasonable expenses only.

Renewal of Lease and Increase in Rent

31. The landlord may terminate a lease only in the cases provided for by law.

32. The fixed term lease is automatically extended when it expires, on the same conditions and for the same term. A lease for more than one year is, however, extended only for a period of 12 months.

Nevertheless the parties may agree to a different extension period.

33. The lease for an unspecified term may not be changed except within the stipulated periods (see Table 1).

34. The landlord who, when extending the lease, wishes to increase the rent or change its terms must give the tenant notice within the time limits provided for by law (see Table 1).

35. The notice of increase in rent must indicate the new rent in dollars, or the desired increase in dollars or percentage, and if needed, the term proposed for the extension of the lease.

36. The tenant who wishes to leave his dwelling at the end of the lease, but who has not received any notice of increase in rent or change in the lease, must notify his landlord within the time stipulated by law (see Table 2).

37. The tenant who refuses the increase in rent or the desired change in the lease must notify his landlord within one month of receiving the notice. He may also, within the same period, inform his landlord that he is going to leave the dwelling at the end of the lease.

If the tenant does not answer his landlord, this means that he accepts the contents of the notice.

38. If the tenant refuses the landlord's new demands, the landlord has one month to ask the Régie du logement to make a decision about the contents of the notice; otherwise the lease is extended on the conditions already in effect. However, the tenant of a dwelling located in a building less than five years old must leave (see Notice No. 2)

39. When the tenant and landlord have agreed on the changes to be made in the lease (rent, conditions, etc.), the landlord must, before the beginning of the lease, give the tenant a copy of the new lease or a document in which he describes the new conditions.

Warning

40. A dwelling is unfit to live in when its condition is a serious danger to the health or safety of the occupants or the public. If this is the case, the tenant should find out what to do from his municipality or the Régie du logement.

41. Any clause in which the tenant acknowledges that the dwelling is in good condition is without effect.

42. Any clause intended to change the rent during a lease for a fixed term of 12 months or less is without effect.

43. Any clause limiting the liability of the landlord, freeing him from liability or holding the tenant responsible for damage he has not caused is without effect.

44. Any clause intended to change the rights of the tenant because his family increases in size is without effect, unless the space justifies its application.

45. Any clause forbidding the tenant to purchase furniture on the instalment plan is without effect.

46. Any clause restricting the right of the tenant to purchase goods or obtain services from the persons of his choice can be cancelled.

47. Any clause that is unreasonable in view of the circumstances can be cancelled or its scope reduced.

End of compulsory provisions.

1. Time Limits — Giving Notice of Change in the Lease

(Notices must be given in writing)

	Notice of change to the lease (rent, term, etc.)		
	Fixed-term Lease — 12 months or more	Fixed-term Lease — less than 12 months	Lease with no fixed term
Time limit for notice from landlord	Between three and six months before the lease expires	Between one and two months before the lease expires	Between one and two months before the date on which the requested changes are to take place
Time limit for reply from tenant	Within one month of receiving the landlord's notice. If the tenant does not reply, it is assumed that he has accepted the changes in the lease.		
Time limit for landlord's application to the Régie	Within one month of receiving the notice of refusal from the tenant		

2. Time Limits — Notice of Non-extension of the Lease

	Fixed-term lease — 12 months or more	Fixed-term lease — less than 12 months	Lease with no fixed term
Notice of non-extension from tenant	Between three and six months before the lease expires	Between one and two months before the lease expires	Between one and two months before the lease is to come to an end.

1. Notice to New Tenant

Upon the making of the lease, the landlord must give the following notice:

Rent for the previous year

The lowest rent paid for your dwelling during the 12 months before the beginning of your lease, or the rent fixed by the Régie du logement was $ _____

The following services have been

☐ added ☐ cancelled

_____

_____

_____

(for example: parking, heating, hot water, etc.)

_____

Signature of landlord Date

(Notice in accordance with Article 1851.2 of the Civil Code)

2. Notice to the Tenant

Exemption for new buildings and housing cooperatives

The Régie du logement is not empowered to fix, review or readjust your rent; neither can it render a decision upon a request for change in your lease or upon a non-extension notice for subletting purposes or following the death of the lessee. Indeed your dwelling is (check reason which applies)

☐ located in a new building which was ready for rental in _____
(month — year)

This exemption is valid for a five-year period only after this date.

☐ rented by a housing cooperative of which you are a member.

_____

Signature of landlord Date

(Notice in accordance with Article 1958.21 of the Civil Code)

3. Notice to Landlord

When a married person wishes the dwelling he or she lives in to be considered the principal family residence, the tenant or his spouse must give the landlord the notice below. In this way the tenant may not sublet the dwelling, terminate the lease or transfer it without the written consent of his spouse.

I declare that I have been married to _____

Full name of spouse

since _____
month day year

and that the dwelling covered by this lease will be our principal family residence.

_____

Signature of tenant or of his spouse Date

(Notice in accordance with Article 461 of the Civil Code)

Particulars

Special provisions apply in the following cases:

- rooms
- low rental housing
- admission of the tenant to a reception centre or home for aged
- student residences
- land rented to set up a mobile home
- lease tied in with a contract of work
- death of the tenant
- dangerous dwelling
- renovation and repairs
- repossession
- conversion or change of use of premises
- unreasonable rate increase for new tenant
- abandonment of the lessee
- discrimination

For further information, contact the office of the Régie du logement of your community.

Housing Legislation

An official version of the Act to establish the Régie du logement, together with the articles of the Civil Code that refer to the renting of a dwelling, is contained in a publication released recently by the Éditeur du Québec in cooperation with the Régie du logement.

The book is entitled "Housing Legislation". It contains an alphabetical index in order to make it easier to find the information needed.

The publication is sold at any office of the Éditeur officiel du Québec for $3.40. You may order it by mail by sending a cheque or money order to the following address:

Éditeur officiel
Diffusion des publications
1283, boulevard Charest ouest
Québec, QC
G1N 2C9

418/82.

4

APPENDIX 3

DELAY OF NOTICE TABLES

(Drafted by Régie du Logement but not included in Standard Dwelling Lease)

Delay of notice tables

(All notices must be written)

Notice of change to lease

(rent, term, etc.)

LEASE OF FIXED TERM — 12 MONTHS OR MORE	LEASE OF FIXED TERM — LESS THAN 12 MONTHS	LEASE OF INDETERMINATE TERM
Between 3 and 6 months before termination of lease	Between 1 and 2 months before termination of lease	Between 1 and 2 months from the date the notice comes into effect

DELAY OF NOTICE FROM LESSOR

Within the month from receiving the notice of the lessee
If the lessee does not reply, he is presumed to have accepted the content of the notice from the owner.

DELAY OF REPLY FROM LESSEE

Within the month of receiving the notice of refusal from the lessee

DELAY OF DISPUTE FROM THE LESSOR TO THE RÉGIE

Notice of repossession

LEASE OF FIXED TERM — MORE THAN SIX MONTHS	LEASE OF FIXED TERM — SIX MONTHS OR LESS	LEASE OF INDETERMINATE TERM
6 months before termination of lease	1 month before termination of lease	6 months before date of said repossession

Within the month from receiving the notice of the lessor
If the lessee does not reply, he is presumed to have refused to vacate the dwelling.

Within the month of the refusal or expiry of the delay of reply from the lessee

Notice of non-extension from the lessee

	LEASE OF FIXED TERM — 12 MONTHS OR MORE	LEASE OF FIXED TERM — LESS THAN 12 MONTHS	LEASE OF INDETERMINATE TERM
NOTICE OF NON-EXTENSION FROM THE LESSOR OF A ROOM	Between 3 and 6 months before termination of the lease	Between 1 and 2 months before termination of the lease	Between 1 and 2 months from the date the notice becomes effective
NOTICE OF NON-EXTENSION FROM THE LESSOR	Between 3 and 6 months before the termination of the lease	Between 10 and 20 days from termination of the lease	Between 1 and 2 months from the date the notice becomes effective
NOTICE OF NON-EXTENSION OF THE LEASE	Between 3 and 6 months before termination of lease	Between 1 and 2 months before termination of lease	Between 1 and 2 months from the date the notice becomes effective

**This notice can only be sent in the following two instances.*

1. When the lessee has subletted dwelling for more than 12 consecutive months and if the lessor advises the lessee and the sublessee

2. In case of death of the lessee if the heir or the legatee did not live with the former and if the lessor advises either party.

Appendix 4

FORM 6

STANDARD FORM OF LEASE (N.B.)

(The Residential Tenancies Act,
Acts of New Brunswick, 1975, c. R-10.2, s. 9)

GENERAL INFORMATION

The Landlord and the Tenant may consult with a rentalsman on questions concerning this Lease and their rights and obligations.

Each Landlord of residential premises is required to provide for both the Landlord and the Tenant to sign two copies, which are to be duplicate originals, of this Standard Form of Lease.

No part of the Standard Form of Lease is to be altered or deleted, but an addition may be included, where both Landlord and Tenant agree, in the blank space provided in article 11.

PARTIES 1 This Lease is made in duplicate between

_____, the Landlord
Name(s)

_____
Address(es) (Including Postal Code(s))

_____
Telephone(s)

–AND–

_____, the Tenant.
Name(s)

PREMISES 2 The Landlord agrees to lease to the Tenant and the Tenant agrees to lease from the Landlord the following premises:

_____

_____

INSTRUCTION: *Include apartment number, street number, postal code, etc., sufficient to adequately describe the premises.*

DURATION 3 The Landlord and the Tenant agree that the tenancy is to begin on _____ and

(a) is to end on _____.

–OR–

(b) is to run from year to year ☐, from month to month ☐, or from week to week ☐.

INSTRUCTION: *Complete either (a) or (b). Where a tenancy is for a definite period include the termination date in (a). Where the tenancy is to have no fixed termination date, check the appropriate box in (b).*

RENT

4(1) The Tenant agrees to pay, subject to any law of the Province, rent at the following rate or rates: _____

to _____ (Name and Address where payments are to be made).

4(2) The Landlord and the Tenant agree that the first payment of rent is due on the _____ day of _____

_____, 19____, and thereafter payments are to be made on the _____ of each _____ (state week, month, etc.).

NOTE: *Where the Tenant has not been given a duplicate original of this Lease, he may pay any rent owing to a rentalsman rather than to the Landlord. Also, under subsection 6(5) of The Residential Tenancies Act, a rentalsman may require the Tenant to pay the rent to him rather than to the Landlord.*

4(3) The Landlord and the Tenant agree that the rent mentioned above includes payment for the following services and facilities:

_____

_____, and that provision of the following services and facilities is the responsibility of the Tenant: _____

_____

NOTE: *Services and facilities such as heat, furniture, appliances, electricity, water, parking, snow removal, cable television, laundry facilities, etc., should be dealt with in this article.*

OPTIONAL PROVISION

NOTE: *Where the Landlord and Tenant have not provided in article 4(1) for future increases in rent and the tenancy is for a fixed term, articles 4(4) and 4(5) may be included in the Lease by checking this box:* ☐

4(4) Subject to any law of the province, the Landlord may increase the rent at any time during the term of the tenancy by giving to the tenant at least three months notice and where the tenant receives a notice under this article he may elect to treat the notice as a notice of termination of the tenancy to be effective on the day immediately preceding the day on which the increase in rent is to take effect.

4(5) Where the Tenant elects to treat the notice given under article 4(4) as a notice of termination he shall give notice to the Landlord, at least one month before the day immediately preceding the day on which the increase is to take effect.

OPTIONAL PROVISION

NOTE: *Where the Landlord and the Tenant have not provided in article 4(1) for future increases in rent and the tenancy is to run from year to year, month to month or week to week, articles 4(6) and 4(7) may be included in the Lease by checking this box:* ☐

4(6) Subject to any law of the Province, the Landlord may increase the rent, effective at the commencment of a tenancy period, by giving

(a) in the case of year-to-year tenancy at least three months notice, or

(b) in the case of a month-to-month or week-to-week tenancy at least two months notice,

and the Tenant may elect to treat the notice as a notice of termination of the tenancy to be effective on the day immediately preceding the day on which the increase in rent is to take effect.

4(7) Where the Tenant elects to treat the notice given under article 4(6) as a notice of termination he shall give notice to the Landlord

(a) in the case of a year-to-year or month-to-month tenancy, at least one month

(b) in the case of week-to-week tenancy at least one week

before the day immediately preceding the day on which the increase in rent is to take effect.

NOTE: *before completing articles 4(1) to 4(7), consideration should be given to any rent review legislation in force in the Province.*

SECURITY DEPOSIT

5 The Landlord and the Tenant agree that

☐ *(a)* a security deposit is not required.

–OR–

☐ *(b)* a security deposit is required in the amount of _____
(Check the appropriate box.)

INSTRUCTIONS: 1 *A security deposit is not to exceed the rent payable for the occupation of the premises for one month.*

2 *The security deposit is to be paid by the Tenant to a rentalsman.*

NOTES: 1 *Where a tenant has already paid a security deposit to a rentalsman in respect of other premises he may apply to the rentalsman to have the amount on deposit applied in respect of a security deposit required under this Lease.*

2 *All or a portion of the security deposit may be used by a rentalsman after the termination of the tenancy to discharge any obligation of the Tenant respecting the payment of rent or the cleanliness or repair of the premises that the Tenant has not met.*

3 *When the tenancy ends, the Tenant may apply to a rentalsman for a return of the security deposit.*

4 *Where neither article 5(a) nor 5(b) is checked, a security deposit is not required.*

LANDLORD'S OBLIGATIONS

6(1) The Landlord agrees that he

(a) shall deliver the premises to the Tenant in a good state of repair and fit for habitation;

(b) shall maintain the premises in a good state of repair and fit for habitation;

(c) shall comply with all health, safety, housing and building standards, and any other legal requirements respecting the premises; and

(d) shall keep all common areas in a clean and safe condition.

NOTE: *Failure of the Landlord to perform his obligations may entitle the Tenant to have the obligations performed by a rentalsman at the Landlord's expense.*

OPTIONAL PROVISION (May be used only where the premises are a single family dwelling house or are located within a two-family dwelling house)

6(2) Notwithstanding article 6(1), the Landlord and Tenant agree that the Landlord's responsibility under article 6(1)(a) ☐, 6(1)(b) ☐, 6(1)(c) ☐ and 6(1)(d) ☐ shall be performed by the Tenant, with the exception of repairs required as a result of

reasonable wear and tear or as a result of damage by fire, water, tempest or other act of God.

(Check appropriate box or boxes.)

TENANT'S OBLIGATIONS

7 The Tenant agrees that he

(a) shall be responsible for ordinary cleanliness of the premises;

(b) shall repair within a reasonable time after its occurrence any damage to the premises caused by the Tenant's own wilful or negligent conduct or by such conduct of persons who are permitted on the premises by the Tenant; and

(c) shall conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not cause a disturbance or nuisance.

NOTE: *Failure of the Tenant to perform his obligations may render the Tenant liable to compensate the Landlord and may result in the tenancy being terminated.*

8 The Landlord and the Tenant agree that

☐*(a)* the Tenant may assign all of his rights under this Lease.

–OR–

☐*(b)* the Tenant may assign the right to possession of the premises for a portion of the term of this Lease.

–OR–

☐*(c)* the Tenant may not assign any right or rights under this Lease.

–OR–

☐*(d)* the Tenant may assign any right or rights under this Lease only if the consent of the Landlord is obtained.

(Check the appropriate box.)

NOTES: 1 *Where the Tenant seeks to assign all of his rights under the Lease and the box opposite paragraph 8(d) has been checked (consent then being required), the Landlord may, unless subsection 13(6) of The Residential Tenancies Act applies, refuse to consent and may terminate this Lease on the date chosen by the Tenant for assignment. Such refusal will be communicated to the Tenant by Notice to Quit to be served by the Landlord on the Tenant within seven days after service of the Tenant's notice of request for consent to assign.*

2 *Where the Tenant requests consent to assign and does so by giving to the Landlord notice in the prescribed form, the Landlord shall be deemed to have given his consent if he does not reply within seven days after service of that notice.*

3 *If no box is checked in article 8, the Tenant may, subject to section 13 of The Residential Tenancies Act, assign all his rights under this Lease.*

4 *If the premises are developed and financed under the National Housing Act, reference should be had to section 13 of The Residential Tenancies Act.*

5 *Where the Tenant assigns all of his rights under this Lease, he is no longer liable for the obligations or entitled to the benefit of this Lease, and in such a case the new Tenant is liable for the obligations and entitled to the benefits under this Lease as if a party to the Lease.*

TERMINATION OF TENANCY

9(1) A fixed date for the end of the tenancy having been specified under article 3(a) of this Lease, the Landlord and the Tenant agree that the tenancy ends on that date unless renewed in accordance with article 9(3). ☐

–OR–

9(2) The Landlord and the Tenant agree that at least _____ notice of termination of this tenancy is to be served by the Landlord or the Tenant. ☐

(Check the box after either article 9(1) or 9(2).)

INSTRUCTION: *A notice of termination of a tenancy is to be served.*

(a) if the premises are let from year-to-year, at least three months before the expiration of any such year to be effective on the last day of that year: for example, if the premises are let from June 1 of each year on a year-to-year basis, the last day of the year would be May 31 and notice would have to be given not later than the last day of February;

(b) if the premises are let from month to month, at least one month before the expiration of any such month to be effective on the last day of that month: for example, if the premises are let from the 15th of each month on a month-to-month basis, the last day of a month would be the 14th day of the month and notice would have to be given not later than the 14th day of the previous month;

(c) if the premises are let from week to week, at least one week before the expiration of any such week to be effective on the last day of that week: for example, if the premises are let from Wednesday on a week-to-week basis, the last day of a week would be Tuesday and notice would have to be given not later than Tuesday of the previous week;

OPTIONAL PROVISION

9(3) The Landlord and the Tenant agree that the tenancy shall be renewed if the Tenant gives notice at least _____ (specify) month(s) before the expiration of the term to the Landlord that he wishes to renew the tenancy for a further term.

NOTE: *Article 9(3) can apply only where a fixed date for the end of the tenancy has been specified under article 3 of this Lease and where the period of notice is specified in the blank space.*

PERMITTED USES

10 The Landlord and the Tenant agree that the premises will be used only for residential purposes.

NOTE: *If the Landlord wishes to restrict the number of persons occupying the premises or the practice of taking in boarders, lodgers, or to further restrict the use of premises, this should be provided for as an addition to the Lease under article 11.*

ADDITIONS

OPTIONAL PROVISION

11 The Landlord and the Tenant agree to the following additions to this Lease:

NOTES: 1 *No addition may alter any right or duty as stated in The Residential Tenancies Act or in this Lease.*

2 *Additions must appear on both duplicate originals of this Lease.*

3 *If there is not enough space provided here duplicate originals of the separate sheet shall be attached. Both duplicate originals of the attached sheet must be signed by the Landlord and the Tenant to be valid.*

NOTICES

12 The Landlord and Tenant agree that notices shall be given in accordance with section 25 of *The Residential Tenancies Act*, which states as follows:

25(1) Subject to subsection (3), any notice, process or document to be served by or on a landlord or a tenant is sufficiently served if

(a) delivered personally; or

(b) sent by ordinary mail

(i) to the landlord at the address given in the lease or to the address posted under the provisions of subsection (4).

(ii) to the tenant to the address of the premises, or

(iii) to a rentalsman to the address of his office.

25(2) Where any notice, process or document is sent by mail,

it is deemed to have been served on the third day after the date of mailing.

25(3) Where a notice cannot be delivered personally to a tenant by reason of his absence from the premises or by reason of his evading service, the notice may be served on the tenant

(a) by serving it on any adult person who apparently resides with the tenant;

(b) by posting it in a conspicuous place upon some part of the premises or a door leading thereto; or

(c) by sending it by ordinary mail to the tenant at the address where he resides.

25(4) Where demised premises are located in a building containing more than two premises and the landlord does not reside in the building, the landlord shall post conspicuously and maintain so posted within the building the legal name of the landlord or his agent and an address for service and any notice is sufficiently served if delivered or mailed to the address so posted and any proceeding taken by or on behalf of a tenant may be commenced against the landlord in the name so posted.

BINDING EFFECT

13 This Lease is binding on and is for the benefit of the heirs, executors and administrators of the Landlord and the Tenant.

The Landlord and the Tenant sign this Lease this _____ day of _____, 19____.

_____

Signature of Landlord(s)

_____

Signature of Tenant(s)

APPENDIX B

Presentation by Public Hearing/Written Submission

FORMAL ORAL PRESENTATIONS:

- Don Routledge
  Executive Director
  NWT Council for Disabled Persons

- Arlene Hache
  Consumers Association of Canada

- Bob MacQuarrie
  M.L.A.
  Yellowknife Center

WRITTEN SUBMISSIONS:

Tenants:

- William Gruben
  Tuktoyaktuk, N.W.T.

- Vince Teddy
  Tuktoyaktuk, N.W.T.

- Helen Lawson
  Yellowknife, N.W.T.

- THREE SUBMISSIONS "Confidential"
  Yellowknife, N.W.T.

Landlords:

- Grant Hinchey
  Bowling Green Developments Ltd
  Yellowknife, N.W.T.

- Lorna Romanko
  Lundstrom Terrace
  Yellowknife, N.W.T.

Landlords (continuted):

- NWT Housing Corporation
  Yellowknife, N.W.T.

- A. Repchuk
  Cominco Ltd
  Yellowknife, N.W.T.

- Karl Mueller
  Hay River, N.W.T.

- Clayton Cederholm
  Yellowknife Housing Authority
  Yellowknife, N.W.T.

Other Submissions:

- Honourable Nick Sibbeston
  Minister
  Local Government

- Dave Talbot
  President
  Yellowknife Chamber of Commerce

- Kate Irving
  President
  Western Arctic N.D.P.

APPENDIX C

Review of Current Provincial Rent Control Programs

SOURCE:

"Rental Housing In Canada
Under Rent Control and
Decontrol Scenarios 1985-1991"

Clayton Research Associates Limited
November 1984

APPENDIX C

REVIEW OF CURRENT PROVINCIAL RENT CONTROL PROGRAMS

This appendix provides an overview of current provincial rent control legislation across Canada. The explicit objective of such legislation is to keep residential rents below the levels that would prevail in the absence of controls. Each province is discussed in alphabetical order.

ALBERTA

Alberta implemented rent controls in December, 1975 in conjunction with the federal government's anti-inflation program. The Temporary Rent Regulation Measures Act took effect on January 1, 1976. Newly constructed units not rented prior to 1976, commercial-residential properties and public housing were all exempted from the Act.

After mid-1977, units were exempt from controls (under the Rent Decontrol Act) once their rents exceeded defined limits. The limits for the removal of controls were monthly rents of $275 for one-bedroom units, $325 for two-bedroom units and $375 for units with three or more bedrooms. The Act also allowed automatic rent increases of 9 percent in 1977 and 10 percent in 1978 and 1979.

Rent decontrol was extended to the entire housing market, effective July 1, 1980.

BRITISH COLUMBIA

Rent controls on residential properties were removed in British Columbia in July, 1983. Prior to this, rents became decontrolled as they reached a defined limit.

Rent controls were introduced in B.C. in 1974 with the passing of The Residential Premises Interim Rent Stabilization Act. Rent increases in 1974 were limited to 8 percent. Units built in 1974 or later were exempt. In the fall of 1974, the province brought rent control under an amended Landlord and Tenant Act. Maximum rent increases of 10.6 percent were allowed in both 1975 and 1976. In 1977, the Residential Tenancy Act replaced the Landlord and Tenant Act. Maximum rent increases were set at 7 percent effective May 1, 1977.

Effective August 1, 1978 all rental units with rents more than $400 per month were decontrolled. Effective February 1, 1979

one-bedroom and two-bedroom units renting for more than $300 and $350 per month respectively, were decontrolled. Maximum rent increases for controlled units were 7 percent in 1978 and 1979. The maximum increase was subsequently raised to 10 percent. A tenant could still request a review of rents if they exceeded these decontrol limits and were not more than $700 per month.

The Minister of Finance announced the complete elimination of rent controls in his July, 1983 Budget.

MANITOBA

Manitoba implemented rent controls in July, 1975 to complement the federal government's anti-inflation program. Under the Rent Stabilization Act, newly-built units were exempted. Initially, the expiry date of the Act was to be August, 1977 but rent controls remained in effect until June, 1980. However, in August, 1982 rent controls were re-introduced under the Residential Rent Regulation Act.

This current legislation establishes an annual guideline for rent increases. The 1984 rent increase guideline is 6 percent and will be 4.5 percent for 1985. The Act allows tenants to object to rent increases that are below the established guideline. The Act also compels those landlords who are exempt from the Act to notify the Rent Regulation Board of their rent increases.

Several exemptions are allowed under the Act. Rental units are exempt from controls if they are situated in buildings that are less than five years old. Renovated suites, upon approval, can also be exempt for a period of up to five years. Also, any unit where the rent is greater than $756 per month is exempt (under the previous scheme, units renting for over $1,000 per month were exempt). As of December 31, 1984, only those units renting for greater than $801 per month will be exempt.

Under the current Act, rent increases greater than the prescribed guideline may be allowed if they are substantiated by increases in operating costs (i.e., property taxes, utilities, insurance, repairs and maintenance) or mortgage costs. Only a portion of the costs resulting from major repairs (or the purchase of major appliances) are allowed to be claimed in the current year. For minor repairs, the amount that can be passed through is allowed to be amortized over a period of 3 to 6 years (usually left up to the discretion of the Rent Regulation Bureau).

A Rent Regulation Officer will also consider the financial position of a rental property. Where the property is not in a cash deficit position, an economic adjustment factor of 3 percent is generally considered (this is included in the prescribed guideline; for example, the 6 percent guideline considers 3 percent for

operating costs and 3 percent for the economic adjustment factor). Where the property is in a cash deficit position, the Rent Regulation Officer considers the greater of one-third of the deficit amount or 3 percent of rental income as the amount to be passed through.

In spite of the continuation of rent review legislation, condominium controls have not as yet been included under the Act. As a result, there has been a significant increase in the number of apartments that have been converted into condominiums. Most of these newly converted condominiums contain a large number of rental units, indicating that investors are maintaining a flexible position.

NEW BRUNSWICK

New Brunswick enacted rent review legislation in October, 1975. All buildings constructed after October, 1975 were exempt. Rent controls were phased out beginning in late 1977, and were terminated completely on June 30, 1979. Nevertheless, rent controls were re-introduced on August 31, 1982, under the Residential Rent Review Act. This current legislation is to expire on August 31, 1985.

Several exemptions are allowed under the Act. For example, new units that were occupied for the first time after August 31, 1982 are exempt. In addition, any unit that has undergone major renovations after August 31, 1982 (the cost of which is not less than 25 percent of the assessed value of the property) and all rooming and boarding houses are exempt.

The Act establishes annual guidelines for rent increases. The 1984 rent increase guideline is 6 percent (it was 5 percent in 1983). The Act allows tenants to object only to those rent increases which exceed the prescribed guidelines and the onus is on the landlord to justify such rent increases. Expenses incurred as a result of a major renovation or improvement can be passed through over the expected lifetime of the renovation, applying an appropriate short-term rate of interest (currently the prime lending rate plus 2 percent).

All increases in financing costs resulting from higher interest rates can be passed through in one year, if these increased costs create a deficit position for the landlord. If the higher financing costs are a result of a new purchase (which requires a new mortgage), the increased interest expense multiplied by 90 percent of the purchase price is allowed to be passed through during the term of the mortgage. The remaining 10 percent is considered to be owners' equity.

NEWFOUNDLAND

Rent review has existed in Newfoundland since 1942. The format has, to a large extent, remained unchanged over this period. Although in 1973, the Residential Tenancy Act became part of Newfoundland's Landlord and Tenant Act (prior to 1973, the province did not have a Landlord and Tenant Act), rent review regulations have remained largely unchanged. Landlords and tenants have always been encouraged to negotiate in order to reach an acceptable agreement on rent increases. No rent ceiling has been established, but if a tenant disputes a proposed rent increase, the issue will be heard in front of one of the five Residential Tenancy Boards in the province. No rental units (except public housing units) are exempt from the rent review process.

Prior to 1975, the Boards used a historic formula in determining appropriate rent increases (i.e., the acquisition cost of the building and both current and past expenses were used as criteria). After 1975 (and subsequently legislated in 1981), the "Goodridge" formula was applied by the Boards. Based on this formula, the Residential Tenancy Boards are concerned with establishing rent increases in accord with four general economic and social factors: a fair return on investment, current fair market value, all "reasonable" operating expenses and the quality of life and shelter. Landlords are also allowed to pass through all increases in financing costs due to increases in mortgage interest rates. Expenses incurred as a result of a major repair or capital improvement can be passed through over the expected lifetime of the renovation applying a designated rate of interest (currently the conventional mortgage rate).

Since 1973, if one of the parties is dissatisfied with the decision of one of the Boards, that party can seek recourse by appealing to the district court.

NOVA SCOTIA

In Nova Scotia, rent review was established in December, 1975 with the guideline increase being 8 percent from October, 1975 to December 31, 1976. In 1977, the guideline was 6 percent if there had been an increase in the previous year and 8 percent if there had not. In subsequent years, the guideline has been as follows: 1978, 6 percent; 1979 to 1982 inclusive, 4 percent; 1983 and 1984, 6 percent; and was recently announced at 5 percent for 1985.

Until 1982, exemptions in the private market included any building with a building permit issued or where construction commenced after October 1, 1975. This regulation was changed in October, 1982, when exemptions were only extended to new units. Once a

unit is inhabited for the first time, that unit is exempt for the remainder of that calendar year and for the subsequent three calendar years.

Landlords are entitled to increase rents by the guideline percentage each year. Tenants only have the right to ask for a review of increases below the guideline percentage if it can be shown that the landlord has discontinued providing a previous service.

For increases above the guideline percentage, landlords must satisfy the Residential Tenancy Officer that operating costs justify the proposed increase. The Officer allows for the following increases for 1984: an increase in management fees equal to 5 percent of net income, wages (a 6 percent annual increase), repairs and maintenance (8 percent), electricity (6 percent), fuel (5 percent), insurance (10 percent), water and taxes (6 percent) and miscellaneous (8 percent). The regulations also allow, under certain circumstances, losses incurred from the previous year to be passed through (this loss must be "justified"). Interest expenses from mortgage renewal can be passed through in the first year. In the case of a new purchase, the increased interest expense which is approved on a maximum of 85 percent of the purchase price can be passed through over a period of 3 to 5 years. The remaining 15 percent or more is included in owner equity.

Expenses incurred as a result of a major renovation or improvement may be passed through over the expected lifetime of the renovation, applying the current interest rate and reasonable financing periods.

ONTARIO

Ontario introduced rent controls in December, 1975 when the Residential Premises Rent Review Act came into force. This Act was replaced in November, 1979 by the Residential Tenancies Act. Under the current Act, rental buildings occupied since 1975 are exempt.

Landlords can automatically raise rents 6 percent each year. Larger increases have to be authorized by the Residential Tenancy Commission upon application by the landlord. Tenants have the right to ask for a review of rent increases even if they are below 6 percent.

For increases above 6 percent, landlords have to satisfy the Commission that the costs of operation justify the proposed increase. In reviewing a landlord's application, the Commission considers rental revenue as well as the costs of operation which may include financing, utilities, property taxes, maintenance and repairs and capital expenditures. The Commission may also consider any financial loss incurred by the landlord, changes in the standard of

maintenance or repair and, where the landlord is in a financial hardship, an increase in rental revenue up to two percent above the overall costs of operation. For purposes of applying the hardship provision, the Commission defines expenses to include mortgage and interest payments but not depreciation. This hardship provision is temporarily not available to landlords where the loss arises from financing costs incurred to acquire rental buildings.

When a landlord applies for approval of a rent increase in excess of 6 percent for any unit, he is required to apply at the same time for a review of all rents in the building.

The province set up a rent review inquiry in late 1982 under the stewardship of Mr. Stuart Thom. The commission's mandate is limited to dealing with ways to make the rent review system more efficient. The question of whether rent review should be eliminated is not, at the present time, an issue.

In late 1982, the province introduced The Residential Complexes Financing Costs Restraint Act (Bill 198), a law which is in force until the end of this year relating to financing costs on buildings which are sold. Under this Bill, when a building is sold, the rent can be increased by no more than 5 percent to meet higher financing costs, in addition to the normal pass-through of annual operating costs.

Prior to the introduction of Bill 198, in cases where the applicant (new landlord) was claiming a substantial rent increase due to financing costs incurred on acquisition, the Commission had the power to grant the full rent increase that would be needed in order to bring the present rents up to the point where they equaled the monthly costs of operation (operating costs, capital expenditures plus the higher financing costs). However, this would often result in a very substantial rent increase. Consequently, the Commission often exercised its discretionary power and decided to phase the rent increase that would be necessary to achieve the break-even point. The phasing period selected was often three years.

Before Bill 198 became law, the Commission had adopted a practice, again discretionary, of phasing the financial loss recovery period over as many as five years, thus further reducing the impact on tenants.

The relationship of the discretionary phasing period and the 5 percent limit imposed by Bill 198 is thus:

- The Commission calculates the financial loss and the amount of rent increase required to reach a breakeven point (where the monthly rent flow matches monthly expenses).

- The Commission then decides how many years, if any, this rent increase should be spread over (up to 5 years).
- The amount to be allowed once the phasing period is selected is then compared to what is allowed when a 5 percent increase is added to the rent.
- The lesser amount arising from this comparison becomes the amount allowed by the Commission in addition to the normal pass-through of annual operating cost increases (heat, hydro, maintenance, etc.).

This Restraint Act has been extended once for a one-year period. The loss due to the refinancing of existing mortgages, not as a result of a new purchase, can still be passed through in one year.

PRINCE EDWARD ISLAND

Prince Edward Island implemented rent controls in July, 1975 in order to assist the federal government in its anti-inflation program. Initially, the expiry date was to be in January, 1978. Rent decontrol in the province, however, has never transpired.

The province's Rent Review Act establishes an annual guideline for rent increases. The current guideline sets rent increases at 3 percent annually. Tenants have the right to request a review of rents even for those increases that are less than 3 percent. If there was no rent increase in 1983, the allowable increase in 1984 becomes 5 percent. The 1985 rent guideline is the same as for 1984.

The Act covers both old and new units, although initial rents on new private rental units and all social housing units are exempt. For annual rent increases above the prescribed 3 percent level, landlords must satisfy the Rentalsman that the costs of operation and increased capital expenditures justify the proposed increase. The percentage of the capital costs that can be passed through is left up to the discretion of the Rentalsman. If a landlord seeks a rent increase above 3 percent due to the costs incurred from a recent purchase, mortgage refinancing costs or an inadequate rate of return, supplementary information must be submitted to the Rentalsman. All financing costs that result in a financial loss can generally be passed forward within one year. A separate policy does not exist which considers a financial loss due to the purchase of an existing building.

QUEBEC

Residential rents in Quebec have been controlled by the provincial government since the Federal Wartime Measures (which had controlled rents in Canada) were withdrawn in 1951.* While the system evolved over the years, two attributes stand out. Firstly, newly-constructed units have been exempted from controls for a limited number of years. Secondly, there generally has been a recognition of the need to consider the capital value of rental property and the impact on value of changing market mortgage interest rates.

Rent regulation in Quebec is under the jurisdiction of the Régie du Logement. The Régie encourages landlords and tenants to negotiate to reach an acceptable agreement on rent increases (as such, no annual rent increase guidelines are established). The Régie suggests various criteria for consideration in the negotiation process. These include social and personal criteria such as changes in the neighbourhood; economic criteria dealing with increases in all the landlord's expenses (included in this is compensation due to fluctuations in mortgage interest rates); and the type and quality of services provided. For annual leases, the landlord is required to notify the tenant of a proposed rent increase three to six months before the termination date. The tenant has to respond within one month's time. If the tenant does not respond he/she is deemed to have accepted the proposed rent increase.

If an agreement is not reached through the negotiation process, the Régie will decide on the appropriate rent increase. The decision of the Régie is based solely on economic considerations. If one of the parties is dissatisfied with the decision of the Régie, that party can apply for a revision of the decision to the Régie. Such applications must be made within one month of the Régie's decision.

Each year, the province publishes regulations which govern allowable increases in specific expense categories. Actual increases in property taxes and insurance expenses are allowed. For leases renewable in the 12 months prior to April 1, 1985, the following increases are allowed: fuel - 6 percent; maintenance costs - 7 percent; and management costs (which are estimated at 5 percent of the revenue of the building) - 8 percent. The Regulations also allow for 13 percent of the total cost of improvements and major repairs to be passed through. Net revenue is calculated by subtracting from the revenue of the building the cost of taxes, insurance, maintenance, energy costs and management costs and is increased at a rate of 4 percent per year.

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* For a detailed discussion of rent controls in Quebec between 1951 and the mid-1970's, see Jeffrey Patterson and Ken Watson, Rent Stabilization: A Review of Current Polices in Canada, Canadian Council on Social Development, 1976.

SASKATCHEWAN

Saskatchewan implemented rent controls in October, 1975. Initially, rent control legislation was in the form of an amendment to the Province's Residential Tenants Act. In Regina and Saskatoon, landlords were compelled to apply to the Rent Review Commission for any increase in rent (there were no established annual guidelines). The review was based on increased operating costs, return on investment and comparable projects.

All units built after December, 1975, all boarding houses with less than four rented rooms, all urban centres outside of Regina and Saskatoon and all two-unit premises where the landlord occupies one of the units were exempt from rent review.

The coverage of rent control was expanded with the introduction of the Rent Stabilization Program in early 1984. The program extended controls to all communities with a population of more than 2,000. Newly-constructed rental units are also exempt for four years.

The new program also grants exemptions to any single-family dwelling that is the only accommodation rented out by an owner, and any landlord-occupied dwelling consisting of only one rental unit.

The new program establishes an annual guideline for rent increases. The current annual ceiling is 5 percent and renters can request a review by the Provincial Mediation Board for proposed rent increases that are less than 5 percent. Rent increases of more than 5 percent are allowed only under certain circumstances (i.e., where the landlord makes substantial capital improvements). The maximum amount that is allowed to be passed through is 11.25 percent of the total cost of the repair.

If no review is requested by the tenant, the proposed increase will automatically take effect, even if it exceeds 5 percent. In addition, all financial losses resulting from increased mortgage interest rates can be passed through.

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ᓄᓇᑦᓯᐊᕐᒥ ᐊᑐᕐᑐᐊᕐᑎᑦᓯᕙᒃᑐᓄᑦ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᓄᓪᓗ ᒪᓕᒐᖅ ᖃᐅᔨᓴᕐᑕᐅᓂᖓ - ᓇᖕᒥᓂᖃᕐᑐᑦ
ᐊᑐᕐᑐᐊᕐᑎᑦᓯᕙᖕᓂᖏᓐᓄᑦ

ᐱᒋᐊᕐᓂᖓ ᓇᐃᒡᓕᒋᐊᕐᑕᐅᓯᒪᓂᖓᓗ
ᐃᓚᖓ 1

ᐃᒡᓗᑦᓯᐊᕐᒥᓂᒃ ᓇᖕᒥᓂᖅ ᐊᑐᕐᑐᐊᕐᑎᑦᓯᕙᒃᑕᕐᓂᕐᒧᑦ ᒪᓕᒐᖅ ᑎᑎᕋᕐᑕᐅᓯᒪᔪᖅ ᐊᑐᕐᑐᐊᕐᑎᑦᓯᓂᕐᒧᑦ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᓄᓪᓗ ᒪᓕᒐᕐᒥ ᐊᑐᓕᕆᐊᕐᑎᑕᐅᓚᐅᕐᐳᖅ 1972-ᒥ ᑕᐃᓯᒪᓂ ᒪᓕᒐᓕᐊᕐᒍᑎᓪᓗᒍ ᓈᒻᒪᒋᔭᐅᓚᐅᕐᕋᓗᐊᕐᑎᓪᓗᒍ ᓇᓗᓇᕿᓐᓃᓚᐅᕐᐳᖅ ᒪᓕᒐᕐᑎᒍᑦ ᐋᖅᑭᐊᕐᑕᐅᒋᐊᖃᕐᓂᖏᓐᓂᒃ ᐊᕐᕈᓚᐅᕐᑐᓂ ᑭᖑᓂᕆᓕᕐᑕᕕᖕᓂ. ᑲᓇᑕᒥ ᒪᓕᒐᓕᐅᕐᑕᐅᕙᒃᑐᑦ ᐊᖑᒻᒪᑎᑐᒪᔪᑦ ᖃᐅᔨᓴᕐᑕᐅᕐᑯᔭᐅᓕᓚᐅᕐᐳᖅ ᒫᓐᓇᐅᔪᖅ ᒪᓕᒐᓇᔭᐅᔪᖅ ᐋᖅᑭᐊᕐᑕᐅᕐᑯᔭᐅᓕᓚᐅᕐᐳᖅ.

ᖃᐅᔨᓴᕐᑕᐅᑎᓪᓗᒋᑦ ᐃᒪᓐᓇᐃᓐᓂᐊᕐᓯᒋᔭᐅᔪᑦ:

(1) ᒫᓐᓇᐅᔪᖅ ᒪᓕᒐᓇᔭᐅᔪᖅ ᖃᐅᔨᓴᕐᑕᐅᓗᓂ ᐊᒻᒪᓗ ᐊᓯᖏᑦ ᖃᐅᔨᓴᕐᑕᐅᒋᐊᖃᕐᓯᒋᔭᐅᔪᑦ ᑕᒪᑐᒥᖓ ᐱᔪᑎᖃᑐᐃᓐᓇᓇᐊᖃᕐᑐᑦ

(2) ᖃᐅᔨᓴᕐᑕᐅᓗᓂ ᐱᔪᑕᐅᔪᖅ ᐊᑐᕐᑐᐊᕐᑎᕐᑎᕙᒃᑐᓄᑦ ᐊᒻᒪ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᓄᑦ ᒪᓕᒐ ᑲᓇᑕᐅᑉ ᐊᒻᒪ ᔫᑳᓐ ᒐᕙᒪᒃᑯᖏᓐᓃᑦᑐᑦ ᖃᐅᔨᔪᑕᐅᓂᐊᕐᒪᑕ ᒫᓇ ᐱᓕᕆᐊᖑᔪᓂᒃ ᐊᓯᖏᓐᓂ ᓄᓇᓂ ᐊᒻᒪᓗ ᖃᐅᔨᓂᐊᕐᑕ ᐊᑐᕐᑐᐊᕐᑎᕐᑎᕙᒃᑐᓄᑦ ᐊᒻᒪ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᓄᑦ ᒪᓕᒐᕐᓃᑦᑐᑦ ᓇᓪᓕᐊᑦ ᐱᔪᑎᖃᖕᖏᒻᒪᖔᑕ ᑖᒃᑯᓂᖓ ᒫᓇ ᐱᓕᕆᐊᖑᔪᓂ;

(3) ᖃᐅᔨᓴᕐᑕᐅᓗᑎ ᒫᓇᐸᓗᒃ ᖃᐅᔨᓴᕐᑕᐅᓂᐅᔪᑦ ᑲᓇᑕᐅᑉ ᐊᐱᒃᑐᕐᓯᒪᓂᓕᒫᖏᑦᑕ ᒪᓕᒐᕐᓄ ᐋᖅᑭᐊᕐᑕᐅᔪᓄᑦ ᑲᑎᒪᔨᖏᓐᓂ ᐱᔪᑎᖃᕐᑐᑦ ᐊᑐᕐᑐᐊᕐᑎᕐᑎᕙᒃᑐᓄᑦ ᐊᒻᒪ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᑦ ᒪᓕᒐᖏᓐᓂ;

(4) ᖃᐅᔨᓗᑎᑦ ᒫᓇᐅᔪᖅ ᒪᓕᒐᕐᓃᑦᑐᑦ ᐅᖃᐅᓯᖃᖏᑦᑐᑦ ᐱᔭᐅᔭᓇᐊᓕᕐᓂ ᓯᓕᔪᓂᒃᓗ ᓄᓇᑦᓯᐊᕐᒥ;

(5) ᖃᐅᔨᓴᕐᓗᑎᑦ ᐊᑲᐅᓇᔭᕆᖕᖏᑦ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᓄᑦ ᐱᔪᑎᖃᕐᑐᓂ ᑲᑎᒪᔨᑕᖃᕐᐸᑦ, ᐊᒻᒪ ᐊᑐᓕᕐᑯᔨᓗᑕ ᑖᒃᑯᐊ ᑲᑎᒪᔨᐅᓇᔭᕐᑐᑦ ᐱᓕᕆᐊᕆᔭᕆᐊᖃᕐᑕᖏᓐᓂ ᐊᔪᓐᖏᓐᓂᖃᕐᓂᖏᓐᓂᒃᓗ;

(6) ᖃᐅᔨᓴᕐᓗᑎᑦ ᐊᔪᖏᓐᓂᕆᔭᐅᔪᑦ ᒪᓕᒐᕐᑎᒍᑦ ᑕᒪᑐᒥᖓ ᐱᔪᑎᖃᕐᑐᑦ, ᐊᒻᒪᓗ ᐅᖃᐅᓯᕐᓯᕐᓗᑎᑦ ᑐᓐᖓᕕᓕᕆᓂᕐᒧᑦ ᐱᔪᑕᐅᔪᓂᒃ ᐃᓚᖓᓂ 96-ᒦᑦᑐᓂᒃ ᑕᕝᕙᓂ ᑐᓐᖓᕕᓕᕆᓂᕐᒧᑦ ᒪᓕᒐᖅ, 1867;

(7) ᖃᐅᔨᓴᕐᓗᒋᑦ ᐅᖃᐅᓯᕆᓗᒋᓪᓗ ᐃᓕᖅᑯᓯᖏᑦ ᐊᑐᕐᑐᐊᕐᑎᑦᑎᖃᑦᑕᕐᓂᕐᒧᑦ ᓄᓇᕗᐊᕐᒥ; ᐊᒻᒪᓗ

(8) ᕿᒥᕐᕈᔭᐅᔪᑦ ᐅᖃᐅᓯᐅᔪᒧᑦ ᐱᐊᓂᒃᓗᒋᑦ, ᐅᖃᐅᓯᐅᓗᑎᒃ ᐊᑐᓕᕐᑯᔭᐅᔪᑦ ᒪᓕᒃᑦ ᐊᓯᑦᑕᐅᓂᖏᓐᓄᑦ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᓄᑦ ᐊᑐᕐᑐᐊᕐᑎᑦᑎᕙᒃᑐᓄᓪᓗ ᒪᓕᒐᕐᓂ.

ᑖᒃᑯᐊ ᐱᔾᔪᑕᐅᔪᑦ ᐱᔾᔪᑎᒋᓪᓗᒋᑦ, ᑳᓐᑐᓖᑦᑎᐅᔪᖅ ᐅᓪᓗᖃᕐᑎᑕᐅᓪᓗᓂ 50-ᓂᒃ ᐱᐊᓂᒃᓯᓂᕐᒧᑦ ᐱᓕᕆᐊᕆᔭᕆᐊᖃᕐᑕᕐᒥᓂ, ᐋᖅᑭᒃᓯᐃᓚᐅᕐᓱᖅ ᐆᒥᖓ ᐅᓂᒃᑳᓕᐊᕐᒥᒃ. ᐊᑐᓕᕐᑯᔭᐅᔪᑦ ᑕᕝᕙᓃᕐᑐᑦ ᑭᖑᕐᑐᐃᓱᑦ ᖃᐅᔨᓴᕐᑕᐅᔪᕕᓂᕐᓂᒃ ᐊᔾᔨᖏᓐᓂᕐᑐᓂᒃ ᐱᓕᕆᕝᕕᖕᓂᒃ.

ᑰᑐᐃᓐᓇᐃᑦ ᑐᓴᐅᒪᑎᑕᐅᔭᕆᐊᖏᓐᓂᑦᑕ ᐃᑲᔪᕐᓂᖅᓂᐊᕐᓯᕆᔭᐅᓚᐅᕐᒪᑦ ᐋᑎᖅᒪᕆᖕᒪᖕᖒᓪᓗ ᐅᓂᒃᑳᓕᐊᖑᔪᒧᑦ ᐃᓯᒪᕆᔭᐅᓪᓗᓂ. ᑕᐃᒪ ᐅᓪᓗᓂᒃ 8-ᓂᒃ ᑲᑎᒪᔾᔪᑕᐅᖃᑦᑕᓚᐅᕐᓱᖅ ᓄᓇᓯᑦᐊᕐᒥ ᑖᓕᒪᐅᔪᓄᑦ ᓄᓇᓕᖕᓄᑦ. ᑐᓴᒃᓴᐃᑦ ᑰᑐᐃᓐᓇᕐᓂᑦ ᐃᓚᖃᓚᐅᕐᓱᑦ ᐊᑐᕐᑐᐊᕐᑎᑦᑎᕙᒃᑐᓂᑦ, ᐊᑐᕐᑐᐊᕐᐸᒃᑐᓂᑦ, ᐊᓯᖏᓐᓂᓪᓗ ᑕᒪᑐᒥᖓ ᐊᑲᐅᖕᓴᕐᑐᓂᒃ ᑳᓐᑐᓖᑦᑎᐅᔪᖅ ᑐᓂᔭᐅᓚᐅᕐᓱᖅ. ᑐᓴᒃᓴᓕᐊᖑᓯᒪᔪᑦ ᐃᑲᔫᑎᖃᕐᒪᕆᓚᐅᕐᓱᑦ ᖃᐅᔨᔭᐅᓕᕈᑕᐅᓪᓗᑎᓗ ᖃᓄᕐᒪᕆᒃ ᐊᐅᓚᓂᖃᖃᑦᑕᕆᐊᖕᖏᑦᑕ ᐊᑐᕐᑐᐊᕐᑎᑦᑎᔨᐅᕙᒃᑐᑦ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᓪᓗ, ᐃᑲᔫᑕᐅᒪᕆᓚᐅᕐᓗᓂᓗ ᐋᖅᑭᒃᓯᐊᕙᓪᓚᐊᑎᓪᓗᒋᑦ ᐊᑐᓕᕐᑯᔭᐅᔪᖏᓐᓂᒃ.

ᑲᓇᑕᒥ ᑕᒪᐃᓐᓂᒃ ᒪᓕᒐᕐᑎᒍᑦ ᐊᔾᔭᓐᖏᓐᓂᖃᕐᑐᑦ ᐃᑲᔾᔪᓂᖃᓚᐅᕐᓱᑦ ᑳᓐᑐᓖᑦᑎᐅᔪᒧᑦ ᐊᑐᐃᓐᓇᐅᑎᑦᑎᓪᓗᒋᑦ ᑐᓴᒃᓴᕐᓂᒃ ᒪᓕᒐᓕᕆᓂᕐᒧᑦ ᐃᓕᖅᑯᓯᕆᐸᑦᑕᖏᓐᓂᒃ. ᑖᓐᓇ ᐅᓂᒃᑳᓕᐊᖅ ᑕᒪᐃᓐᓂᒃ ᓴᓇᖏᓐᓂᖃᕐᔫᐱᐅᔪᓂᒃ ᒪᓕᒐᕐᓂᒃ ᑐᕌᕐᐱᖃᓐᖏᒃᑲᓗᐊᕐᑎᓪᓗᒍ, ᑖᓐᓇ ᑐᓴᒃᓴᖅ ᖃᓄᖅ ᐊᔾᔨᖏᓐᖏᑦᒪᖕᒋᑦᑎᒃ ᓇᓗᓇᐃᕈᑕᐅᔾᔪᓐᓇᓚᐅᕐᒪᑦ ᑖᓐᓇ ᐊᑐᕐᑐᐊᕐᑎᑦᑎᕙᒃᑐᓄᑦ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᓄᓪᓗ ᒪᓕᒐᖅ.

ᑖᓐᓇ ᑳᓐᑐᓖᑦᑎᐅᔪᖅ ᐊᑲᐅᔾᔪᒪᕆᖕᓂᒃ ᐃᑲᔪᕐᑕᐅᓂᖃᓚᐅᕐᒪᑦ ᑕᒪᐃᓐᓂᑦ ᓄᓇᓕᖕᓂ ᓄᓇᓯᑦᐊᕐᒥᓗ ᐅᕙᒪᒃᑯᖏᓐᓂᑦ. ᐱᓗᐊᕐᑐᒥᒃ ᑐᓴᕐᑕᐅᑯᓗᐊᕐᑕᕗᑦ ᑐᓴᒃᓴᕐᑖᕐᐱᕆᖃᑦᑕᓚᐅᕐᑕᕗᑦ, ᐃᒪᓐᓇᕐᔪᓚᐅᕐᓗᓂᓗ ᐊᒻᒪ ᐅᖃᖃᑎᖃᕐᐸᒃᑐᓂ ᒥᓯᒃ ᓃᕐᓕ ᓯᑮᕙᓴᓐᓇ, ᐊᖑᔪᖅᑳᕆᔭᐅᔪᖅ ᓂᐅᐱᐊᖕᓴᖃᕐᑐᓕᕆᔾᔪᑦ ᐃᖅᑲᓇᐃᔭᕐᑎᖏᓐᓄᑦ.

ᑳᓐᑐᓖᑦᑎᐅᔪᖅ ᐃᓯᒪᔪᖅ, ᑖᒃᑯᐊ ᐊᑐᓕᕐᑯᔭᐅᔪᑦ ᑕᕝᕙᓂ ᐅᓂᒃᑳᓕᐊᖑᓯᒪᔪᒥ ᐊᑐᕐᑕᐅᔭᕆᐊᖃᓗᐊᕐᑐᓂᒃ ᓄᓇᓯᑦᐊᕐᒥᐅᓂᒃ. ᑖᓯᒪ ᑳᓐᑐᓖᑦᑎᐅᑉ ᑐᑦᓯᕋᕐᕕᓂᐊᓚᐅᕐᓯᒪᔭᕗᖕᒪ ᐊᑐᐃᓐᓇᐅᑎᑦᑎᓂᖅ ᐊᑐᓕᕐᑯᔭᕆᐊᖏᓐᓂᒃ ᐋᖅᑭᑦᐊᕈᑕᐅᓂᐊᕐᑐᓄᑦ ᒪᓕᒐᕐᓄᑦ ᑕᒪᐃᓐᓂᒃ ᑭᖑᕐᑐᕐᑕᐅᑎᑦᐊᕐᑯᓪᓗᒋᑦ ᐊᑐᕐᑐᐊᕐᑎᑦᑎᔨᐅᕙᒃᑐᖅ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᕐᓗ. ᐃᓯᒪᓪᓚᐅᕐᒥᖕᒪᑦ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᑦ ᐊᑐᕐᑐᐊᕐᑎᑦᑎᕙᒃᑐᓪᓗ ᐋᖅᑭᒃᑕᐅᔪᓐᓇᖕᖏᓐᓂᒃ ᒪᓕᒐᖕᒥᒃ ᐃᑲᔪᖅᑎᒌᑦᑎᐊᕐᓂᐊᕐᑕᐅᕐᑯᓪᓗᒋᑦ ᑕᒪᐃᓐᓂᓗ ᐊᔾᔨᖏᓐᓂᒃ ᓴᓇᖏᓐᓂᖃᕐᑯᓪᓗᒋᑦ ᐊᐅᓚᓂᖃᕐᑯᓪᓗᒋᑦ.

ᓇᐃᓈᕐᓗᒍ ᐅᖃᐅᓯᕆᔭᒪᑉᓗᒍ ᐊᑐᓕᖅᑯᔭᐅᓯᒪᔫᑦ ᑕᕝᕙᓂ ᐅᓂᒃᑳᓕᐊᖑᔪᒥ ᖃᐅᔨᒪᓂᐊᕐᐸᓯ ᐊᖑᔪᒪᑕᐅᓇᓱᒃᓗᑎᒃ ᑲᓇᑕᒥ ᒪᓕᒐᓕᐊᖑᕙᒃᑐᓂᒃ ᓄᓇᓯᐊᕐᒥᐅᑦ ᒪᓕᒐᓂᔾᔪᑎᑦ. ᑳᓐᑐᔅᓯᓂᐊᕐᑐᖅ ᐲᖅᑎᓯᓇᓱᓚᐅᕐᐳᖅ ᓄᑕᐅᖏᑦᑐᓂᒃ ᒪᓕᒐᕐᓂᒃ ᒫᓇᐅᔦᖅ ᒪᓕᒐᓂᔭᐅᔪᓄᑦ. ᐊᑐᕐᑐᐊᕐᑕᐅᔪᓄᑦ ᑲᒪᔨᕆᔭᐅᔦᖅ ᑰᒃᑐᑕᐅᕐᑯᔭᐅᓗᓂ ᐊᑐᓕᖅᑯᔭᐅᓚᐅᑎᕈᖅ ᐊᑐᕐᑐᐊᕐᐸᒃᑐᓪᓗ ᐊᑐᕐᑐᐊᕐᑎᓯᔨᐅᕙᒃᑐᓪᓗ ᓈᓚᒋᖕᖏᖃᑦᑕᑦᑕᖏᑦ ᐋᖅᑭᐅᒪᓂᖅᐅᖅᑯᔭᐅᓱᑎᒃ, ᐅᖃᕐᓯᒪᔦᑦᑕᖃᑎᐊᖃᕐᐳᕐᓗ ᐊᔦᖏᓐᓂᑎᔭᐅᖏᑦ ᐊᑐᕐᑐᐊᕐᐸᒃᑰᒃ ᐊᑐᕐᑐᐊᕐᑎᓯᔨᐅᕙᒃᑰᒃᓗ ᐃᓱᒪᕐᓰᑕᐅᔦᓐᓇᕐᓂᐊᕐᒪᑕ ᐃᖅᑲᕐᑐᐃᐱᖏ ᑕᐃᒪᓐᓇ ᐃᓱᒪᕐᓯᑕᐅᓂᖃᓚᐅᖅᑕᖏᑦ ᓱᕐᑯᓯᖏᑦᓗᑎᒃ, ᐊᒻᒪᓗ ᑖᓐᓇ ᐊᑐᕐᑐᐊᕐᑎᓯᕙᒃᑐᖅ ᐃᖅᑲᓇᐃᔭᖅᑯᓂᐊᕐᓗᓂ ᑭᓯᐊᓂ ᐃᖅᑲᓇᐃᔭᕐᓂᐊᖅᑕᐅᔦᓂᒃ.

ᑕᐃᒪᑦᑕᐅᖅ ᖃᐅᔨᓴᐅᖃᑕᐅᕆᐊᖃᕐᐳᖅ ᑖᓐᓇ ᑳᓐᓂᔅᓯᑎᐅᓂᐊᕐᑐᖅ ᐊᑐᓕᖅᑯᔨᓚᐅᖏᓐᓂᖏᓂᒃ ᐅᕙᒪᒃᑯᑦ ᐋᖅᑭᒃᓯᖅᑯᑦᓗᑎᑦ ᒪᓕᒃᑕᕆᐅᓂᐊᕐᑐᒥᒃ ᐊᑐᕐᑐᐊᕐᓂᕐᒍᑦ ᐊᑭᓕᐅᑕᐅᖃᑦᑕᕐᓗᑎᒃ ᓄᓇᓯᐊᕐᒥ ᒪᓕᒃᑕᕆᐅᓂᐊᕐᑐᓂᒃ. ᑖᓐᓇ ᑳᓐᑐᔅᓯᓂᐊᕐᑐᖅ ᐃᓱᒪᓕᐅᕈᑦ ᑕᒪᑐᒪ ᐋᖅᑭᒃᑕᐅᓯᒪᓂᖓ ᑭᐅᔾᔦᑕᐅᓇᓱᐊᑐᐃᓐᓇᑎᐊᓚᐅᖏᓐᓂᒃ ᐊᑭᕐᑐᕐᐸᓪᓕᐊᓗᐊᕐᑐᓄᑦ ᐃᓗᕐᔦᐊᓄᑦ ᐊᑭᓕᐅᑕᐅᕙᒃᑐᓄᑦ ᑕᒪᓐᓇ ᐊᑭᕐᑐᕐᐸᓪᓕᐊᓂᖓ ᓱᕐᑯᓯᐊᔾᔮᓐᓂᕐᐸᑦ ᐊᓯᐊᓂᒃ ᒪᓕᓕᕐᓂᐊᕐᓂᕐᓗᑎᒃ. ᒫᓇᐅᔦᖅ ᐊᑐᕐᑐᐊᕐᑕᐅᕙᒃᑐᑦ ᐅᑭᐅᖅᑕᕐᑐᒥ ᒪᓕᒃᓗᑎᑦ ᐋᖅᑭᒃᐸᓪᓕᐊᓚᐅᕐᑐᐊᕐᑎᓗᑎᑦ ᐃᓚᖏᑦ ᐊᑐᕐᑐᐊᕐᓂᕐᒍᑦ ᓈᓚᖏᔦᑕᐅᔦᑦ ᐃᓚᖏᑦ ᓱᓕ ᓈᓚᖏᑦᑐᑦ ᓴᖅᑭᕐᐸᓪᓕᐊᕈᑦᑕᕆᑕ ᓴᖅᑭᕐᐸᓪᓕᐊᖏᓐᓇᕐᓂᐊᕐᒪᑕ ᐃᓚᖏᑦ ᐋᖅᑭᒃᐸᓪᓕᐊᓚᐅᕐᑐᐊᕐᑎᓗᑎᑦ.