Annual Report on the Activities Of the Rental Office

April 1, 2012 to March 31, 2013

Submitted by
Hal Logsdon
Rental Officer

The Role of the Rental Office

A Provider of Information to Landlords and Tenants

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

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

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

The Department of Justice maintains a website for the Rental Office that contains all of the written material as well as a link to the legislation and a searchable database of rental officer decisions.

The rental officer is also available to make presentations or participate in forums with tenants, property managers or others involved in residential tenancy matters. We provide these services free of charge in the belief that informed and knowledgeable landlords and tenants are more likely to respect the rights and obligations of each other and less likely to end up in a conflict situation.

Dispute Resolution

Landlords and tenants are encouraged to attempt to resolve disputes themselves. Often, the information provided to the parties regarding their legal rights and obligations helps the parties resolve the dispute but a dispute resolution process is available to both landlords and tenants. The dispute resolution process can be initiated by a landlord or tenant by filing an *Application to a Rental Officer*.

On the filing of an application, a rental officer may investigate to determine the facts related to the dispute. Applications involving the physical condition of premises are often best understood through an inspection of the unit. Similarly, applications involving third parties, such as utility suppliers are often investigated.

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

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

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

The Residential Tenancies Act and Amendments

The passage of the NWT *Residential Tenancies Act* in 1988 was part of a general trend in Canada to recognize residential landlord-tenant relationships as one of contract rather than an interest in land. The Act also established a tribunal dispute resolution mechanism which was designed to be less formal and more expedient than the courts. Older practices such as distraint for rent were abolished and common law contract principles such as mitigation of damages and contract frustration were established. The Act enabled the Minister to appoint one or more rental officers who would provide information to landlords and tenants and mediate or adjudicate landlord/tenant disputes, leaving the Supreme Court as the court of appeal.

The *Residential Tenancies Act* was amended in 2008 and the amendments brought into force on September 1, 2010. The amendments to the Act were introduced in order to update the Act, amend several errors, provide additional remedies in order to better protect landlords and tenants, and streamline the administrative process.

Now, nearly three years after the amendments were brought into force, I can offer some observations on a few of them and the effect they have had on landlords and tenants.

Eviction Process
Prior to the amendments, eviction orders and writs of possession were only issued by the NWT Supreme Court. The Act as amended enables a rental officer to issue an order for eviction. The issuance of the writ of possession is obtained from the Court but is an administrative process and does not involve an additional hearing.

Although we do not know exactly how many eviction orders were issued by the NWT Supreme Court before September, 2010 it is clear by the review of the court dockets that many more eviction orders have been issued by the Rental Officer since that date. This is to be expected since landlords can now obtain an eviction order without retaining legal counsel.

The large number of eviction orders issued in the past two years (244) does not, however, reflect the number of evictions which actually took place. Many of the eviction orders were conditional and others were never filed by the landlord perhaps because some arrangement was made between the landlord and tenant or perhaps because the tenant moved out voluntarily. While we estimate that more evictions have taken place since the Act was amended, we believe the number of tenants who have actually been evicted is low.

Mandatory Inspection Reports
The Act as amended requires landlords to conduct an inspection of the premises at the commencement and conclusion of the tenancy agreement, provide the tenant with an opportunity to participate in the inspection and provide written comments and to provide a written copy of the inspection report to the tenant. Prior to the amendments, only the move-in inspection was required but there were no consequences if the landlord failed to comply. The amended provisions now prohibit a landlord from deducting any repair costs from a security deposit if the inspections are not completed in accordance with the Act.

We have observed that more landlords appear to be conducting these inspections now that there are some real consequences for failing to do so.

Pet Deposits
The amended Act now enables a landlord to require an additional deposit if a pet is permitted on the premises. Previously, only one security deposit, not to exceed one month's rent, was permitted. The pet deposit cannot exceed 50% of the monthly rent and is due at the commencement of the tenancy agreement or when the approval to have a pet on the premises is granted. Only one pet deposit is permitted and the deposit cannot be collected for an animal required by a tenant due to a disability. Like the security deposit, a pet deposit is held in trust by the landlord until the end of the tenancy agreement and must be accounted for in the same manner.

We have not had any applications regarding pet deposits since the amendments were brought into force.

We have observed that some landlords who have historically permitted pets are not requiring the additional pet deposit and landlords who have prohibited pets in the past are not inclined to permit them now, even with a deposit.

Automatic Renewal of Term Tenancy Agreements

The Act as amended now provides all tenants except those in staff housing and subtenants with the automatic renewal of term tenancy agreements as month-to-month agreements unless the parties agree to enter into another term agreement. Prior to the amendments, subsidized public housing landlords were not obligated to renew a term tenancy agreement at the expiry date and could seek an eviction order if the term was not renewed and the tenant remained in possession.

In my opinion, the introduction of this provision to subsidized public housing was a much needed change to protect public housing tenants from unwarranted termination of their tenancy agreements. However, the introduction of provisions to terminate subsidized public housing tenancy agreements by the landlord's notice for the most part strips this provision of the original intent.

The exception to the automatic renewal provisions for public housing tenancy agreements made for 31 days or less is seldom used by public housing landlords, most likely due to the increase in administration that it requires.

Landlord's Notice to Terminate - Subsidized Public Housing

Subsidized public housing landlords may now terminate a tenancy agreement by giving written notice to the tenant. The notices required are the same as those required for a tenant to terminate the tenancy agreement by notice. The notice must be in writing, be signed by the landlord or agent, name the rental premises, name the date on which the tenancy is to be terminated and state a reason.

There has been considerable confusion among public housing landlords regarding the form and function of this notice as compared to notices of early termination set out in section 54. Many of the notices I have seen comply with the criteria for notices pursuant to sections 51(3), 52(1) and 55(3) but refer to section 54 in the notice. Often the notice which appears to be a termination notice sets out a termination date of 10 days from the service of the notice or does not name the termination date as the end of a rent period or the end of the term. In some respects the provision of both these type of notice for public housing has introduced more confusion than usefulness.

Penalty for Late Rent

The permitted penalty for late rent was changed from an interest rate to $5 plus $1 for each day after the due date that the rent is paid to a maximum of $65. This makes the penalties considerably easier to calculate.

Before the amendments, there were few landlords who charged late rent penalties due to the complexity of calculating them.

There are many more landlords who now charge the penalty. Some landlords have built in the penalty calculation on their automated ledger systems

Market Trends [1]

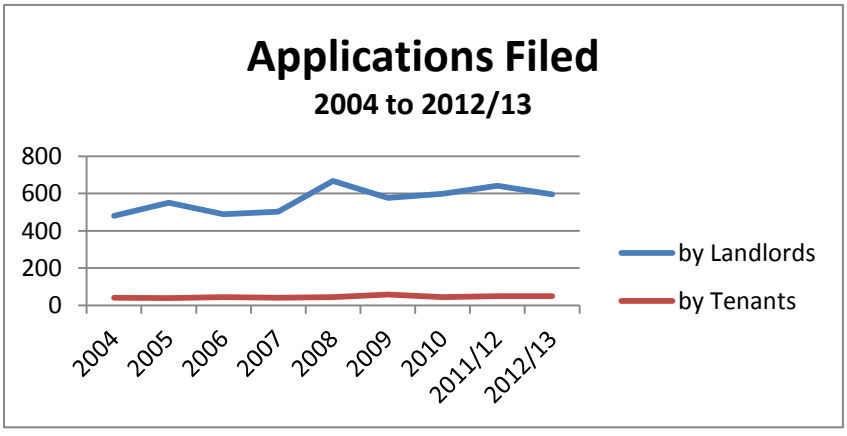
After dropping to a low of 0.8% in April, 2011, the Yellowknife vacancy rate has been gradually increasing. Despite the rising vacancy rate, the average market rent for apartments has continued to increase. Canada Mortgage and Housing Corporation reported that the Yellowknife apartment vacancy rate in April, 2013 had risen to 3.9% from 2.6% a year earlier. Average rent for a two bedroom apartment rose from $1624/month to $1668/month during the same period.

Out-migration, continued low interest rates and a number of new condominium developments on the market are all factors which have been driving the vacancy rate higher.

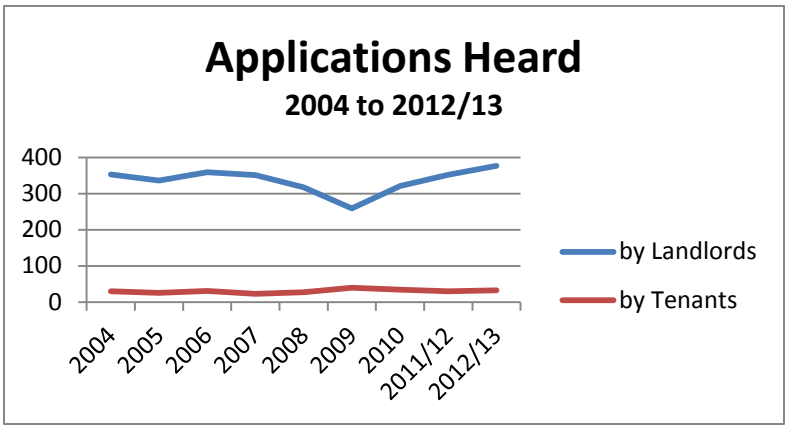
Rental Office Activities

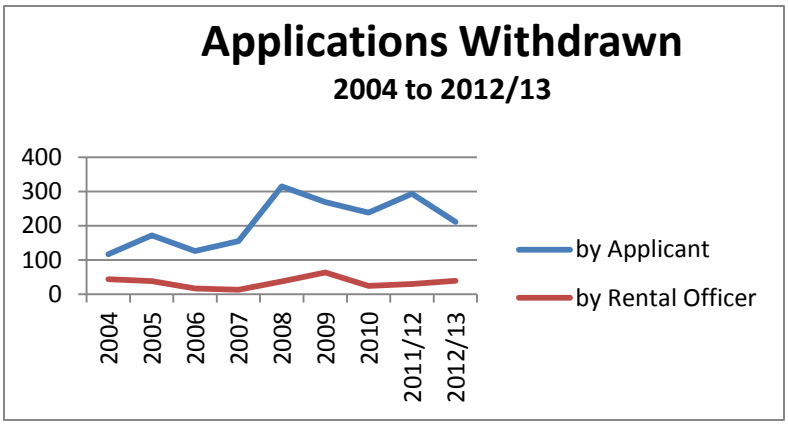
Hal Logsdon continued to serve as Rental Officer during 2012/13 and Ms. Kim Powless continued to serve as the Rental Office Administrator.

The number of applications filed during the 2012/13 fiscal year decreased by about 7% as compared to 2011/12. However, the number of applications heard increased by about the same margin. This was due primarily to the large number of applications filed by landlords and withdrawn before the matter was heard and to a lesser extent applications that are withdrawn by a rental officer.



[1] Rental Market Reports, Yellowknife Highlights, Canada Mortgage and Housing Corporation





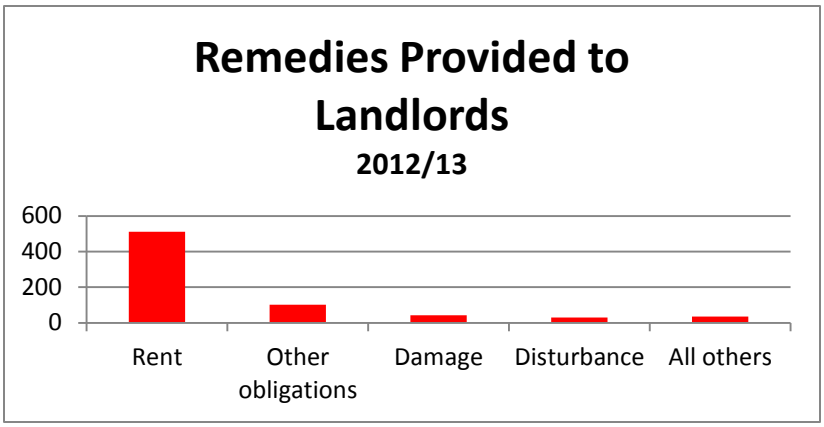
Applications withdrawn by a rental officer are usually the result of applicants failing to serve the filed application on the respondent. A rental officer may withdraw an application and close the file if the application is not served on the respondent within 14 days. The number of withdrawals, whether by applicant or a rental officer, reflects, in part, the number of disputes that are resolved without recourse to mediation or adjudication by a rental officer. This is undoubtedly a good thing but still involves a significant amount of administration to file the application and subsequently close the file.

Landlord applications continue to comprise most of the applications filed and heard and the majority of these applications involve the non-payment of rent. Many of these applications are undisputed by the tenant and result in an agreement between the landlord and tenant about how the arrears will be paid.

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

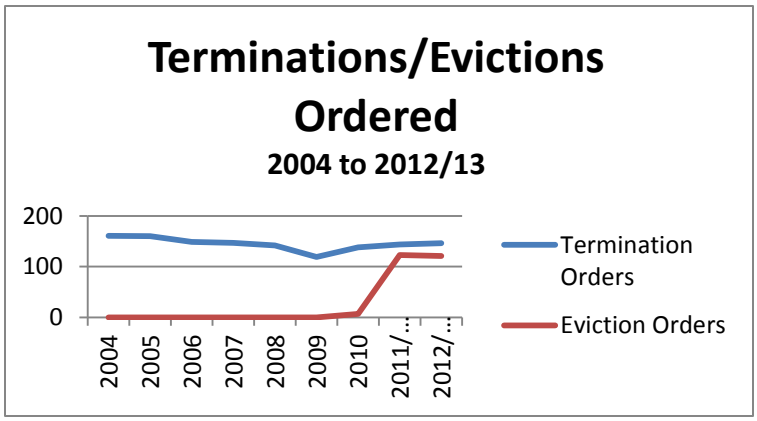
Applications from local housing organizations respecting rent often raise issues regarding the rent assessment. It is not uncommon for the rent assessment to be disputed by the tenant, particularly when the full unsubsidized rent has been applied by the landlord.

The review of public housing rent assessments to determine if the rent has been properly assessed is often a laborious task due to the size of the rent arrears and the length of time they have been allowed to accrue.



Since public housing rent is based on the household income, there are a considerable number of applications filed by public housing landlords seeking orders requiring tenants to accurately report their household income. Remedies fall under section 45 of the Act which covers "other obligations contained in a tenancy agreement". There are other obligations that fall into this category such as "no pets" provisions, parking rights and responsibility for utilities.

Landlords also frequently apply for orders regarding damages to the premises, disturbances and loss of future rent. Loss of future rent is an available remedy when a tenant abandons the premises and despite the landlord's reasonable efforts to mitigate loss, rental revenue is lost.



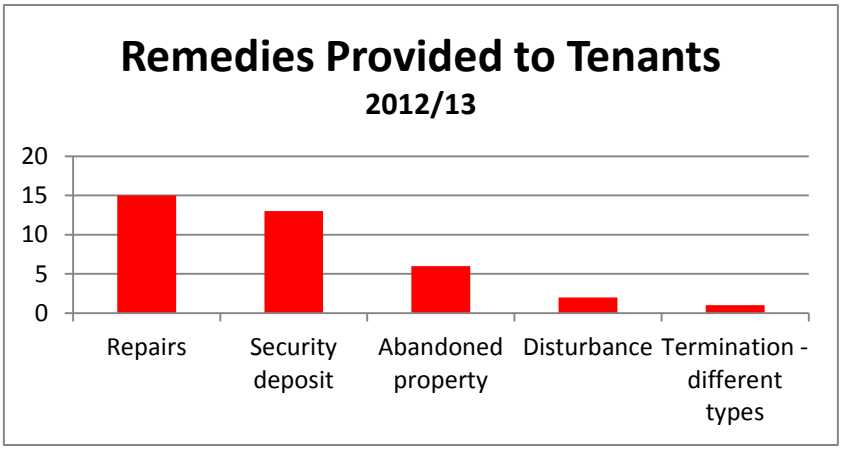
Commencing September 1, 2010 eviction orders could be obtained from a rental officer on the application of a landlord. Prior to the amendments which came into force in September, 2010, a rental officer could issue an order that terminated the tenancy agreement but if the tenant remained in possession, the landlord had to obtain an eviction order from the NWT Supreme Court. The number of eviction orders granted since the amendments came into force has remained consistent at about 30% of the applications that are heard.

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

Tenant applications continue to represent only about 8% of the total applications filed. The most common remedies provided to tenants involve the return of security deposits and repairs to the rental premises.

If a landlord retains all or part of a security deposit, they are obligated to issue a statement to the tenant itemizing the deductions. Only rent arrears and the costs to repair damages may be deducted. If a tenant does not receive a statement, objects to a deduction or feels that the costs claimed are unreasonable, they may file an *Application to a Rental Officer*.

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



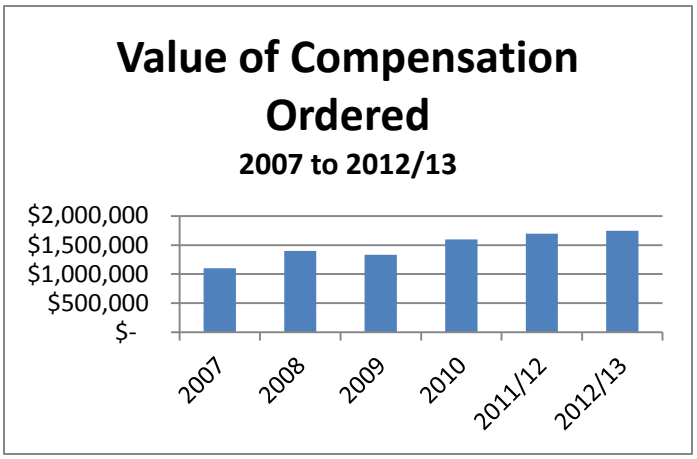
The landlord is entitled to enter a tenant's premises only for specific reasons and must give written notice 24 hours before the intended time of entry. If a landlord breaches this obligation, the tenant may file for relief.

Although landlords are the most frequent users of dispute resolution, we receive many requests for information from tenants by phone, through the website and email, and at the office.

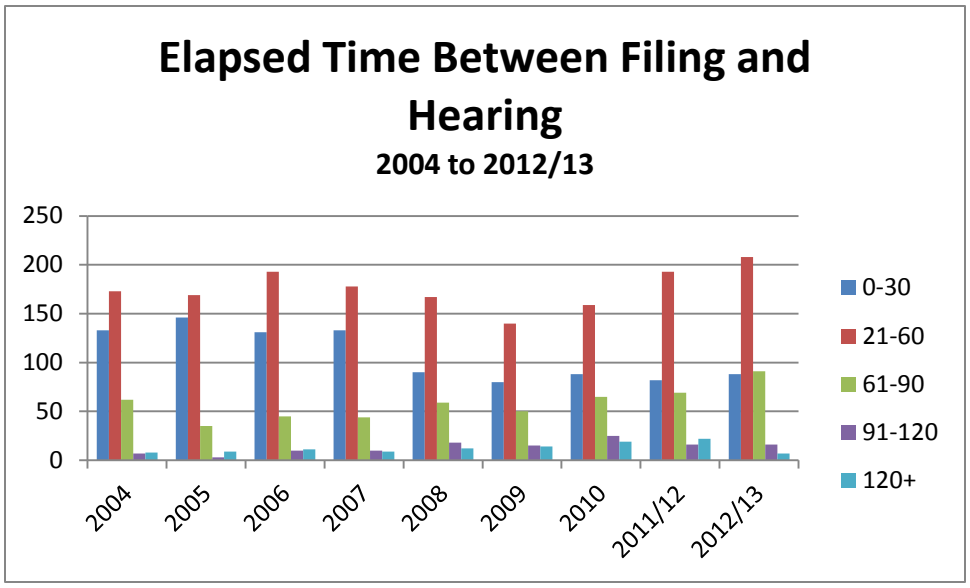
Applications from 16 communities were heard in 2012/13. Fifty two percent of applications heard related to premises in the City of Yellowknife. Hearings are scheduled approximately every three weeks in Yellowknife and the docket is often filled to capacity. Hearings are scheduled in other communities as applications are received. Hearings by telephone are frequently used when only a few applications are received from a location. Telephone hearings help to ensure that disputes outside of Yellowknife are resolved as rapidly as possible. Seventy two percent of the hearings held outside of Yellowknife were conducted by telephone in 2012/13.

A total of 330 orders granting monetary relief were issued in 2012/13 with a total value of $1.75 million. The average relief granted dropped slightly from 2011/12 to $5293. Monetary relief is most commonly awarded for rent arrears or when there have been damages to rental premises, but can also be provided for lost rent when premises are abandoned and for loss of possession or enjoyment of the premises.

The length of time it takes from the time an application is filed to the time it is heard depends on a number of factors, some of which are outside the control of the Rental Office. Users of the services occasionally complain about the length of time it takes to resolve a dispute and we continue to do what we can to make the administration of the process move as rapidly as possible.



From 2005 through 2007 we heard 80% of the applications within 60 days of filing. In 2008 however, we dropped below that target, hearing 74% of applications within 60 days. The 74% target was maintained in 2009. In 2010 the number of applications heard within 60 days dropped to 70%. For the past two fiscal years (2011/12 and 2012/13) we have maintained a 72% record.



Several factors contributed to this increased time between filing and the hearing. As mentioned in the last annual report, a Supreme Court decision regarding service of notices has led to a more cautious use of the deeming provision for notices served by registered mail. Adding to this is the increased volume of applications, particularly from local housing organizations, and the added requirement to write eviction orders.

I am extremely pleased that the Minister agreed to appoint a Deputy Rental Officer to hold office commencing on April 1, 2013. I am hopeful that the additional resources will improve our ability to handle the current volume of work and help us move closer to the 80% target we enjoyed in previous years.

Issues

In my 2011/12 annual report, I outlined the following seven issues which I felt should be addressed. I am restating these original issues in order to keep them on the record.

1. Security of Tenure – Public Housing

Prior to the 2008 amendments to the *Residential Tenancies Act* a landlord of subsidized public housing could simply refuse to renew a term tenancy agreement when it expired and force the tenant to leave. Unlike other tenants, this provision deprived public housing of a hearing before an impartial adjudicator and left the decision to not continue the tenancy solely with the landlord.

The 2008 amendments to the *Residential Tenancies Act,* provided the automatic renewal of term agreements to public housing tenants, but introduced an equally discriminatory provision. Now a public housing landlord can end a tenancy agreement, term or periodic, by giving notice to the tenant. Although a reason for the termination must be included in the notice, any reason would appear to suffice.

It would appear that a public housing landlord could terminate a tenancy agreement in accordance with the Act by giving a tenant the required written notice on the grounds that the tenant complained too much about the condition of the premises or that the tenant was one day late with the rent payment.

If such an unfair termination did occur, what recourse would the tenant have? There is no avenue of appeal, except perhaps to the landlord. The tenant can only refuse to give up possession and force the landlord to obtain an eviction order and argue at the eviction hearing that an eviction is unjustified.

Another amendment to the Act appears to provide that avenue of appeal. The 2008 amendments now enable a landlord to obtain an order for eviction on the application to a rental officer rather than to the Supreme Court of the NWT. The wording of that provision introduces a new criterion when considering if an eviction order should be granted. The previous wording of section 63 set out only a single criterion - has the tenancy agreement been terminated in accordance with the Act:

> **63.(1) Where on the application of a landlord, a judge of the Supreme Court determines that a tenancy has been terminated in accordance with this Act, the judge may make an order**
>
> **a) evicting the tenant on a date specified in the agreement, notice or order, or on the earliest reasonable date after the date of termination of the tenancy; and**
>
> **b) requiring the tenant to compensate the landlord for the use and occupation of the rental premises, calculated for each day the tenant remains in occupation following the termination of the tenancy.**

If the judge's finding was that the tenancy agreement had not been terminated in accordance with the Act, the order would be denied and the tenancy agreement, being still in force, would, of course continue. The amended section 63 introduces a second criterion - justification of the eviction:

> **63.(4) A rental officer who terminates a tenancy or determines that a tenancy has been terminated in accordance with this Act, and <u>who determines that an eviction is justified</u>, may make an order**
>
> **(a) evicting the tenant on the date specified for the termination of the tenancy in the agreement, notice or order, or on the earliest reasonable date after the date of termination of the tenancy; and**
>
> **(b) requiring the tenant to compensate the landlord for the use and occupation of the rental premises, calculated for each day the tenant remains in occupation following the termination of the tenancy.**

The introduction of this element is no doubt useful as it protects tenants of subsidized public housing from unjustified eviction. Since landlords of subsidized public housing can now terminate tenancy agreements by notice, eliminating the requirement for a hearing to terminate the tenancy agreement, a tenant can plead at an eviction hearing that the eviction is not justified.

The deficiency in the Act is that there is no provision for the reinstatement of the tenancy agreement should a rental officer determine that eviction is not justified. This leaves the tenant in a position of overholding since the tenancy agreement was terminated but the eviction order denied.

My preferred solution would be to repeal the provisions which permit a public housing landlord to terminate a tenancy agreement by notice. In my opinion, it is discriminatory. Public housing tenants deserve the right to be heard if they are accused of breaching the tenancy agreement or the Act as well as the opportunity to have the dispute mediated. I see no policy rationale for denying the public housing tenant security of tenure, particularly when the Act provides for termination of the tenancy agreement by order if the tenant becomes ineligible for the program.

If there is a perceived rationale for permitting public housing landlords to terminate tenancy agreements by notice (and I cannot suggest one), the Act should be amended so that the dismissal of an application to evict a tenant whose tenancy agreement has been legally terminated by a public housing landlord's notice serves to reinstate the tenancy agreement. In my opinion, this is a less desirable solution as it introduces adjudication at the end of the process and retains what I consider to be a discriminatory process for public housing tenants.

2. Condominium Act

There appear to be inconsistencies between the *Residential Tenancies Act* and the *Condominium Act* respecting the ability of a condominium corporation to make an application to a rental officer for an order of possession. It is suggested that the Department of Justice review this matter and suggest appropriate legislative changes to address this issue.

3. Compensation for Use and Occupation after the Termination of a Tenancy Agreement

The 2008 amendments to the Act enable a rental officer to order the eviction of a tenant and to order compensation for use and occupation of the rental premises after the tenancy agreement has been terminated. Section 63(4)(b) sets out this provision:

> **63.(4) A rental officer who terminates a tenancy or determines that a tenancy has been terminated in accordance with this Act, and who determines that an eviction is justified, may make an order**
>
> **(a) evicting the tenant on the date specified for the termination of the tenancy in the agreement, notice or order, or on the earliest reasonable date after the date of termination of the tenancy; and**
>
> **(b) requiring the tenant to compensate the landlord for the use and occupation of the rental premises, calculated for each day the tenant remains in occupation following the termination of the tenancy.**

The addition of subsection (b) is redundant as the same provision is also contained in section 67(4):

> **67.(4) Where, on application of a landlord, a rental officer determines that a landlord is entitled to compensation for the use and occupation of the rental premises after the tenancy has been terminated, the rental officer may order a former tenant to pay the landlord the compensation specified in the order.**

Section 63(4)(b) could repealed and section 67(4) be amended, adding the per diem calculation.

4. Retention of Inspection Reports

The 2008 amendments now require a landlord to retain entry and exit inspection reports for a minimum of three years after the tenancy agreement is terminated. In my opinion, this is an excessive period of time. The Act requires that an application be made within 6 months of the alleged breach referred to in the application. Although a rental officer may extend this time limitation, it is very unlikely that it would be extended to three years, particularly

in cases where the inspection report would be relevant evidence. In my opinion, it should not be necessary to retain these reports for more than 12 months after the tenancy agreement is terminated.

5. No Fault Termination Provision for Conversion of Public Housing to Market Housing

The current agreements between the GNWT and the Government of Canada for the operation of the Public Housing program permit the Housing Corporation to purchase existing units and apply unused subsidies to these units, converting them to public housing. Existing units will undoubtedly have existing tenants who will not be eligible for public housing. The current Act has no provisions that would enable the Corporation to terminate the existing tenancy agreements in order to convert the property to public housing. Currently the only option is to continue to rent to the market housing tenants and convert units to public housing as they become vacant.

It would be desirable to enable the public housing provider to obtain a termination order within a reasonable period of time while giving the market tenant an opportunity to seek other accommodation. Provisions like those currently provided in sections 58 and 59 of the Act should be included in any revisions to prevent any undue hardship on the tenants.

6. Notice of Termination – Section 51(5)

Although I recommend the repeal of this section along with section 51(3), the wording implies that the notice may only be given if the tenancy agreement was initially a term agreement which has reverted to a monthly agreement pursuant to section 49. I am reasonably sure this was not the intention of the legislation.

7. Application of Act to Transitional Housing

Transitional housing is an intermediate step between living in a shelter or homelessness and independent living. Transitional housing is typically provided for a term and offers tenants their own private rooms, and a supportive living environment including opportunities to develop the life skills necessary to maintain independent living. This form of housing is gaining in popularity and is considered by many to be a missing component in the efforts to fight homelessness. The current Act excludes this form of housing and therefore provides no statutory structure to transitional housing landlords or tenants or any method of dispute resolution other than the courts.

Expanding the application of the Act to include transitional housing will clearly require specific provisions and exemptions that apply to the program. However this is not unlike the current provisions that specifically apply to public housing. Both landlords and tenants of transitional housing will benefit from the application of the Act through defined rights and obligations and a clear and simple dispute resolution process.

I also offer a few more issues for consideration:

1. Provisions for Subletting a Portion of the Rental Premises

The current provisions for subletting are contained in sections 22-24 of the Act and there is an approved sublet form. The generic definition of a subtenant is a person who leases all or part of the rented premises from the tenant for a term less than that held by the tenant. The definitions in the *Residential Tenancies Act* imply that a tenant who rents an apartment and rents out a single bedroom to another person is subletting. The provisions in the Act and the sublet agreement assume that the entire apartment is being sublet, not just a bedroom.

In some provinces, notably Ontario, the Act does not permit subletting of a portion of the rental premises. Persons who rent a room from a tenant have no protection under the Ontario Act. The practice of tenants renting rooms has become quite common in the NWT due to high rents. Withdrawing all protection for these subtenants would affect quite a few renters.

In my opinion, provisions for subletting a portion of the premises and the related definitions in the Act should be reviewed to provide better clarity and an appropriate form developed for this specific form of subletting.

2. Inclusion of "Residential Complex" in section 18(4)

Section 18(4) permits a landlord to retain all or part of a security deposit for repairs of damages to the rental premises. The section does not include damages to the residential complex which means that the cost of repairs to damages in hallways and other parts of the building where the rental premises are located cannot be deducted form a deposit. In my opinion, such repairs should be eligible.

3. Remedy for Tenants who Elect Termination on Notice of Rent Increase

Section 47 of the Act permits a tenant to take a notice of rent increase as a notice of termination but if the tenant vacates, the landlord must rent the premises to the new tenant at the increased rent. A breach of section 47 is an offence under the Act and the landlord may be charged pursuant to section 91(1)(a) but there is no remedy for a tenant who may be forced out of possession by an rent increase that is not imposed on the next tenant. A tenant affected by this practice may incur expenses directly related to the breach such as moving expenses. There are remedies available to tenants where applications under sections 58 or 59 are found not to have been made in good faith. In my opinion, similar remedies for tenants who are subjected to rent increases which are not imposed on the next tenant would be appropriate.

4. Time Limitation for Filing Orders in the Territorial Court

Section 86.1(3) sets out a time limitation for filing eviction orders with the Supreme Court. If an eviction order is not filed within six months of the effective date of the order, the order expires. There are a significant number of monetary orders which have been issued which have not been satisfied or filed in the Territorial Court. Many of these are for rent arrears and repair costs in subsidized public housing and have remained unsatisfied for a number of years.

In my opinion, it would be reasonable to establish a time limitation on the filing of orders with the Territorial Court. After a designated period of time, these old orders would be void unless filed with the Territorial Court. The time limitation should be considerably longer than the limit established for eviction orders but should encourage parties to use the order in a timely manner.

Statistics for the Year
April 1, 2012 to March 31, 2013
with comparisons to previous years

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

Applications to a Rental Officer

	2004	2005	2006	2007	2008	2009	2010	2011/12	2012/13
Applications Filed	523	591	534	544	711	635	643	690	644
By Landlords	481	551	489	502	667	576	599	641	595
By Tenants	42	40	45	42	44	59	44	49	49
Applications Heard	383	362	390	374	346	299	356	382	410
By Landlords	353	336	359	351	318	259	321	352	377
By Tenants	30	26	31	23	28	40	35	30	33
Applications Withdrawn	161	210	143	168	352	333	262	323	250
By Applicant	117	172	126	155	315	269	238	293	211
By Rental Officer	44	38	17	13	37	64	24	30	39

Hearings Held by Community and Type – 2012/13

Community	In Person	By Phone	Total
Behchoko	3	2	5
Deline		10	10
Ft. Good Hope		1	1
Ft. Liard		10	10
Ft. McPherson		11	11
Ft. Providence		7	7
Ft. Simpson		7	7
Ft. Smith	13	9	22
Hay River		27	27
Inuvik	23	25	48
Lutsel'Ke	16	10	26
Norman Wells		4	4
Tulita		9	9
Ulukhaktok		7	7
Whati		3	3
Yellowknife	206	7	213
TOTAL	261	149	410

Remedies Provided to Landlords
2012/13

Remedy	Number of orders
Non-payment of rent	511
Other obligations	101
Disturbance	30
Damage	43
Eviction	121
Entry	1
Loss of future rent	5
Termination/different types	3
Change of use	1
Compensation for overholding	16
Security/Pet deposits	1
Rescind previous order/order lump sum payment	9

Remedies Provided to Tenants
2012/13

Remedy	Number of orders
Security deposit	13
Repairs	15
Termination/different types	1
Disturbance	2
Abandoned property	6

Terminations/Evictions Ordered *
2004-2012/13

	2004	2005	2006	2007	2008	2009	2010	2011/12	2012/13
Termination Requested by Tenant	3	2	2	1	3	4	2	3	0
Termination Requested by Landlord	158	158	147	146	139	115	136	144	146
Terminations as % of Applications Heard	42%	44%	38%	39%	41%	40%	38%	38%	36%
Evictions Ordered	-	-	-	-	-	-	7	123	121
Evictions as % of Applications Heard	-	-	-	-	-	-	-	32%	30%

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

Value of Compensation Ordered
2007 – 2012/13

	2007	2008	2009	2010	2011/12	2012/13
Total Orders Granting Monetary Relief	319	286	251	292	308	330
Total Value of Orders Issued	$1,102,170	$1,399,362	$1,334,456	$1,596,625	$1,695,226	$1,746,655
Average Value	$3455	$4893	$5317	$5468	$5504	$5293

Elapsed Time between Filing Date and Hearing Date
Applications Heard During Period – 2004 to 2012/13

	2004	%	2005	%	2006	%	2007	%	2008	%
0-30 days	133	34.7%	146	40.0%	131	33.6%	133	35.6%	90	26.0%
31-60 days	173	45.2%	169	46.7%	193	49.5%	178	47.6%	167	48.3%
61-90 days	62	16.2%	35	10.0%	45	11.5%	44	11.7%	59	17.1%
91-120 days	7	1.8%	3	0.8%	10	2.6%	10	2.7%	18	5.2%
120+ days	8	2.1%	9	2.5%	11	2.8%	9	2.4%	12	3.5%

	2009	%	2010	%	2011/12	%	2012/13	%
0-30 days	80	27%	88	25%	82	21%	88	21%
31-60 days	140	47%	159	45%	193	51%	208	51%
61-90 days	50	17%	65	18%	69	18%	91	22%
91-120 days	15	5%	25	7%	16	4%	16	4%
120+ days	14	4%	19	5%	22	6%	7	2%