

Manitoba Residential
Tenancies Commission

**Annual Report
2021-2022**



Manitoba Residential Tenancies Commission

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**MINISTER
OF LABOUR, CONSUMER PROTECTION AND GOVERNMENT SERVICES**

Room 343
Legislative Building
Winnipeg, Manitoba R3C 0V8
CANADA

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 Manitoba Residential Tenancies Commission for the year ended March 31, 2022.

Respectfully submitted,

“original signed by”

Honourable Reg Helwer
Minister of Labour, Consumer Protection and Government Services
Minister responsible for the Manitoba public service
Minister responsible for the Public Utilities Board





**MINISTRE
DU TRAVAIL, DE LA PROTECTION DU CONSOMMATEUR
ET DES SERVICES GOUVERNEMENTAUX**

Bureau 343
Palais législatif
Winnipeg (Manitoba) R3C 0V8
CANADA

Son Honneur l'honorable Janice C. Filmon, C.M., O.M.
Lieutenante-gouverneure du Manitoba
Palais législatif, bureau 235
Winnipeg (Manitoba) R3C 0V8

Madame la Lieutenante-Gouverneure,

J'ai le privilège de vous présenter, à titre informatif, le rapport annuel du Commission de la location à usage d'habitation pour l'exercice qui s'est terminé le 31 mars 2022.

Le tout respectueusement soumis

“original signé par”

Monsieur Reg Helwer
Ministre du Travail, de la Protection du consommateur et des Services
gouvernementaux
Ministre responsable de la fonction publique
Ministre responsable de la Régie des services publics





Residential Tenancies Commission
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Honourable Reg Helwer
Minister of Labour, Consumer Protection and Government Services
Minister responsible for the Manitoba public service
Minister responsible for the Public Utilities Board
Room 343, Legislative Building
Winnipeg, MB R3C 0V8

Dear Minister:

I am pleased to present for your approval the 2021/2022 Annual Report of the Residential Tenancies Commission.

Respectfully submitted,

“original signed by”

Karin Linnebach
Chief Commissioner
Residential Tenancies Commission



Commission de la location à usage d'habitation
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Monsieur Reg Helwer
Ministre du Travail, de la Protection du consommateur et des Services gouvernementaux
Ministre responsable de la fonction publique
Ministre responsable de la Régie des services publics
Palais législatif, bureau 343
Winnipeg (Manitoba) R3C 0V8

Dear Minister:

J'ai le plaisir de présenter à votre approbation le rapport annuel du Commission de la location à usage d'habitation pour l'exercice qui s'est terminé le 31 mars 2022.

Le tout respectueusement soumis

"original signé par"

Karin Linnebach
Commissaire en chef
Commission de la location à usage d'habitation

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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 Deputy Chief Commissioner and one 0.6 Deputy Chief Commissioner appointed for up to a four-year term and 15 part-time deputy chief commissioners appointed for up to a four-year term, located in Winnipeg, Brandon and Viriden. The Deputy Commissioners may exercise the powers and perform the duties of the Chief Commissioner.
- Panel members – 35 part-time panel members appointed for up to a two-year term located in Winnipeg, Portage la Prairie, Thompson and Brandon – approximately half representing the views of the landlords, the others the views of the tenants.

The Commission may conduct hearings orally, in person or by telephone, in writing or partly orally and partly in writing. Some appeals are heard only by the Chief Commissioner or a 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.

Effective June 3, 2019, all Commission decisions are final and binding. However, the Chief Commissioner may correct or amend a decision or order of the Commission in limited circumstances as set out in sections 171.01 and 160.1(1) of *The Residential Tenancies Act*.

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, 2021. Figures for the fiscal year ending March 31, 2020, 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 :

- Le commissaire en chef – un poste à temps plein; nommé pour un mandat d'au plus cinq ans; situé à Winnipeg.
- des commissaires adjoints – un commissaire en chef adjoint à temps plein, un 0.6 poste à temps plein, occupé pour une période de quatre ans maximum et 15 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 – 35 membres à temps partiel nommés pour un mandat pouvant aller jusqu'à deux ans et situés à Winnipeg, Portage-la-Prairie, Thompson et Brandon – environ la moitié représentant les points de vue des propriétaires, les autres, les points de vue des locataires.

La Commission peut tenir des auditions oralement, en personne ou par téléphone, par écrit ou en partie oralement et en partie par écrit. Certains appels sont entendus uniquement par le commissaire en chef ou un commissaire en chef adjoint et certains appels sont entendus par un comité de trois composé d'un propriétaire et d'un représentant des locataires et soit le commissaire en chef ou un commissaire en chef adjoint en tant que président neutre. S'il n'y a pas de décision majoritaire, la décision du Président neutre est la décision de la Commission.

À compter du 3 juin 2019, toutes les décisions de la Commission sont définitives et exécutoires. Cependant, le commissaire en chef peut corriger ou modifier une décision ou une ordonnance de la Commission dans circonstances limitées, telles qu'énoncées aux articles 171.01 et 160.1(1) de la Loi sur la location à usage d'habitation.

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 2021. Des chiffres correspondant à l'exercice se terminant le 31 mars 2020 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, 2021, to March 31, 2022, the Commission received 376 appeals under Parts 1 – 8 of *The Residential Tenancies Act*. The Commission received 313 appeals of orders resulting from Branch hearings and 41 appeals of claims for security deposit or less. The remaining 22 appeals were related to orders to repair, abandonment, utilities, distraint/lockout and administrative penalties.

The Commission processed 315 cases from April 1, 2021, to March 31, 2022. The Commission confirmed or upheld the Residential Tenancies Branch's decisions in 157 instances. The Commission varied 111 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 18 decisions of the Branch. Another 27 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 their mind and no longer wishing to continue with the appeal. There were two appeals pending as of March 31, 2022. There were 26 motions to extend time to appeal denied.

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 46 applications for leave to appeal, 18 were granted leave and 28 were denied. The Commission received 23 requests to correct or amend an order. Two orders were amended and the remaining 21 orders were upheld.

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 2021 et le 31 mars 2022, la Commission a reçu 376 appels relativement aux parties 1 à 8 de la *Loi sur la location à usage d'habitation*. La Commission a reçu 365 appels d'ordres provenant d'audiences de la Direction et 41 appels de réclamations du dépôt de garantie ou moins. Les 22 réalisés aux ordres de réparation, abandon, services publics, saisie/lock-out et sanctions administratives.

Entre le 1^{er} avril 2021 et le 31 mars 2022, la Commission a traité 315 causes. Dans 157 cas, la Commission a confirmé ou soutenu les décisions de la Direction de la location à usage d'habitation. La Commission a aussi modifié 111 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 18 décisions de la Direction, et 27 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. Il y avait deux appel en instance au 31 mars 2022. La Commission a aussi rejeté 26 motions en prorogation du délai d'appel.

Toute personne qui ne s'est pas présenté 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 46 demandes d'autorisation d'appel : elle en a accordé 18 et rejeté 28. La Commission a reçu 23 demandes ou de correction ou de modification d'une ordonnance. Deux ordonnances ont été modifiée et les 21 ordonnances restantes ont été confirmées.

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

	<u>April 1, 2020 – March 31, 2021</u>	<u>April 1, 2021 – March 31, 2022</u>
	(Cases)	(Cases)
<u>ADMINISTRATIVE PENALTIES</u>		
Carried forward from previous year	0	0
Appeals Received	0	0
TOTAL	0	0
Decisions Confirmed	0	0
Decisions Varied	0	0
TOTAL APPEALS CLOSED	0	0
ACTIVE	0	0
<u>CLAIM FOR SECURITY DEPOSIT OR LESS</u>		
Carried forward from previous year	12	7
Appeals Received	51	41
TOTAL	63	48
Decisions Confirmed	21	9
Decisions Varied	26	9
Decisions Rescinded	6	3
Appeals Withdrawn/Rejected	2	0
Cancelled	1	1
Appeals Pending	0	0
TOTAL APPEALS CLOSED	56	22
ACTIVE	7	26
<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, 2020 – March 31, 2021</u> (Cases)	<u>April 1, 2021 – March 31, 2022</u> (Cases)
<u>DISTRAINT AND LOCKOUT</u>		
Carried forward from previous year	1	1
Appeals Received	5	1
TOTAL	6	2
Decisions Confirmed	3	2
Decisions Varied	0	0
Decisions Withdrawn	0	0
Decisions Rescinded	2	0
TOTAL APPEALS CLOSED	5	2
ACTIVE	1	0
<u>ENFORCEMENT</u>		
Carried forward from previous year	0	0
Appeals Received	4	3
TOTAL	4	3
Decisions Confirmed	3	1
Decisions Withdrawn/Settled	1	1
TOTAL APPEALS CLOSED	4	2
ACTIVE	0	1
<u>ORDER OF POSSESSION AND CLAIM HEARINGS</u>		
Carried forward from previous year	49	88
Appeals Received	269	313
TOTAL	318	401
Decisions Confirmed	97	136
Decisions Varied	94	100
Decisions Rescinded	22	14
Appeals Withdrawn/Rejected	12	9
Cancelled	4	10
Appeals Pending	1	2
TOTAL APPEALS CLOSED	230	271
ACTIVE	88	130

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

	<u>April 1, 2020 – March 31, 2021</u> (Cases)	<u>April 1, 2021 – March 31, 2022</u> (Cases)
<u>REPAIRS</u>		
Carried forward from previous year	2	2
Appeals Received	15	15
TOTAL	17	17
Decisions Confirmed	7	7
Decisions Varied	2	2
Decisions Rescinded	0	1
Cancelled	0	0
Appeals Withdrawn/Rejected	6	4
Appeals Pending	0	0
TOTAL APPEALS CLOSED	15	14
ACTIVE	2	3
<u>UTILITIES</u>		
Carried forward from previous year	0	0
Appeals Received	0	3
TOTAL	0	3
Decisions Confirmed	0	1
Decisions Varied	0	0
Decisions Rescinded	0	0
Appeals Withdrawn/Rejected	0	2
Cancelled	0	0
TOTAL APPEALS CLOSED	0	3
ACTIVE	0	0
<u>ABANDONMENT</u>		
Carried forward from previous year	0	1
Appeals Received	1	0
TOTAL	1	1
Decisions Upheld	0	1
TOTAL APPEALS CLOSED	0	1
ACTIVE	1	0

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

	<u>April 1, 2020 – March 31, 2021</u> (Cases)	<u>April 1, 2021 – March 31, 2022</u> (Cases)
<u>TOTAL APPEALS</u>		
Carried forward from previous year	64	99
Appeals Received	345	376
TOTAL	409	475
Decisions Confirmed	131	157
Decisions Varied	122	111
Decisions Rescinded	31	18
Appeals Withdrawn/Rejected	20	16
Cancelled	5	11
Appeals Pending	1	2
TOTAL APPEALS CLOSED	310	315
ACTIVE	99	160

	<u>April 1, 2020 – March 31, 2021</u> (Cases)	<u>April 1, 2021 – March 31, 2022</u> (Cases)
<u>LEAVE TO APPEAL APPLICATIONS TO THE RESIDENTIAL TENANCIES COMMISSION</u>		
Carried forward from previous year	0	0
Applications Received	32	46
TOTAL	32	46
Leave to Appeal Granted	11	18
Leave to Appeal Denied	21	28
TOTAL APPEALS CLOSED	32	46
ACTIVE	0	0

APPEAL ACTIVITY SUMMARY

PART 9 OF THE *RESIDENTIAL TENANCIES ACT*

The Commission received appeals for 57 buildings affecting 366 rental units on orders the Residential Tenancies Branch issued under Part 9 of *The Residential Tenancies Act* between April 1, 2021, and March 31, 2022.

The Commission processed appeals on orders for 49 buildings affecting 289 rental units in the fiscal year ending March 31, 2022. The Commission upheld orders on 61 units in 24 buildings and varied orders on 136 units in 10 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 15 other buildings affecting 92 units were either rejected by the Commission or withdrawn or cancelled by the appellant.

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 57 immeubles comptant 366 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 2021 et le 31 mars 2022.

La Commission a traité des appels d'ordres pour 49 immeubles comptant 289 unités locatives pendant l'exercice se terminant le 31 mars 2022. La Commission a confirmé les ordres concernant 61 unités dans 24 immeubles et a modifié les ordres concernant 136 unités dans 10 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 15 autres immeubles comptant 92 unités ont été rejetés par la Commission, ou retirés ou annulés par l'appelant.

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

	<u>April 1, 2020 – March 31, 2021</u>		<u>April 1, 2021 – March 31, 2022</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	0	0	1	15
Appeals Received	1	15	4	4
TOTAL	1	15	5	19
Decisions Confirmed	0	0	0	0
Decisions Varied	0	0	0	0
Decisions Rescinded	0	0	0	0
Appeals Withdrawn/Rejected	0	0	0	0
TOTAL APPEALS CLOSED	0	0	0	0
ACTIVE	1	15	5	19
LIFE LEASE				
Carried forward from previous year	0	0	1	5
Appeals Received	1	5	0	0
TOTAL	1	5	1	5
Decisions Confirmed	0	0	1	5
Appeals Withdrawn/Rejected	0	0	0	0
TOTAL APPEALS CLOSED	0	0	1	5
ACTIVE	1	5	0	0

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

	<u>April 1, 2020 – March 31, 2021</u>		<u>April 1, 2021 – March 31, 2022</u>	
	Bldgs.	Units	Bldgs.	Units
APPLICATION - WITHDRAWAL OF SERVICE				
Carried forward from previous year	0	0	0	0
Appeals Received	2	47	3	19
TOTAL	2	47	3	19
Decisions Confirmed	0	0	0	0
Decisions Varied	2	47	1	17
Appeals Withdrawn/Rejected	0	0	0	0
Appeals Cancelled	0	0	0	0
TOTAL APPEALS CLOSED	2	47	1	17
ACTIVE	0	0	2	2
COMPLIANCE				
Carried forward from previous year	5	7	10	18
Appeals Received	10	18	7	47
TOTAL	15	25	17	65
Decisions Confirmed	2	4	4	14
Decisions Varied	3	3	4	4
Appeals Withdrawn/Rejected	0	0	1	1
Appeals Cancelled	0	0	1	1
TOTAL APPEALS CLOSED	5	7	10	20
ACTIVE	10	18	7	45

TABLE 2 - APPEALS

**STATISTICAL SUMMARY FOR MANITOBA
PART 9 OF *THE RESIDENTIAL TENANCIES ACT***

	<u>April 1, 2020 – March 31, 2021</u>		<u>April 1, 2021 – March 31, 2022</u>	
	Bldgs.	Units	Bldgs.	Units
APPLICATION – RENT INCREASE ABOVE GUIDELINE				
Carried forward from previous year	25	447	22	120
Appeals Received	53	345	43	296
TOTAL	78	792	65	416
Decisions Confirmed	24	90	19	42
Decisions Varied	9	473	5	115
Appeals Withdrawn/Rejected	20	93	11	89
Appeals Cancelled	3	16	2	1
TOTAL APPEALS CLOSED	56	672	37	247
ACTIVE	22	120	28	169

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

	<u>April 1, 2020 – March 31, 2021</u>		<u>April 1, 2021 – March 31, 2022</u>	
	Bldgs.	Units	Bldgs.	Units
TOTAL APPEALS				
Carried forward from previous year	30	454	34	158
Appeals Received	67	430	57	366
TOTAL	97	884	91	524
Decisions Confirmed	26	94	24	61
Decisions Varied	14	523	10	136
Appeals Withdrawn/Rejected	20	93	12	90
Appeals Cancelled	3	16	3	2
Appeals Rescinded	0	0	0	0
TOTAL APPEALS CLOSED	63	726	49	289
ACTIVE	34	158	42	235

TABLE 3
MOTION FOR EXTENSION OF TIME TO APPEAL

	<u>April 1, 2020 – March 31, 2021</u> (Cases)	<u>April 1, 2021 – March 31, 2022</u> (Cases)
<u>MOTIONS FOR EXTENSION OF TIME TO APPEAL</u>		
Carried forward from previous year	0	0
Applications Received	59	48
TOTAL	59	48
Decisions Denied	21	26
Decisions Granted	38	22
TOTAL	59	48
ACTIVE	0	0

TABLE 4
APPEAL HEARINGS BY JUDICIAL DISTRICT
RESIDENTIAL TENANCIES COMMISSION

	<u>April 1, 2020 - March 31, 2021</u>	<u>April 1, 2021 - March 31, 2022</u>
Winnipeg	324	360
Brandon	0	0
Dauphin	0	0
Morden/Winkler	0	0
Portage la Prairie	0	0
Russell	0	0
Steinbach	0	0
Thompson	0	0
TOTAL	<u>324</u>	<u>360</u>

TABLE 5
REQUEST TO CORRECT OR AMEND AN ORDER

	<u>April 1, 2020 – March 31, 2021</u> (Cases)	<u>April 1, 2021 – March 31, 2022</u> (Cases)
<u>REQUEST TO CORRECT OR AMEND AN ORDER</u>		
Carried forward from previous year	0	0
Applications Received	29	23
TOTAL	29	23
Decisions Denied	28	21
Decisions Granted	1	2
TOTAL	29	23
ACTIVE	0	0

SIGNIFICANT DECISIONS

Significant Decisions

The following are summaries of significant decisions of the Residential Tenancies Commission (the Commission) and the reasons for the decisions that were issued in the 2020/21 fiscal year.

1. Order of Possession (OP) Denied – Hearsay evidence was admissible but unreliable

An altercation occurred between three tenants (T1, T2 and T3) in the residential complex. The landlord gave notice of termination to T1 and applied for an OP. Section 96(3) of *The Residential Tenancies Act* (the *Act*) allows landlords to give early termination for cause without giving a written warning. However, the landlord was required to prove that T1's actions posed an immediate risk to health or safety.

The landlord's only witness at the hearing had no direct knowledge of what transpired between the tenants as she was not present when the incident occurred. Her information came from others. Neither T2 nor T3 testified at the hearing. However, both T2 and T3 provided unsworn statements which were filed into evidence. The landlord also filed other documents. Section 169(1) of the *Act* states that the Commission is not bound by the rules of law respecting evidence applicable to judicial proceedings. Accordingly, the documents of the landlord, including the unsworn statements, were admitted into evidence, subject to weight.

While the unsworn statements were admissible, the panel found the documentary evidence to be unreliable as to what actually transpired between the three tenants. T1 testified, but had little recollection of what transpired. The panel accepted that some sort of altercation between the tenants occurred, but was not satisfied that what occurred warranted a termination of the tenancy without written warning. Accordingly, the OP was not granted and no costs were awarded.

2. Damages - Tenants responsible for damage to the rental unit's yard beyond reasonable wear and tear

Part of the landlords claim included \$10,500 for damage to the rental unit's yard. They claimed the tenants' quads damaged multiple trees, created "major" ruts in the yard and killed the grass. They alleged that parts of the property that were green lawn turned into mud roads. They relied on a letter from a landscaper stating that the damage was caused by vehicles, text messages with one of the tenants, photos taken before and after the tenancy, and videos of quads being driven in the yard. The landlords asserted the tenants knew they were not permitted to ride quads in the yard.

One tenant asserted they were given permission to ride quads in the yard, that none of the damage was actually on the landlords' property and that the mud shown in the photos was due to the ground being wet in spring. The other tenant said that the trails were already on the property when they moved in and that it was ok to quad on the property as long as they stuck to the trails and stayed off the grass.

Considering the evidence as a whole, the Commission found that quad riding occurred on the landlords' property and caused significant ruts and damage to the landlords' trees. There was no evidence that anyone other than the tenants, their children and their guests rode quads on the landlords' property. Even if there was no express prohibition against quad riding, the tenants were not permitted to damage the property beyond reasonable wear and tear. While it was accepted that there were paths on the property, there is a significant difference between walking paths and paths turned to deep ruts by frequent quad riding. The tenants were found responsible for damage to the yard and grass by the use of quads beyond reasonable wear and tear.

The Commission was not satisfied that the landlords proved damages of \$10,500. Some ruts developed on what were formerly walking paths and grassy areas and some trees were, more likely than not, driven over or hit by the quads. Some of the lawn was damaged from dog urine (which was also the responsibility of the tenants). Under the circumstances, the landlords were awarded \$1500 as reasonable compensation for landscaping, including the areas that were damaged from dog urine. This compensation included not only soil, seed and some replacement trees, but also labour.

3. OP for Substantial Interference with Rights - Failure to grant the landlord access to the rental unit in an emergency constituted a substantial interference with rights and warranted the granting of an OP

The landlord gave notice of termination for impairment of safety and interference with rights. Section 74 of the *Act* states that a tenant or a person the tenant permits in the residential complex must not by act or omission interfere with the lawful right or interest of the landlord, another tenant or occupant of the complex or a person permitted in the residential complex by any of those persons.

A water leak occurred at the residential complex. The landlord was required to immediately investigate. The leak was coming from under the tenant's unit. The landlord and a plumber heard water running when they attended to the door of the tenant's unit. This was a situation that required immediate attention.

Pursuant to section 54(1)(a) of the *Act*, a landlord may enter a rental unit without notice if an emergency exists and entry to the rental unit is necessary. The panel found that the landlord was entitled to enter the rental unit without notice to investigate the leaking water. Either the tenant or the tenant's guest blocked entry to the unit by chaining the door from the inside. The landlord could not access the unit and had to shut the water off for the entire building for several hours. The landlord called police for assistance.

The tenant claimed he wasn't home, but was at a medical appointment. The landlord disputed this, asserting he was in the hallway and would have seen the tenant come home if in fact he had been out. The landlord also asserted that he tried gaining access during the time the tenant admitted he was home. The tenant did not file any evidence substantiating he was at a medical appointment. In any event, the tenant's guest admitted to being in the tenant's unit the entire time that the landlord was trying to access the unit.

The panel did not find the guest's justification for not responding to the landlord to be reasonable and had concerns about the credibility of the guest's testimony. The panel accepted the landlord's evidence, which was corroborated by the plumber, that he identified himself and stated that there was an emergency. The panel found, more likely than not, that the guest was aware it was the landlord who was trying to access the unit and why he was trying to access the unit. While the guest claimed she was stressed and

scared and tried calling the tenant and his mother for assistance, she provided no details about the efforts she made to reach them. There is no indication that she tried calling anyone else. Neither the tenant nor his mother mentioned anything about the guest trying to contact them. The door was chained from the inside and there was no suggestion that the landlord tried to dismantle or break the chain. The guest failed to give any reasonable explanation why she couldn't speak to the landlord with the chain on. It was not reasonable for the guest to ignore the landlord under the circumstances. This was not a situation where the guest was simply in the unit for a short time alone waiting for the tenant to return. This went on for several hours.

Section 96(3) allows for termination without warning and with only five days' notice if the interference of lawful right or interest was substantial. The panel accepted the evidence of the landlord and the plumber that they had to shut the water off for the entire complex for several hours because they could not access the tenant's unit. They had to contact police before they could gain access to the unit. The panel found the guest's actions and omissions to be a substantial interference with the landlord's rights. Accordingly, the landlord was entitled to give notice of termination of only five days and the OP was granted.

4. Rent Regulation - New landlord not entitled to raise rent beyond the guideline

A credit union was the first mortgagee on the property and had commenced foreclosure proceedings. Branch Policy 1.4 explains that when a mortgagee collects rent, they are considered to be a landlord. They are then responsible for all the duties and entitled to all of the benefits of a landlord under the *Act* and any tenancy agreement. The tenant was required to pay his rent to the credit union. Receipts submitted by the tenant show that he was paying \$1000 per month to the credit union through the credit union's property manager.

The landlord purchased the rental unit from the credit union. The *Act* protects tenants from being evicted when a new landlord purchases a property or otherwise takes over as landlord. Section 98(1) states that when a landlord enters into an agreement for the sale of a rental unit, a landlord may give notice of termination to a tenant if the purchaser or certain family members of the purchaser will occupy the rental unit. If the purchaser or the purchaser's family members do not occupy the rental unit, the purchaser becomes the new landlord of the rental unit.

The landlord asserted that the tenant was required to move out of the rental unit before she took possession through the sale. However, there was no evidence that the credit union and the tenant agreed in writing to terminate the tenancy when the unit was sold to the landlord. There was no indication the credit union ever gave notice of termination to the tenant as per s. 98(1). Perhaps the credit union was aware that the current landlord did not intend to occupy the unit. In any event, the landlord's evidence was clear; she intended to rent out the property.

When the landlord became the landlord through the purchase of the rental unit, she was bound by the tenancy agreement between the tenant and the previous landlord (section 40) and she was only able to raise the rent in accordance with the *Act* (section 117). The rules regarding rent increases apply even if the tenant agrees to pay more than permitted under the *Act* because any attempt to contract out of the obligations and rights under the *Act* are void (section 6).

Written notice of rent increase must be given at least three months before the effective date of the rent increase (s. 25(1)). No written notice of rent increase was given to the tenant. Rather, the parties signed a tenancy agreement, which increased the rent by \$100 per month just over a week after signing. This increase was well beyond the guideline amount (which is the maximum permitted under the regulations). A landlord can only increase the rent above the guideline if they obtain an order permitting the increase (subsection 123(2)). The landlord did not apply for an above guideline increase.

Subsection 140.0.1(1) addresses the order that the director of the Branch, and in turn the Commission, may make after conducting an inquiry into an unauthorized rent increase pursuant to subsection 140(2). Before making an order pursuant to subsection 140.0.1(1), the Branch and Commission must be satisfied that the landlord failed to comply with the notice requirements when it gave notice of rent increase and be of the opinion that there is no unfairness to the tenant should an increase be granted.

The panel found that executing a tenancy agreement that provided for increased rent constituted an incomplete notice of rent increase. The panel then considered the issue of unfairness. Section 25(1) states that a written notice of rent increase must be given at least three months before the effective date of the increase. Landlords are entitled to give notice of a guideline rent increase as long as there is only one increase per 12 month period (s. 118(1)). There had been no rent increases for nearly four years. The panel found that there was no unfairness in awarding the landlord the guideline increase effective the next date the rent was due three months after the signing of the tenancy agreement. The panel set the rent and ordered the landlord to refund the tenant \$3360 in rent overpayment.

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, 2021 to March 31, 2022:

Information Required Annually (per Section 18 of the Act)	April 1, 2021 to March 31, 2022
The number of disclosures received, and the number acted on and not acted on. <i>Subsection 18(2)(a)</i>	NIL