

Manitoba Residential
Tenancies Commission

**Annual Report
2016-2017**



Manitoba Residential Tenancies Commission

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Her Honour the Honourable Janice C. Filmon, C.M., O.M.
Lieutenant Governor of Manitoba
Room 235, Legislative Building
Winnipeg, MB R3C 0V8

May It Please Your Honour:

I have the privilege of presenting, for the information of your Honour, the Annual Report of the Residential Tenancies Commission for the year ended March 31, 2017.

Respectfully submitted,

“original signed by”

Honourable Heather Stefanson
Minister of Justice
Attorney General





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Honourable Heather Stefanson
Minister of Justice
Attorney General of Manitoba
Room 104, Legislative Building
Winnipeg, MB R3C 0V8

Dear Minister:

Section 151(1) of *The Residential Tenancies Act* states that within six months after the end of each fiscal year, the Chief Commissioner shall submit an annual report to the Minister respecting the activities of the Commission and setting out the significant decisions of the Commission and the reasons for those decisions.

It is my pleasure to submit the Annual Report for the Residential Tenancies Commission for the fiscal year ended March 31, 2017.

Respectfully submitted,

“original signed by”

Jennifer Goldenberg
Chief Commissioner
Residential Tenancies Commission

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INTRODUCTION

The Residential Tenancies Commission (the Commission) is a quasi-judicial, specialist tribunal that hears appeals from decisions and orders of the Director of the Residential Tenancies Branch under *The Residential Tenancies Act*.

The Residential Tenancies Commission consists of:

- The Chief Commissioner - a full-time position; appointed for up to a five-year term, located in Winnipeg.
- Deputy Commissioners – one full-time position appointed for up to a four-year term and 16 part-time positions appointed for up to a four-year term, located in Winnipeg, Brandon and Virden. The Deputy Commissioners may exercise the powers and perform the duties of the Chief Commissioner.
- Panel members – 36 panel members – approximately half representing the views of the landlords, the others the views of the tenants; from Winnipeg, Portage La Prairie, Thompson and Brandon.

The Commission may conduct hearings orally, in person or by telephone, in writing or partly orally and partly in writing. Hearings outside of Winnipeg are held at the nearest judicial district.

Some appeals are heard only by the Chief Commissioner or Deputy Chief Commissioner and some appeals are heard by a panel of three consisting of one landlord and one tenant representative and either the Chief Commissioner or a Deputy Chief Commissioner as the neutral Chairperson. If there is not a majority decision, the decision of the neutral Chairperson is the decision of the Commission.

The Residential Tenancies Commission decisions in Part 1 – 8 matters can be appealed to the Court of Appeal, but only on a question of law or jurisdiction. A Court of Appeal judge must grant leave or permission to appeal. Section 179 of *The Residential Tenancies Act*

dealing with rent regulation states that: “*No appeal lies from a decision or order of the commission made in a matter arising under Part 9.*” The Residential Tenancies Commission's decision in Part 9 matters is final.

The Residential Tenancies Act requires the Chief Commissioner to submit a report on the administration of the *Act* to the Minister within six months after the end of each fiscal year. The reporting period for this report is the fiscal year ending March 31, 2017. Figures for the fiscal year ending March 31, 2016, have also been provided for purposes of comparison. The statistics are broken down by activity, i.e. security deposits, repairs, utilities.

INTRODUCTION

La Commission de la location à usage d'habitation (la Commission) est un tribunal quasi-judiciaire spécialisé chargé d'entendre les appels des décisions et des ordonnances que rend le directeur de la Direction de la location à usage d'habitation en vertu de la *Loi sur la location à usage d'habitation*.

La Commission de la location à usage d'habitation se compose :

- du commissaire en chef – poste à temps plein; nommé pour une période de cinq ans maximum et basé à Winnipeg;
- des commissaires adjoints – un poste à temps plein, occupé pour une période de quatre ans maximum, et 16 postes à temps partiel, occupés pour une période de quatre ans maximum; basés à Winnipeg, à Brandon et à Virden. Les commissaires adjoints peuvent exercer les pouvoirs et les fonctions du commissaire en chef;
- des membres des comités (36) – une moitié approximativement représente le point de vue des locateurs, l'autre moitié celui des locataires; basés à Winnipeg, Portage-la-Prairie, Thompson et Brandon.

La Commission peut tenir des audiences à l'oral (en personne ou par téléphone) ou par écrit, ou encore en partie à l'oral et en partie par écrit. Les audiences à l'extérieur de Winnipeg ont lieu dans le district judiciaire le plus proche.

Certains appels ne sont entendus que par le commissaire en chef ou par un commissaire en chef adjoint, alors que d'autres appels sont entendus par un comité composé de trois personnes, à savoir un représentant du locateur, un représentant du locataire et un commissaire neutre, le commissaire en chef ou l'un des adjoints, qui préside. En l'absence de majorité, la décision du président neutre est la décision de la Commission.

Il est possible d'interjeter appel des décisions de la Commission de la location à usage d'habitation relativement aux parties 1 à 8 devant la Cour d'appel, mais seulement sur une question de droit ou de compétence. Un juge de la Cour d'appel doit accorder une autorisation d'appel. L'article 179 de la *Loi sur la location à usage d'habitation* concernant le contrôle des loyers stipule ce qui suit : « *Les décisions ou les ordonnances que la*

Commission rend à l'égard de questions régies par la partie 9 ne peuvent faire l'objet d'aucun appel. » Dans ce cas de questions relatives à la partie 9, la décision de la Commission de la location à usage d'habitation est définitive.

La *Loi sur la location à usage d'habitation* exige du commissaire en chef qu'il soumette au ministre un rapport sur l'administration de la *Loi* six mois après la fin de chaque exercice. La période visée par le présent rapport est l'exercice se terminant le 31 mars 2017. Des chiffres correspondant à l'exercice se terminant le 31 mars 2016 sont également fournis à des fins de comparaison. Les statistiques sont fractionnées par activité (p. ex., dépôts de garantie, réparations, services publics).

APPEAL ACTIVITY SUMMARY

PARTS 1 – 8 OF *THE RESIDENTIAL TENANCIES ACT*

Parts 1 – 8 of *The Residential Tenancies Act* deal with all residential landlord and tenant matters, except for rent regulation. Table 1 provides a statistical summary of the activities of the Residential Tenancies Commission under Parts 1 – 8 of the legislation. Between April 1, 2016, to March 31, 2017, the Commission received 414 appeals under Parts 1 – 8 of *The Residential Tenancies Act*. The Commission received 334 appeals of orders resulting from Branch hearings and 57 appeals of claims for security deposit or less. The remaining 23 appeals were related to orders to repair and abandonment.

The Commission processed 420 cases from April 1, 2016, to March 31, 2017. The Commission confirmed or upheld the Residential Tenancies Branch's decisions in 167 instances. The Commission varied 170 of the Branch's decisions. These variations sometimes occurred because the Commission received information from the parties at the appeal hearing that the Branch did not have before issuing its decision. The Commission rescinded 42 decisions of the Branch. Another 40 appeals were either rejected by the Commission, withdrawn or cancelled by the appellant. Most rejections are caused by late appeals or appeals without a filing fee. Withdrawals are usually due to either: (1) the affected parties being able to reach a settlement; or (2) the appellant changing his or her mind and no longer wishing to continue with the appeal. There were 23 motions to extend time to appeal denied. There was one appeal pending as of March 31, 2017.

A person who did not attend or otherwise participate in the hearing before the director can not appeal an order granting an order of possession to a landlord for the termination of the tenancy for non-payment of rent or a tenant services charge, unless the Commission, on application, grants the person leave to appeal. The Commission received 51 applications for leave to appeal, 18 were granted leave and 33 were denied.

From April 1, 2016, to March 31, 2017, there were 34 applications to the Court of Appeal for leave to appeal. The Court of Appeal denied leave on 19 applications. There were 15 hearings pending as of March 31, 2017.

SOMMAIRES DES ACTIVITÉS RELATIVES AUX APPELS

PARTIES 1 À 8 DE LA LOI SUR LA LOCATION À USAGE D'HABITATION

Les parties 1 à 8 de la *Loi sur la location à usage d'habitation* statuent sur l'ensemble des questions afférentes au locateur et au locataire d'habitation, exception faite du contrôle du loyer. Le tableau n° 1 présente un résumé statistique des activités exercées par la Commission de la location à usage d'habitation en vertu des parties 1 à 8 de la *Loi*. Entre le 1^{er} avril 2016 et le 31 mars 2017, la Commission a reçu 414 appels relativement aux parties 1 à 8 de la *Loi sur la location à usage d'habitation*. La Commission a reçu 334 appels d'ordres provenant d'audiences de la Direction et 57 appels de réclamations du dépôt de garantie ou moins. Les 23 appels restants étaient liés à des ordres de réparation et abandon.

Entre le 1^{er} avril 2016 et le 31 mars 2017, la Commission a traité 420 causes. Dans 167 cas, la Commission a confirmé ou soutenu les décisions de la Direction de la location à usage d'habitation. La Commission a aussi modifié 170 décisions de la Direction. Parfois, ces modifications ont été dues au fait que la Commission a reçu au cours de l'audience d'appel des renseignements des parties que la Direction n'avait pas avant de rendre sa décision. La Commission a également annulé 42 décisions de la Direction, et 40 autres appels ont aussi été rejetés par la Commission, ou retirés ou annulés par l'appelant. La plupart des rejets sont causés par des appels en retard ou sans frais d'administration. Les raisons des retraits tiennent généralement du fait que : (1) les parties concernées ont pu arriver à une entente; ou (2) l'appelant a changé d'avis et ne souhaite pas poursuivre le processus d'appel. La Commission a aussi rejeté 23 motions en prorogation du délai d'appel. Un appel était toujours en instance au 31 mars 2017.

Toute personne qui ne s'est pas présentée à l'audience devant le directeur ou qui n'a pas participé à celle-ci ne peut pas interjeter appel d'un ordre autorisant un ordre de reprise de possession à un locateur relativement à la résiliation d'une location pour non-paiement de loyer ou des frais de services aux locataires, à moins que la Commission, au moment de la demande, accorde à cette personne l'autorisation d'appel. La Commission a reçu 51 demandes d'autorisation d'appel : elle en a accordé 18 et rejeté 33.

Entre le 1er avril 2016 et le 31 mars 2017, il y a eu 34 demandes d'autorisation d'appel auprès de la Cour d'appel et deux demandes de l'exercice précédent étaient encore en instance. La Cour d'appel a rejeté 19 demandes d'autorisation. Quinze audiences étaient toujours en instance au 31 mars 2017.

TABLE 1 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PARTS 1 - 8 OF THE RESIDENTIAL TENANCIES ACT

	<u>April 1, 2015 – March 31, 2016</u> (Cases)	<u>April 1, 2016 – March 31, 2017</u> (Cases)
<u>ABANDONMENT OF PERSONAL PROPERTY</u>		
Carried forward from previous year	0	0
Appeals Received	0	1
TOTAL	0	1
Decisions Confirmed	0	1
Decisions Varied	0	0
TOTAL APPEALS CLOSED	0	1
ACTIVE	0	0
<u>CLAIM FOR SECURITY DEPOSIT OR LESS</u>		
Carried forward from previous year	6	7
Appeals Received	47	57
TOTAL	53	64
Decisions Confirmed	20	26
Decisions Varied	18	15
Decisions Rescinded	3	7
Appeals Withdrawn/Rejected	3	4
Cancelled	2	2
Appeals Pending	0	0
TOTAL APPEALS CLOSED	46	54
ACTIVE	7	10
<u>DISPUTES</u>		
Carried forward from previous year	0	0
Appeals Received	0	0
TOTAL	0	0
Decisions Varied	0	0
Decisions Rescinded	0	0
Appeals Withdrawn/Rejected	0	0
Cancelled	0	0
TOTAL APPEALS CLOSED	0	0
ACTIVE	0	0

TABLE 1 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PARTS 1 - 8 OF THE RESIDENTIAL TENANCIES ACT

	<u>April 1, 2015 – March 31, 2016</u> (Cases)	<u>April 1, 2016 – March 31, 2017</u> (Cases)
<u>DISTRAINT AND LOCKOUT</u>		
Carried forward from previous year	0	0
Appeals Received	0	0
TOTAL	0	0
Decisions Confirmed	0	0
TOTAL APPEALS CLOSED	0	0
ACTIVE	0	0
<u>ENFORCEMENT</u>		
Carried forward from previous year	0	0
Appeals Received	0	0
TOTAL	0	0
Decisions Confirmed	0	0
TOTAL APPEALS CLOSED	0	0
ACTIVE	0	0
<u>HEARINGS</u>		
Carried forward from previous year	53	78
Appeals Received	293	334
TOTAL	346	412
Decisions Confirmed	112	128
Decisions Varied	100	150
Decisions Rescinded	34	35
Appeals Withdrawn/Rejected	16	27
Cancelled	3	3
Appeals Pending	3	1
TOTAL APPEALS CLOSED	268	344
ACTIVE	78	68

TABLE 1 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PARTS 1 - 8 OF THE RESIDENTIAL TENANCIES ACT

	<u>April 1, 2015 – March 31, 2016</u> (Cases)	<u>April 1, 2016 – March 31, 2017</u> (Cases)
<u>REPAIRS</u>		
Carried forward from previous year	2	1
Appeals Received	20	22
TOTAL	22	23
Decisions Confirmed	10	12
Decisions Varied	3	5
Decisions Rescinded	0	0
Cancelled	0	0
Appeals Withdrawn/Rejected	8	4
Appeals Pending	0	0
TOTAL APPEALS CLOSED	21	21
ACTIVE	1	2
<u>UTILITIES</u>		
Carried forward from previous year	1	0
Appeals Received	2	0
TOTAL	3	0
Decisions Confirmed	1	0
Decisions Varied	0	0
Decisions Rescinded	0	0
Appeals Withdrawn/Rejected	2	0
Cancelled	0	0
TOTAL APPEALS CLOSED	3	0
ACTIVE	0	0

TABLE 1 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PARTS 1 - 8 OF *THE RESIDENTIAL TENANCIES ACT*

	<u>April 1, 2015 – March 31, 2016</u> (Cases)	<u>April 1, 2016 – March 31, 2017</u> (Cases)
<u>TOTAL APPEALS</u>		
Carried forward from previous year	62	86
Appeals Received	362	414
TOTAL	424	500
Decisions Confirmed	143	167
Decisions Varied	121	170
Decisions Rescinded	37	42
Appeals Withdrawn/Rejected	29	35
Cancelled	5	5
Appeals Pending	3	1
TOTAL APPEALS CLOSED	338	420
ACTIVE	86	80

	<u>April 1, 2015 – March 31, 2016</u> (Cases)	<u>April 1, 2016 – March 31, 2017</u> (Cases)
<u>LEAVE TO APPEAL APPLICATIONS TO THE RESIDENTIAL TENANCIES COMMISSION</u>		
Carried forward from previous year	0	0
Applications Received	43	51
TOTAL	43	51
Leave to Appeal Granted	11	18
Leave to Appeal Denied	32	33
TOTAL APPEALS CLOSED	43	51
ACTIVE	0	0

APPEAL ACTIVITY SUMMARY

PART 9 OF *THE RESIDENTIAL TENANCIES ACT*

The Commission received appeals for 64 buildings affecting 226 rental units on orders the Residential Tenancies Branch issued under Part 9 of *The Residential Tenancies Act* between April 1, 2016, and March 31, 2017.

The Commission processed appeals on orders for 69 buildings affecting 401 rental units in the fiscal year ending March 31, 2017. The Commission upheld orders on 116 units in 30 buildings and varied orders on 213 units in 16 buildings. These variations sometimes occurred because the Commission received information at the appeal hearing that the Branch did not have before issuing its decision. Appeals in 23 other buildings affecting 72 units were either rejected by the Commission or withdrawn or cancelled by the appellant.

There is no appeal to the Court of Appeal on rent regulation matters.

SOMMAIRES DES ACTIVITÉS RELATIVES AUX APPELS

PARTIE 9 DE LA LOI SUR LA LOCATION À USAGE D'HABITATION

La Commission a reçu des appels pour 64 immeubles comptant 226 unités locatives relativement à des ordres rendus par la Direction de la location à usage d'habitation en vertu de la partie 9 de la *Loi sur la location à usage d'habitation* entre le 1^{er} avril 2016 et le 31 mars 2017.

La Commission a traité des appels d'ordres pour 69 immeubles comptant 401 unités locatives pendant l'exercice se terminant le 31 mars 2017. La Commission a confirmé les ordres concernant 116 unités dans 30 immeubles et a modifié les ordres concernant 213 unités dans 16 immeubles. Parfois, ces modifications ont été dues au fait que la Commission a reçu au cours de l'audience d'appel des renseignements que la Direction n'avait pas avant de rendre sa décision. Des appels concernant 23 autres immeubles comptant 72 unités ont été rejetés par la Commission, ou retirés ou annulés par l'appelant.

Il n'y a pas d'appel auprès de la Cour d'appel relativement au contrôle des loyers.

TABLE 2 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PART 9 OF *THE RESIDENTIAL TENANCIES ACT*

	<u>April 1, 2015 – March 31, 2016</u>		<u>April 1, 2016 – March 31, 2017</u>	
	Bldgs.	Units	Bldgs.	Units
APPLICATION - LAUNDRY INCREASE				
Carried forward from previous year	0	0	0	0
Appeals Received	0	0	0	0
TOTAL	0	0	0	0
Decisions Varied	0	0	0	0
Appeals Withdrawn/Rejected	0	0	0	0
TOTAL APPEALS CLOSED	0	0	0	0
ACTIVE	0	0	0	0
APPLICATION - REHABILITATION				
Carried forward from previous year	1	1	4	14
Appeals Received	4	14	4	4
TOTAL	5	15	8	18
Decisions Confirmed	1	1	3	13
Decisions Varied	0	0	2	2
Decisions Rescinded	0	0	0	0
Appeals Withdrawn/Rejected	0	0	0	0
TOTAL APPEALS CLOSED	1	1	5	15
ACTIVE	4	14	3	3
LIFE LEASE				
Carried forward from previous year	1	1	1	1
Appeals Received	0	0	0	0
TOTAL	1	1	1	1
Decisions Confirmed	0	0	1	1
Appeals Withdrawn/Rejected	0	0	0	0
TOTAL APPEALS CLOSED	0	0	1	1
ACTIVE	1	1	0	0

TABLE 2 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PART 9 OF *THE RESIDENTIAL TENANCIES ACT*

	<u>April 1, 2015 – March 31, 2016</u>		<u>April 1, 2016 – March 31, 2017</u>	
	Bldgs.	Units	Bldgs.	Units
TENANT OBJECTIONS TO GUIDELINE OR LESS				
Carried forward from previous year	0	0	0	0
Appeals Received	0	0	0	0
TOTAL	0	0	0	0
Decisions Confirmed	0	0	0	0
Decisions Varied	0	0	0	0
TOTAL APPEALS CLOSED	0	0	0	0
ACTIVE	0	0	0	0
APPLICATION - WITHDRAWAL OF SERVICE				
Carried forward from previous year	1	24	4	41
Appeals Received	8	71	0	0
TOTAL	9	95	4	41
Decisions Confirmed	0	0	0	0
Decisions Varied	4	53	3	33
Appeals Withdrawn/Rejected	1	1	0	0
Appeals Cancelled	0	0	0	0
TOTAL APPEALS CLOSED	5	54	3	33
ACTIVE	4	41	1	8
COMPLIANCE				
Carried forward from previous year	3	3	5	5
Appeals Received	6	6	6	9
TOTAL	9	9	11	14
Decisions Confirmed	1	1	5	5
Decisions Varied	3	3	3	4
Appeals Withdrawn/Rejected	0	0	0	0
TOTAL APPEALS CLOSED	4	4	8	9
ACTIVE	5	5	3	5

TABLE 2 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PART 9 OF *THE RESIDENTIAL TENANCIES ACT*

	<u>April 1, 2015 – March 31, 2016</u>		<u>April 1, 2016 – March 31, 2017</u>	
	Bldgs.	Units	Bldgs.	Units
APPLICATION – RENT INCREASE ABOVE GUIDELINE				
Carried forward from previous year	33	339	11	145
Appeals Received	74	405	54	213
TOTAL	107	744	65	358
Decisions Confirmed	33	167	21	97
Decisions Varied	18	359	8	174
Appeals Withdrawn/Rejected	41	59	22	68
Appeals Cancelled	4	14	1	4
TOTAL APPEALS CLOSED	96	599	52	343
ACTIVE	11	145	13	15

TABLE 2 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PART 9 OF *THE RESIDENTIAL TENANCIES ACT*

	<u>April 1, 2015 – March 31, 2016</u>		<u>April 1, 2016 – March 31, 2017</u>	
	Bldgs.	Units	Bldgs.	Units
TOTAL APPEALS				
Carried forward from previous year	39	368	25	206
Appeals Received	92	496	64	226
TOTAL	131	864	89	432
Decisions Confirmed	35	169	30	116
Decisions Varied	25	415	16	213
Appeals Withdrawn/Rejected	42	60	22	68
Appeals Cancelled	4	14	1	4
Decisions Rescinded	0	0	0	0
TOTAL APPEALS CLOSED	106	658	69	401
ACTIVE	25	206	20	31

TABLE 3
MOTION FOR EXTENSION OF TIME TO APPEAL

	<u>April 1, 2015 – March 31, 2016</u> (Cases)	<u>April 1, 2016 – March 31, 2017</u> (Cases)
<u>MOTIONS FOR EXTENSION OF TIME TO APPEAL</u>		
Carried forward from previous year	0	0
Applications Received	45	65
TOTAL	45	65
Decisions Denied	27	25
Decisions Granted	18	40
TOTAL	45	65
ACTIVE	0	0

TABLE 4
APPEAL HEARINGS BY JUDICIAL DISTRICT
RESIDENTIAL TENANCIES COMMISSION

	<u>April 1, 2015 - March 31, 2016</u>	<u>April 1, 2016 - March 31, 2017</u>
Winnipeg	395	406
Arbourg	0	1
Beausejour	1	0
Brandon	15	6
Dauphin	0	1
Morden/Winkler	1	0
Neepawa	2	0
Portage la Prairie	8	20
Ste. Anne	0	1
Selkirk	1	0
Steinbach	0	2
TOTAL	<u>423</u>	<u>437</u>

TABLE 5
APPLICATIONS FOR LEAVE TO APPEAL TO THE COURT OF APPEAL

	<u>April 1, 2015 - March 31, 2016</u>	<u>April 1, 2016 - March 31, 2017</u>
Granted	0	0
Denied	11	19
Withdrawn/Abandoned	14	0
Pending	<u>0</u>	<u>15</u>
TOTAL	<u><u>25</u></u>	<u><u>34</u></u>

SIGNIFICANT DECISIONS

Significant Decisions

The following are summaries of significant decisions of the Commission and the reasons for the decisions that were issued in the 2016/17 fiscal year.

1. **Order of Possession Granted**

This case provides an illustration of the issues faced by the Commission when determining if a landlord is entitled to terminate a tenancy for non-payment of rent where the parties entered into a tenancy agreement for subsidized housing.

The landlord filed an application at the Residential Tenancies Branch (the Branch) seeking an Order of Possession and compensation for rent and costs. The landlord terminated the tenancy agreement for non-payment of rent pursuant to subsection 95.1(1) of *The Residential Tenancies Act* (the *Act*):

Termination for non-payment

95.1(1) If a tenant fails to pay

(a) the rent...

within three days after it is due, the landlord may give the tenant a notice terminating the tenancy on the day the payment was due.

The Branch issued an Order of Possession and an Order for payment of unpaid rent and costs. The tenant appealed to the Commission. After considering the evidence and submissions of the parties, the Deputy Chief Commissioner confirmed the Orders of the Branch.

The tenant received subsidized housing which is defined under the *Act* as follows:

1(1) In this Act...

"subsidized housing" means a rental unit rented to persons or families of low or modest income at reduced rents by reason of funding provided by the Government of Canada, the Government of Manitoba, a municipality or a local government district, or by any of their agencies...

Rent was payable on the first of every month. In order to continue to receive an annual subsidy, the tenant had to provide the landlord with a complete set of required documents by a deadline every year. The tenant had been doing this for about ten years, so he was very familiar with the process. Every year, the landlord distributed very clear reminder notices to the tenant. The notices reminded the tenant that, if he failed to provide complete documentation, the rent would be raised to market rent on December 1, 2015.

The tenant failed to provide a complete package of documents by the deadline (August 31, 2015). In the fall of 2015, he approached the landlord with partial documentation. The landlord continued to remind him that, as in previous years, he had to provide full documentation. He did not provide full documentation until January 19, 2016.

In addition, the tenant was habitually late in paying his rent. On December 1, 2015, the landlord raised his rent to market rent. The tenant paid no rent at all in December 2015. On December 30, 2015, the landlord served him with a Notice of Termination for Non-payment of Rent. The landlord charged him market rent on January 1, 2016. In 2016, the tenant made partial rent payments. He insisted that he should never have been charged market rent.

The landlord filed clear documentation, including a rent ledger, a contact log with good notes about all contacts with the tenant, and copies of all relevant documents. The landlord's notices about subsidized rent and market rent were clear. The tenant did not have all his documents with him and did not remember dates or even approximate dates.

Even if the tenant's position about subsidized rent and market rent were 100% correct, and even if the tenant never had any obligation to pay any market rent, as of December 30, 2015 (the date of the Notice of Termination) the tenant was 30 days late in paying his December rent. When the landlord accepted partial payments on January 18 and February 1, 2016, the landlord advised the tenant in writing that it was still terminating the tenancy. Therefore, the landlord was entitled to an Order of Possession.

The Commission considered the amount of rent owing, including whether the landlord was entitled to charge market rent. The landlord's documentation and file notes were well organized and easy to understand. The landlord's use of large font and bold text on crucial documents was commendable.

The landlord provided the tenant with clear and timely written notification about exactly what he had to do to continue to receive the privilege of subsidized rent beyond November 30, 2015. He had to provide the landlord with a complete package of documents by August 31, 2015. A partial package would not be adequate. The tenant failed to provide the complete package as required. Therefore, the landlord was correct in charging the tenant market rent on December 1, 2015, and on January 1, 2016. The tenant provided the landlord with a complete package of documents on January 19, 2016. Therefore, the landlord correctly reduced the rent to the new subsidized rate for February 1, 2016.

2. Obligation to Repair in a Non-profit Life-Lease Complex

This case considered the issue of whether the landlord's obligation to repair under section 59(1) of the *Act* applies to non-profit life-lease complexes.

The building was a non-profit life-lease complex. The carpet in the rental unit was about 26 years old, and the walls in the unit had not been painted for about 26 years. The tenant filed a Repair Request with the Branch. The Branch ordered the landlord to replace the worn carpet and to paint the walls.

The landlord appealed to Commission. The landlord conceded that the carpet was dated and the paint-job was old. More importantly, the landlord argued that it was a non-profit entity, and that additional operating expenses would mean increased rent for all residents. The landlord had never been asked to do any painting or to replace any carpets within rental units before. It only maintained common areas. Finally, the landlord argued that it had created a "house rule" that tenants would maintain their own units, and argued that this house rule was reasonable.

Landlords can impose reasonable "house rules" but these rules cannot nullify explicit language in a tenancy agreement or in the legislation. In this case, the tenancy agreement made the landlord responsible for maintaining the rental unit (not just the common areas). The legislation also makes landlords responsible for maintaining rental units (not just common areas). Section 59(1) of the *Act* states:

Obligation to repair

59(1) During a tenancy, a landlord shall provide and maintain

(a) the rental unit and the residential complex; and

(b) the services and facilities expressly or impliedly promised by the landlord, whether or not included in a written tenancy agreement;

in a good state of repair, fit for habitation and in a state that complies with health, building and maintenance and occupancy standards required by law.

The legislation renders life-lease rental units and life-lease landlords similar to other rental units and landlords in many ways. The legislation does specify some specific differences, but the legislation says nothing about life-lease tenants having to maintain their own rental units.

The Branch officer testified credibly, objectively and dispassionately about the fact that the carpet in the unit needed replacing and the walls needed painting. His credible testimony was accepted. The Branch's decision was confirmed. Leave to appeal to the Court of Appeal was dismissed.

3. **Determination – Value of Withdrawal of Service**

This case provides an illustration of the analysis used to value a withdrawal of service by the landlord. Pursuant to section 138(1) of the *Act*, when a landlord intends to permanently reduce or withdraw a service, it must give the tenants notice three months before the effective date of the withdrawal and apply to the director of the Branch for an order fixing the value of the reduction or withdrawal. The tenants' rent is then reduced by the value of the reduction or withdrawal.

In this case, the landlord sought to remove storage lockers and applied to fix the value of the withdrawal of that service. The Branch reviewed the size of the storage room that was going to be converted and considered if the tenants share one storage room or have individual lockers as well as the monthly cost to rent a similar storage locker. The Branch determined that the value of the storage lockers was \$30 per unit per month and issued orders reducing the tenants' rent by that amount. The landlord appealed to the Commission.

There were 22 rental units in the residential complex and 18 storage lockers which were 20 square feet each, constructed of chicken wire and plywood. The landlord advised that only five tenants who had been in the building for more than five years were using storage lockers. He said that some of the storage lockers were locked with locks provided by the tenants and that there was no charge for the storage locker. The landlord provided copies of all the tenancy agreements which do not show any reference to storage. The landlord also advised that storage units were not offered to tenants since the landlord purchased the building the year prior.

The landlord's position was that there was no value to the lockers because they were not included in the tenancy agreements and were not paid for by the tenants. The landlord disagreed with the Branch's analysis noting that at \$30 per locker the square foot value for the lockers was higher than the square foot value of the rental units. He further stated that comparing the lockers at the complex to stand alone locker services was not relevant as there were no similarities in the quality of the storage.

The Commission panel determined that the lockers are a service as set out in the definition of “service and facility” in the *Act*. Therefore the panel was satisfied that the tenants’ rent included the use of a storage locker. The panel also noted that there does not need to be a separate charge for a service in order for it to have a value. The panel determined that the lockers had a value, however determined that the value did not compare to commercial storage facilities.

The landlord advised that the value of the rental units is \$1.08 to \$1.22 per square foot and that it was unreasonable to value the lockers at a higher per square foot cost than the living space. Considering the type of storage and the cost of the rental units, the panel determined that \$0.50 per square foot was a reasonable value for the type of storage available in the complex. The lockers are approximately 20 square feet and therefore the panel calculated the value of each locker at \$10 ($20 \times \$0.50 = \10). Given that there are 18 storage lockers and 22 rental units, the panel found that the value of the 18 storage lockers should be spread amongst the 22 rental units. Accordingly, the panel considered the value of the storage locker to be \$8 ($\$10 \times 18 \text{ lockers} \div 22 \text{ units}$) per rental unit. The tenants’ rent was reduced by \$8 per month per unit.

The Public Interest Disclosure (Whistleblower Protection) Act

The Public Interest Disclosure (Whistleblower Protection) Act came into effect in April 2007. This law gives employees a clear process for disclosing concerns about significant and serious matters (wrongdoing) in the Manitoba public service, and strengthens protection from reprisal. The Act builds on protections already in place under other statutes, as well as collective bargaining rights, policies, practices and processes in the Manitoba public service.

Wrongdoing under the Act may be: contravention of federal or provincial legislation; an act or omission that endangers public safety, public health or the environment; gross mismanagement; or, knowingly directing or counseling a person to commit a wrongdoing. The Act is not intended to deal with routine operational or administrative matters.

A disclosure made by an employee in good faith, in accordance with the Act, and with a reasonable belief that wrongdoing has been or is about to be committed is considered to be a disclosure under the Act, whether or not the subject matter constitutes wrongdoing. All disclosures receive careful and thorough review to determine if action is required under the Act, and must be reported in a department’s annual report in accordance with Section 18 of the Act. The Residential Tenancies Commission has received an exemption from the Ombudsman under Section 7 of the Act. As a result any disclosures received by the Chief Commissioner or a supervisor are referred to the Ombudsman in accordance with the exemption.

The following is a summary of disclosures received by the Residential Tenancies Commission for April 1, 2016 to March 31, 2017:

Information Required Annually (per Section 18 of the Act)	April 1, 2016 to March 31, 2017
The number of disclosures received, and the number acted on and not acted on. <i>Subsection 18(2)(a)</i>	NIL