



Yukon Legislative Assembly

Select Committee on the *Landlord and Tenant Act*

32nd Yukon Legislative Assembly

Landlord and Tenant Act Discussion Paper

Prepared by
The Select Committee on the
Landlord and Tenant Act

July 2010

On peut se procurer la version française du présent document à partir de la page Web du Comité : <http://www.legassembly.gov.yk.ca/fr/679.html>.

Who are we?

The Select Committee on the *Landlord and Tenant Act* is an all-party Committee established on November 18, 2009 by a motion (Motion #850) that carried in the Legislative Assembly.

The Committee is comprised of the following members of the Assembly:

Steve Nordick, Member for Klondike, (Chair)

Steve Cardiff, Member for Mt. Lorne, (Vice-Chair)

Darius Elias, Member for Vuntut Gwitchin

What is our Mandate?

The Committee's purpose, or mandate, is set out in the motion that appointed the Committee. The motion specifies that the Committee is charged with receiving views and opinions of Yukon residents and interested groups on the *Landlord and Tenant Act* and that the Committee is to report to the Legislative Assembly its findings and recommendations with respect to changes to the regulations made pursuant to the Act, substantive amendments to the Act, or the introduction by the government of a new Act.

The purpose of this document is to inform Yukon residents of the provisions under the current *Landlord and Tenant Act* and to encourage public engagement in the consultation process.

How can you contact us?

If you would like information about the work of the Select Committee on the *Landlord and Tenant Act*, or wish to make a written submission to the Committee, you may contact the Committee at:

Select Committee on the *Landlord and Tenant Act*

Yukon Legislative Assembly Office

P.O. Box 2703 (A-9)

Whitehorse, Yukon Y1A 2C6

Email: yla@gov.yk.ca

Phone: (867) 667-5494

Toll-free: 1-800-661-0408 (ask for extension 5494)

Fax: (867) 393-6280

Please note that submissions to the Select Committee on the *Landlord and Tenant Act* become the property of the Committee and may be posted to the Committee's webpage <http://www.legassembly.gov.yk.ca/679.html> or included (in whole or in part) in the Committee's final report to the Legislative Assembly. This report, once tabled in the Legislative Assembly, will become a public document.

Under the current *Landlord and Tenant Act*:

What are your responsibilities as a Tenant?

- The tenant must pay the entire amount of rent when it is due.
- The tenant must not interfere with the rights of the landlord or other tenants in the rented premises.
- The tenant must not carry on illegal trade or perform illegal acts on the rented premises.
- The tenant must not endanger persons or property in the premises.
- The tenant must repair any damage caused by the tenant or their guests.
- The tenant must maintain the premises in a reasonably clean condition.
- The tenant must not use the premises for something other than residential purposes without the landlord's consent.
- The tenant must vacate the premises upon termination of tenancy.

What are your responsibilities as a Landlord?

- The landlord must provide and maintain the rental property and common areas in a good, safe, and tenantable state of repair.
- The landlord must provide and maintain the services and facilities as agreed to.
- The landlord must comply with health, safety, and maintenance standards established by laws such as, but not limited to, the *Public Health and Safety Act*.
- The landlord must provide the tenant (upon request) with a receipt for paid rent.
- The landlord must not withhold or interfere with the supply of any vital services such as heat, water, or electricity.
- The landlord must not receive reward in exchange for access to the premises.
- The landlord must not interfere with the enjoyment of the rental premises.
- The landlord must fully disclose all rules in writing.

For more information on landlord and tenant rights and responsibilities, see information and tip sheets on Government of Yukon Consumer Services website at <http://www.community.gov.yk.ca/consumer/landtact.html>.

What have we heard from Yukoners so far?

The Select Committee on the *Landlord and Tenant Act* began soliciting feedback on the Act from Yukon residents and other interested parties through ads placed in local newspapers in mid-January 2010. The consultation process will be ongoing to September 30, 2010.

Written submissions can be viewed online on the Committee's webpage at <http://www.legassembly.gov.yk.ca/725.html>.

Following are some of the comments or concerns cited in these submissions:

General Comments

- The current Act seems to be well-balanced. There are expectations on both the tenant and the landlord. With minor amendments, the Act is fair and equitable.
- The current wording is difficult to understand and is often misinterpreted. Rewriting the Act in plain language and including a preamble or statement of purpose would help.
- To provide more clarity, consider consolidating provisions for various types of tenancies under section headings (eg. Commercial, Residential, Mobile Homes, etc.), or consider separate acts.
- Lack of familiarity and understanding of the Act is a major problem.
- The lack of available information and public education about the Act is an issue. Having regular information workshops would help.
- It is not the responsibility of the private sector to provide social housing. Government is responsible for social housing.
- There appears to be a move afoot to use the *Landlord and Tenant Act* to address poverty and social housing.
- Creating more barriers for landlords will exacerbate the already tight housing market.

Individual Rights and Responsibilities

- As it stands, the tenant seems to have more rights than the landlord.
- Consider a rights and responsibilities section in the Act that clearly sets out the expectations and entitlements of all parties.
- Consider producing and distributing a facts sheet that clearly explains the legal rights of both the landlord and the tenant.
- Risk and cost increases will impact rental rates and inventory of units.
- The Act has to ensure the landlord has control over the asset.
- Landlords have to retain the right to ensure properties provide some return on their investment.

- Require justification for large rent increases and consider a cap on increases.
- Consider establishing a set check-out time in the Act, similar to the BC Act.
- Clearly articulate minimum rental standards.

Dispute Resolution and Enforcement Mechanisms

- Increase prominence of the Rental Officer's role. Mandate public education.
- Strengthen the role of the Rental Officer in the mediation and arbitration of disputes.
- There seems to be a lack of enforcement of existing laws. Include enforcement provisions within the Act, not in other Acts. Build in penalties for failure to comply that are commensurate with the infraction.
- There is no enforcement other than court. Consider the use of inspectors.
- Promote equal access to court processes. The court process is daunting for both the landlord and the tenant. Provide a step-by-step guide of the process. Create a package that explains the process – rights and responsibilities of both parties.
- Consider the appointment of a "pro-bono" court officer who could assist the underprivileged and uneducated (both landlords and tenants) with the legal process.
- Prohibit retaliation or harassment for complaints and provide consequences.

Eviction

- There is not currently a power imbalance in this area. The major issue is a lack of familiarity and understanding of the legislation.
- Landlords must retain ability to evict with cause.
- Landlords must retain the right of eviction in winter months. Landlords cannot provide free or social housing.
- Require that the landlord provide explicit legal cause for eviction.

Security/Damage Deposits

- Clauses in this area are general and non-specific. Security deposit vs. damage deposit vs. last months rent needs clarification.
- Calculation of interest payable on security deposits is complicated. Consider interest payable as a fixed percentage or provide a calculation tool on the website similar to BC.
- Allow landlords to collect and hold an additional damage deposit specifically for pets.

Select Committee on the *Landlord and Tenant Act*

On November 18, 2009, the Yukon Legislative Assembly adopted the following motion (Motion #850):

THAT this House establish a Select Committee on the *Landlord and Tenant Act*,

THAT the membership of the Committee be comprised of equal representation from the Government caucus, the Official Opposition caucus and the Third Party caucus to be determined by the Premier, the Leader of the Official Opposition and the Leader of the Third Party,

THAT the Committee conduct public consultations for the purpose of receiving views and opinions of Yukon residents and interested groups on the Act,

THAT the Committee report to the House its findings and recommendations respecting:

- (1) changes to the regulations made pursuant to the Act,
- (2) substantive amendments to the Act, or
- (3) the introduction by the Government of a new Act,

THAT the Committee report to the House no later than the 2010 Spring Sitting of the Legislative Assembly,

THAT the Government introduce in the House legislation no later than the 2010 Spring Sitting of the Legislative Assembly,

THAT the Committee have the power to call for persons, papers and records and to sit during inter-sessional periods,

THAT the Committee have the power to seek background information from experts and to be able to call and hear these experts as witnesses,

THAT if the House is not sitting at such time as the Committee is prepared to present its report, the Committee transmit its report to all Members of the Legislative Assembly and then, not more than one day later, release the report to the public; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

On April 6, 2010, the Yukon Legislative Assembly adopted the following motion (Motion #1009):

THAT the Terms of Reference of the Select Committee on the *Landlord and Tenant Act*, as established by Motion #850 of the 1st session of the 32nd Legislative Assembly, be amended by changing the date of its reporting to the House from the 2010 Spring Sitting of the Legislative Assembly to the 2010 Fall Sitting of the Legislative Assembly; and

THAT the Government of Yukon introduce in the House, legislation no later than the 2010 Fall Sitting of the Legislative Assembly.