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Ottawa Rental rules – update to OREIO

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Topics

- Bill 184 changes to the RTA
- LTB re-opening
- Eviction enforcement resumption
- City of Ottawa's new Rental Housing Management By-law

Bill 184

- The Province recently amended the RTA through Bill 184
- The major changes
 - More landlord-friendly procedures at the LTB
 - More rights for tenants to prevent their being evicted without an appropriate ground or gain increased compensation

More landlord friendly procedures at the LTB

- No more ambushes under s. 82. Now, to make claims about inadequate maintenance, tenants must disclose their claims before any hearing for non-payment of rent.
- Mediation is to be available earlier in the process.
- Landlords and tenants can agree to a payment plan and recourse to s.78 (for an eviction order without notice) without a mediator.
- Landlords can claim costs they incur because of tenant misbehaviour, such as a fine for a false fire alarm, or a fine for a noise complaint.

More landlord friendly procedures at the LTB

- Rents are now deemed legal if they have been paid for 12 months after a defective notice of rent increase.
- Soon, the LTB will be able to process claims:
 - against both current and former tenants unpaid utility charges; and
 - against former tenants:
 - for occupancy charges up to the date of the enforcement of an eviction order, and
 - for damages to the unit or complex.

More rights for tenants to prevent their being evicted without an appropriate ground

- If a landlord seeks termination for major repairs or personal use, the landlord must file information about previous similar applications made within the last 2 years.
- A tenant has 2 years to claim for a termination made in bad faith.
- The LTB can award more damages for a termination made in bad faith.
 - Up to one year's rent

Compensation for tenants who are required to move

- Tenants of buildings of fewer than five rental units are now entitled to one month's compensation for being required to move for renovations, demolition or conversion.
 - For 5+ units, the compensation remains 3 month's rent.
- Tenants required to move for purchaser's use are now entitled to one month's compensation.
 - Tenants required to move for landlord's personal or family use are still entitled to one month's compensation.

LTB re-opens

- The LTB began to re-open on August 4.
- As services gradually resume, the LTB will:
 - Hold hearings by videoconference, phone or in writing.
 - Encourage landlords and tenants to discuss a settlement prior to an eviction application hearing with an adjudicator.
 - Expand the use of Case Management Hearings to include most eviction applications filed by landlords that do not include rent arrears.

Rights for tenants in arrears due to COVID-19

- Bill 184 mandates that landlords need to offer payment plans to tenants for COVID-19 driven rent arrears.
- The LTB will want landlords to provide evidence that they have done so.

LTB re-opens

- Effective August 4, 2020, the LTB has:
 - Begun to issue eviction orders that are pending.
 - Started to issue consent eviction orders which are based on landlord and tenants settling their dispute through an agreement.
 - Continued to hear urgent eviction matters related to health and safety.
 - Started to schedule hearings for non-urgent evictions.
- The LTB says it will conduct non-urgent eviction hearings starting in mid-August.

Practicalities at the LTB

- Although the LTB is starting to re-open, we expect the delays at the LTB will be months long for many months to come.
- For public relations and other reasons, landlords should continue to be patient and reasonable in enforcing rent payment, bearing in mind the economic shut down caused by COVID-19.

Practicalities at the LTB

- Absent agreement between landlord and tenant, the LTB will impose payment plans for arrears due to lost income because of COVID-19.
- Tenants will need to pay the amount of their current rent each month.
- If a tenant cannot do that, then the landlord may want to cut a deal to receive some of the outstanding rent and write off some rent, but see the tenants move (“to more affordable accommodation”), so that the landlord can rent to a new tenant who can pay the rent.

Practicalities in the rental market

- Landlords also need to remember that the rental market may not be as strong for the next number of months as it was before March.
- Student renters are largely absent from the market, and that impact will be felt across the City of Ottawa, and in particular in the student areas like Sandy Hill, the Glebe, Ottawa South and around Algonquin College.
- As well, new federal government hires may not relocate to Ottawa (as they can work remotely), and the economy is weaker than it was.

Eviction enforcement re-opened

- Effective August 4, the Court Enforcement Office (the Sheriff) resumed eviction enforcement.
- Across Ontario, about 700 eviction orders were on hold since March 19.
- That included orders for:
 - Non-payment of rent,
 - Bad behaviour by tenants,
 - Agreed upon terminations, and
 - Landlord or purchaser personal or family use.

Eviction enforcement re-opened

- On March 19, 2020, the Chief Justice of Ontario issued an order placing a moratorium on residential evictions in Ontario.
- By an order on July 6, he lifted the moratorium at a date following the government's lifting of the state of emergency, which turned out to be effectively August 4.
- Both steps were taken without notice to the people who were directly affected by eviction orders.

Eviction enforcement re-opened

- The Advocacy Centre for Tenants Ontario (“ACTO”) went to Court to try to stop the resumption of eviction enforcement.
- ACTO argued that the order of July 6 was made improperly (because notice should have been given to the affected parties or representatives appointed), and that to avoid hardship while that claim was adjudicated, the Court should stay the July 6 order.
- That would have meant that the eviction moratorium would continue.

Eviction enforcement re-opened

- The Federation of Rental-housing Providers of Ontario (FRPO) opposed ACTO's motion, as did another landlord association.
- The Court refused to grant the stay.
- As a result of this win by FRPO, enforcements of eviction procedures resumed on Tuesday, August 4.

Ottawa's new Rental Housing Property Management By-law

- New rules seek to avoid and solve problems.
- For all residential landlords the main parts of the new rules are:
 - A new required info package for tenants
 - New pest control rules
- For larger buildings (3+ floors or 10+ units), a summary capital maintenance plan is required.

Ottawa's new Rental Housing Property Management By-law

- Yesterday, the City of Ottawa released its proposed new Rental Housing Property Management By-law
- It is to come to the Community and Protective Services Committee on August 20
- To come to City Council on August 26

Things could have been much worse

- In all or parts of four Ontario cities, small landlords have to pay annual licensing fees of \$200 to \$600 per unit
- In Toronto, landlords with 10 or more units, must pay an annual fee of \$12 per unit, and file a great deal of paper
- Ottawa is **not**:
 - Charging any fees
 - Requiring a license
 - Requiring the filing of any documents, unless specifically requested
 - Disclosing landlords' capital plans to tenants.

Implementation

- The new by-law is to come into force on August 31, 2021.
 - 12 months from now
- The City will provide templates of the required information package.
 - Landlord groups will give advice and/or provide alternate templates.
- The capital maintenance plan requirement is manageable.
- Landlords should be grateful for:
 - No fees
 - No license requirement
 - Not exposing landlords' capital plans to tenants

The main requirements for most landlords

- As of August 31, 2021, landlords will be required to:
 - have a procedure for managing tenant service requests
 - give new tenants a package of information that sets out:
 - Contact information for the landlord
 - Instructions for submitting a tenant service request
(e.g. send it to my contact info)
 - A statement about fire safety (see next page)
 - A schedule of cleaning and maintenance to be undertaken by the landlord
 - Info about on-site waste management
 - Info about parking
 - How to register for special assistance
 - A closing statement and signature block

Fire safety statement

- “Hundreds of Ottawa families are affected by preventable fires each year. Tenants are encouraged to review fire safety information at ottawa.ca. Please contact us to report any fire safety concerns immediately. Tenants may also report non-emergency fire safety issues to Ottawa Fire Service at 613- 580-2424 ext. 15371 or FirePrevention@ottawa.ca.”

Closing statement & retention requirement

- “These instructions are for information only. This document is not considered a lease or contract and may not supersede or conflict with your lease or your rights under the Residential Tenancies Act, 2006.”
- The info document must be:
 - provided to a By-law officer on request.
 - kept for 6 months after the tenant vacates.
 - For LTB purposes, better to keep for 2 years

Delivery of the information

- The landlord must:
 - Give the statement to new tenants.
 - Have new tenants acknowledge receipt.
 - Provide a copy to existing tenants by November 30, 2021.
 - Update the information when it changes.
- If a tenant refuse to sign an acknowledgement, there will be a provision for sending the update by mail or courier.

Property managers versus property owners

- When a property manager is listed as the point of contact in the information for tenants, the property manager is required to maintain current contact information for the property owner.
- The property manager must give that information to the City on request.
- Landlord or property manager, as the case may be, must update the contact info immediately before a change, or within 24 hours of a change.

Pest control – New requirements for landlords

- Establish an integrated pest management plan, including:
 - A schedule of preventative inspection reasonable for the property
 - Could be once a year for a small property with no history of pest problems
 - Educational information to be made available for tenants
 - Reporting processes
 - Standing pest treatment plans
 - Can be templates provided by landlord associations or pest control companies
 - Provide a tenant a pest treatment plan before treating their unit
 - that should be done now to get the tenant to prepare, or to inform the tenant if a quick treatment is to be done
- Post a notice in a lobby of an apartment building when a treatment is done other than in a dwelling unit

Pest control - New requirements for tenants

- Report pest infestations (s.34)
- Avoid knowingly cause conditions which may attract or harbor pests (s. 35)
- Treat an infestation of fleas, lice or ticks on an animal under their care (a pet) (s. 36)
- **Abide by a pest treatment plan provided by the landlord (s. 37)**

Capital maintenance plan

- In the By-law, “apartment building” means a structure other than a townhouse or rowhouse that contains multiple rental units and is three or more storeys in height or contains 10 or more rental units.
- Owners of apartment buildings must create and maintain a capital maintenance plan listing:
 - a) accessibility features and equipment;
 - b) building-wide electrical distribution systems;
 - c) plumbing;
 - d) fire escapes;
 - e) elevators;
 - f) mechanical systems;
 - g) roofs;
 - h) exterior cladding;
 - i) balconies and balcony railings;
 - j) parking structures.

Contents of the plan

- For each of the capital elements, the capital maintenance plan shall:
 - a) identify the capital element;
 - b) record the date of last inspection;
 - c) describe the condition, including any deficiencies, witnessed during the last inspection; and
 - d) describe any required remedial action, such as refurbishment or planned replacement, and the anticipated time period during which this action will occur.
- New owners have 3 months from the transfer of title to prepare a capital maintenance plan.
- Owners shall provide the plan to a by-law officer upon request.

Questions?

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