

1975

c 12 The Residential Premises Rent Review Act, 1975 (2nd Session)

Ontario

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CHAPTER 12

An Act to provide for the Review of Rents in respect of Residential Premises

Assented to December 18th, 1975

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Residential Premises Rent Review Board established under this Act;
- (b) "building" includes any number of residential premises that are structurally joined together, whether or not any such individual residential premises is capable of standing alone should the residential premises that it adjoins be demolished;
- (c) "landlord" includes lessor, owner, the person giving or permitting the occupation of the premises in question and his or their heirs and assigns and legal representatives;
- (d) "Minister" means the Minister of Housing, or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act;
- (e) "mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed;
- (f) "project" means any number of adjacent residential premises that are situate on a common site of land whether contained in one building or more than one building;

- (g) "regulations" means the regulations made under this Act;
- (h) "rent" includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a tenant for occupancy of residential premises and for any service, privilege, accommodation or thing that the landlord provides for the tenant, whether or not a separate charge is made for such service, privilege, accommodation or thing;
- (i) "Rent Review Officer" means a Rent Review Officer appointed under section 2 of this Act;
- (j) "residential premises" means,
- (i) any premises used or intended to be used for residential purposes, and
 - (ii) land used as a site for a mobile home used for residential purposes;
- (k) "tenancy agreement" means an agreement between a landlord and a tenant for possession of residential premises, whether written, oral or implied.

Rent Review
Officers

2.—(1) The Lieutenant Governor in Council may appoint such number of Rent Review Officers as are considered necessary for the purposes of this Act.

Remunera-
tion

(2) Each Rent Review Officer shall be reimbursed for his reasonable travelling expenses and out-of-pocket expenses necessarily incurred by him in the discharge of his duties and in addition may be paid such remuneration for his services as the Lieutenant Governor in Council may determine.

Powers of
Minister

(3) The Minister may, by order, establish regions in Ontario and may from time to time designate one or more Rent Review Officers to exercise the powers conferred and duties imposed upon a Rent Review Officer, in each such region.

Municipality
may appoint
Rent Review
Officers

(4) A municipality may, on the approval of the Minister, appoint such number of Rent Review Officers as are considered necessary for the purposes of this Act within that municipality.

Application
of s. 19

(5) Where a municipality has appointed Rent Review Officers under subsection 4, it may exercise such of the

powers of the Minister under section 19 as are applicable to the Rent Review Officer and to hearings before him.

3. This Act applies to tenancies of residential premises notwithstanding any other Act and notwithstanding any agreement or waiver to the contrary, except as specifically provided in this Act. Application of Act

4.—(1) Notwithstanding the terms of any tenancy agreement under which occupancy of residential premises is granted or renewed to a tenant for any period commencing at any time after the 29th day of July, 1975, and before the 1st day of January, 1976, no landlord shall charge that tenant for any rental payment period between those dates, an amount of rent which, when computed on a monthly basis, is more than 8 per cent greater than the amount of rent charged for the same residential premises for the last full month for which the premises were rented prior to the 1st day of August, 1975. Maximum permitted increase in rent between July 29, 1975 and January 1, 1976

(2) Unless a landlord brings an application under subsection 7 or a tenant brings an application under subsection 8, where rent is paid by a tenant to a landlord in respect of any rental period between the dates mentioned in subsection 1 that is in excess of the amount permitted under that subsection, the landlord shall, within sixty days of the day this Act receives Royal Assent, pay to the tenant the amount of the excess rent paid. Recovery of excess rent paid

(3) Where a landlord fails to pay to the tenant entitled thereto the amount of excess rent that is due within the time limited in subsection 2, the Rent Review Officer for the region in which the premises are situate, shall, on the application of the tenant, determine the amount that is due and shall order the payment of the amount by the landlord to the tenant within five clear days of the date of the order, and, where a landlord fails to comply with the order, the tenant shall be entitled to deduct the amount owing to him under the said order from the next month's rent and so continue until the full amount of the order has been satisfied. Idem

(4) Subsection 4 of section 7 applies, *mutatis mutandis*, to an order made under subsection 3. Application of s. 7 (4)

(5) Nothing in this section or in section 5 prevents the charging by a landlord of a rental increase greater than 8 per cent under a tenancy agreement for any period between the dates set out in subsection 1 where the land- Agreements re rental increases

lord and the tenant so agree within thirty days of the day this Act receives Royal Assent, provided however, the tenant may revoke such agreement by serving a notice of revocation on the landlord within thirty days of the making of the agreement.

Where premises rented for first time, basis of future rent determinations

(6) Where residential premises not situate in a building to which clause *c* of section 14 applies, and not previously rented as residential premises, become first rented under a tenancy agreement whereunder occupancy is granted for any period commencing after the 29th day of July, 1975, for the purposes of subsection 1 of this section and subsections 1 and 2 of section 5, the rent charged for the first full month under such tenancy agreement shall form the basis on which future determinations of rent shall be made under this Act.

Application by landlord for increase in rent

(7) Where a landlord is of the opinion that increased operating costs and capital expenses which he has experienced in respect of residential premises or the building or project in which they are situate will exceed the increase in rent permitted under subsection 1 and therefore desires an additional increase in the rent for the residential premises for any rental payment period between the 29th day of July, 1975, and the 1st day of January, 1976, he may, not later than the 31st day of January, 1976 apply in the form and manner prescribed by the regulations to the Rent Review Officer for the region in which the premises are situate for approval of the rent increase and shall, at the same time, also give a copy of his application for increase to the tenant of the residential premises.

Application by tenant to require justification of increase

(8) Where a tenant who has entered into a tenancy agreement granting occupancy or renewal of occupancy of residential premises for any period commencing at any time after the 29th day of July, 1975, and before the 1st day of January, 1976, wishes to dispute the amount of a rent increase for any period or periods of occupancy between the 29th day of July, 1975 and the 1st day of January, 1976, and whether or not such increase is within the limits set out in subsection 1, he may, not later than the 31st day of January, 1976, give notice to the landlord in the form prescribed by the regulations requiring the landlord to apply to the Rent Review Officer for the region in which the premises are situate to justify the rent increase and subsection 5 of section 5 applies *mutatis mutandis*.

Recovery of excess rent paid

(9) Where the Rent Review Officer approves an increase in rent on an application brought under subsection 7

that is less than that provided in the tenancy agreement, or where the Rent Review Officer reduces the rent payable on an application brought under subsection 8, the landlord shall, within ten days of the day the Rent Review Officer gives his decision, pay to the tenant the amount of excess rent paid during the period between the dates set out in subsection 1, and where the landlord fails to pay the tenant within the ten day period, subsection 3 applies *mutatis mutandis*.

5.—(1) Except as provided in subsection 3, and notwithstanding the terms of any tenancy agreement under which occupancy of residential premises is granted or renewed to a tenant for any period commencing at any time after the 29th day of July, 1975, and before the 1st day of August, 1976, no landlord shall charge that tenant for any rental payment period between the 31st day of December, 1975, and the 1st day of August, 1976, an amount of rent which, when computed on a monthly basis, is more than 8 per cent greater than the amount of rent charged for the same residential premises for the last full month for which the premises were rented prior to the 1st day of August, 1975.

Maximum permitted increase in rent between January 1, 1976 and August 1, 1976

(2) Except as provided in subsection 3, notwithstanding the terms of any tenancy agreement giving a tenant a right to occupy or to renew the occupancy of residential premises for any period commencing on or after the 1st day of August, 1976, and before the 1st day of August, 1977, no landlord shall charge a tenant for any rental period between those dates an amount of rent for that residential premises which exceeds the last rent which was lawfully charged for an equivalent rental period under the immediately preceding tenancy agreement of the residential premises previous to the 1st day of August, 1976, by a percentage amount to be determined not later than the 1st day of April, 1976, by the Lieutenant Governor in Council.

Maximum permitted increase in rent between August 1, 1976 and August 1, 1977

(3) Where a landlord is of the opinion that increased operating costs and capital expenses which he has experienced, or anticipates on reasonable grounds that he will experience in respect of residential premises or the building or project in which they are situate will exceed the increase in rent permitted under subsection 1 or 2 and therefore desires an additional increase in the rent for the residential premises for any rental payment period between the 31st day of December, 1975, and the 1st day of August, 1977, he may at least sixty days prior to the commencement or renewal of the tenancy agreement with respect thereto, or in the case where entitlement to occupancy under the

Application by landlord for increase in rent

tenancy agreement occurred on or after the 30th day of July, 1975, and on or before the 29th day of February, 1976, not later than the 31st day of January, 1976, apply in the form and manner prescribed by the regulations to the Rent Review Officer for the region in which the premises are situate for approval of the rent increase applied for or provided for under the tenancy agreement, as the case may be, and shall, at the same time, also give a copy of his application for increase to the tenant of the residential premises.

Application
by tenant
to require
justification
of increase

(4) Where a tenant who has entered into a tenancy agreement granting occupancy or renewal of occupancy of residential premises for any period commencing at any time after the 29th day of July, 1975, and before the 1st day of August, 1977, wishes to dispute the amount of a rent increase, other than a rent increase that has been approved by a Rent Review Officer, for any period or periods of occupancy between the 1st day of January, 1976, and the 31st day of July, 1977, and whether or not such increase is within the limits set out in subsections 1 and 2, he may, not later than sixty days after he receives notice of the increase, or before the 31st day of January, 1976, whichever last occurs, give notice to the landlord in the form prescribed by the regulations requiring the landlord to apply to the Rent Review Officer for the region in which the premises are situate to justify the increase.

Procedure by
landlord

(5) The landlord shall, within fifteen days of his receipt of a notice from a tenant under subsection 4, either,

- (a) reduce the rent increase to an amount agreed upon by himself and the tenant provided that the amount of the increase does not exceed the limits set out in subsections 1 and 2; or
- (b) file an application in the form and manner prescribed in the regulations with the Rent Review Officer for the region in which the premises are situate, setting forth the particulars which he claims justify such increase, and may in such application apply for a greater increase than that set forth in his original notice of increase to the tenant, provided that if the landlord has already filed an application under subsection 3 and has given a copy thereof to the tenant, he need file no further application under this subsection.

Copy of
application

(6) Where a landlord files an application under clause *b* of subsection 5, he shall forthwith give to the tenant a copy of the application.

(7) Where a landlord fails to either reduce the rent increase under clause *a* of subsection 5 or to apply to the Rent Review Officer under clause *b* of subsection 5 within the fifteen-day period mentioned in subsection 5, the tenant may apply to the Rent Review Officer for an order declaring the proposed increase in rent to be null and void.

Application
for order
declaring
increase
null and
void

(8) The Rent Review Officer shall, within ten clear days of the filing of the landlord's or the tenant's application, as the case may be, give written notice to the landlord and to the tenant of the date, time and place which he has fixed for a hearing of the application.

Notice of
hearing

(9) Where more than one tenant in the same building or project has received notice of rent increase, and has required that the landlord apply to the Rent Review Officer to justify such increase, or where a landlord has applied to the Rent Review Officer under subsection 3 for approval of an increase respecting the occupancy of several tenants in the same building or project, the Rent Review Officer may in his discretion fix a common date for the hearing of all such applications.

Common
date for
hearing

(10) A landlord shall, together with his application for a rent increase or for a rent increase justification under subsection 3 or 4, file with the Rent Review Officer a list of all the residential premises in the building or project in which the subject residential premises are situate, together with the present rent charged and the termination or renewal date of each.

Landlord to
file list of all
residential
premises in
building or
project

(11) The Rent Review Officer, prior to giving written notice of hearing to the landlord and the tenant under subsection 8 may, in his discretion, order the landlord to file applications for settlement of rents to be charged for any or all of the remaining residential premises in the building or project if and when such residential premises are relet or renewed within the current rent review period under subsection 1 or 2.

Power of
Rent Review
Officer to
order
applications
to be filed

(12) Where the Rent Review Officer makes an order under subsection 11, the landlord shall thereupon apply for the settlement of rents for such premises in the form prescribed by the regulations and shall give copies thereof to the respective tenants occupying such premises and the Rent Review Officer shall thereupon fix a common date for the hearing of all such applications.

Rent Review
Officer to fix
common date
for hearings

(13) Where the Rent Review Officer has given notice of a hearing of an application under subsection 8 or 12, he shall make available to all parties to the hearing all material

Material to
be made
available

filed with him in connection with that application together with any information which he requests from any party.

Idem

(14) Material to be made available under subsection 13 includes any books, records or other information supporting an application or requested by the Rent Review Officer.

Notice of
justification
for rent
increase
R.S.O. 1970,
c. 236

6. At the time of the giving of a notice of rent increase under *The Landlord and Tenant Act*, the landlord seeking the increase shall at the same time supply the tenant receiving the same with a notice of justification for the increase in the form prescribed by the regulations.

Procedure
at hearing

7.—(1) The Rent Review Officer may give directions for the conduct and carrying on of proceedings before him, and in so doing he shall adopt the most expeditious method of determining the questions arising before him that afford to all parties to the proceedings an adequate opportunity of knowing the issues in the proceedings and of presenting material and making representations on their behalf.

Matters to
be considered
by Rent
Review
Officer

(2) In determining the questions arising before him on an application, the Rent Review Officer shall consider,

- (a) any increase in rent for the residential premises which took effect in the year 1974 or on or before the 29th day of July in the year 1975;
- (b) whether or not the increase in rent sought by the landlord is necessary in order to prevent the landlord sustaining a financial loss in the operation of the building in which the residential premises are situate; and
- (c) such other matters as may be prescribed by the regulations.

Powers of
Rent Review
Officer

(3) After hearing the application, the Rent Review Officer may,

- (a) approve the amount of the increase sought by the landlord if he is satisfied that increased operating costs and capital expenses justify the amount of the rent increase;
- (b) order that the landlord reduce the amount of the rent increase to such lesser amount as he may specify;

- (c) order the landlord to repay to the tenant within five clear days of the date of the order rent paid in excess of the amount which he has fixed in his order under clause *b*, and where the landlord fails to comply with the order the tenant shall be entitled to deduct the amount owing to him under the said order from the next month's rent;
- (d) order the tenant to pay to the landlord any amount of money owing to him by reason of the decision of the Rent Review Officer; or
- (e) order the landlord to reduce the amount of the rent payable from the day of the order to such lesser amount as he may specify,

and shall give a copy of his order together with written reasons for his decision to all the parties who appeared on the hearing. Reasons

(4) On the request of any party to the proceedings, the Rent Review Officer shall file a copy of any order made by him under subsection 3 in the office of the Registrar of the Supreme Court under section 19 of *The Statutory Powers Procedure Act, 1971*, which applies thereto. Final decision may be filed in Supreme Court
1971, c. 47

(5) Except as provided in subsection 4, *The Statutory Powers Procedure Act, 1971* does not apply to proceedings before the Rent Review Officer. 1971, c. 47,
not to apply

(6) A Rent Review Officer for the purposes of a hearing before him has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such hearing as if it were an inquiry under that Act. Application of
1971, c. 49

8. Until such time as the Rent Review Officer renders his decision, a rent increase up to the limits imposed by subsections 1 and 2 of section 5 may be charged and collected by the landlord. Rent chargeable pending decision of Rent Review Officer

9. For the purposes of this Act, unless the Rent Review Officer otherwise determines, where a landlord discontinues a service, privilege, accommodation or thing and such discontinuance results in a reduction of the tenant's use and enjoyment of the residential premises, the value of such discontinued service, privilege, accommodation or thing shall be deemed to be a rent increase. Deemed rent increase

10. No tenant shall,

Subletting
and
assignment

- (a) sublet the balance of his term under a tenancy agreement for a consideration that is greater than the rent that is lawfully charged by the landlord under this Act; or
- (b) charge any consideration for an assignment of his tenancy agreement.

Additional
powers of
Rent Review
Officer

11. In addition to his other jurisdiction under this Act, the Rent Review Officer may, upon the application of any landlord, tenant or sub-tenant of residential premises, hold a hearing and determine whether,

- (a) the discontinuance of a service, privilege, accommodation or thing by the landlord has resulted in a reduction in a tenant's use and enjoyment of residential premises and constitutes an increase in rent;
- (b) a sub-tenant under a tenancy agreement of residential premises has been charged a rental increase which is prohibited by section 10; or
- (c) this Act applies to particular residential premises,

and may order,

- (d) in the case mentioned in clause *a*, a reduction in the rent to be paid by the tenant;
- (e) in the case mentioned in clause *b*, that the increase be repaid to the sub-tenant by the tenant; or
- (f) in the case mentioned in clause *c*, that this Act does or does not apply to the residential premises.

Residential
Premises
Rent Review
Board
established

12.—(1) A board to be known as the Residential Premises Rent Review Board is established composed of such number of members as the Lieutenant Governor in Council may appoint and of the total number of members appointed, at least one-half shall be persons representative of tenants.

Chairman

(2) One of the members shall be designated by the Lieutenant Governor in Council as chairman of the Board.

Remunera-
tion

(3) Each member shall be reimbursed for his reasonable travelling or out-of-pocket expenses necessarily incurred by him in the discharge of his duties and, in addition, may be paid such remuneration for his services as the Lieutenant Governor in Council may determine.

(4) Members of the Board shall hold office during pleasure. Term of office

(5) Two members of the Board, one of whom shall Quorum be representative of tenants, constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board and their decision on an application shall be the decision of the Board.

(6) The chairman shall from time to time assign the Assignment of members members of the Board to its various sittings and may change such assignments at any time.

(7) Subject to the provisions of *The Statutory Powers Procedure Act, 1971*, the Board may determine its own Procedure 1971, c. 47 procedure for the conduct of hearings.

13.—(1) A landlord or tenant who has appeared at a Appeal to Board hearing held by a Rent Review Officer may appeal from the decision of the Rent Review Officer to the Board.

(2) An appeal to the Board shall be by notice in Notice of appeal writing in the prescribed form filed with the Board not later than fifteen days of the date of the order of the Rent Review Officer and shall be given to any other party who was entitled to appear at the hearing not later than thirty days after the filing of the notice with the Board.

(3) Where an appeal is brought, the Board shall hear Where appeal to be heard the appeal at a location situate within the region in which the proceedings were commenced.

(4) On an appeal, the Board shall proceed by way of a Procedure and power of Board hearing *de novo* and after the hearing the Board may,

(a) affirm the decision of the Rent Review Officer; or

(b) make any other decision the Rent Review Officer is authorized to make under this Act, and for such purposes the Board may substitute its opinion for that of the Rent Review Officer.

(5) The decision of the Board under subsection 4 is Decision final final and not subject to appeal.

(6) Subsection 4 of section 7 applies *mutatis mutandis* Application of s. 7 (4) to an order or decision of the Board made under subsection 4 of this section, and if the order or decision of the Board varies an order of the Rent Review Officer that has previously been filed under subsection 4 of section 7, the

order previously filed as so varied may be enforced in the same manner as the original order.

Exclusions
from Act

14.—(1) This Act does not apply to residential premises,

- (a) situate in a non-profit housing project, rents for which are subject to the approval of the Government of Ontario or of Canada, or situate in a non-profit co-operative housing project as defined in the *National Housing Act* (Canada);
- (b) situate in a hotel, motel or vacation home and rented for a seasonal or temporary period not exceeding four months;
- (c) situate in a building, no part of which was occupied as residential premises before the 1st day of January, 1976.

Application
of Act

(2) This Act does not apply to tenancy agreements for residential premises in respect of which the Government of Ontario or an agency thereof is providing financial assistance for the benefit of the tenant occupying the premises by way of assistance in the payment of rent to the landlord under clause *f* of subsection 1 of section 2 of *The Housing Development Act*, but this Act does apply to the amount of rent which may be charged by the landlord for such residential premises.

R.S.O. 1970,
c. 213

Regulations

15. (1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the percentage amount in respect of rent increases for the purposes of subsection 2 of section 5;
- (b) prescribing forms and providing for their use;
- (c) prescribing matters in addition to those mentioned in subsection 2 of section 7 that shall be considered by the Rent Review Officer;
- (d) prescribing the manner of making application to a Rent Review Officer or of appealing to the Board;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Agreement
to be in
prescribed
form

(2) No agreement between a landlord and a tenant under subsection 5 of section 4 shall have any effect unless the agreement is in the form prescribed in the regulations.

16.—(1) Any notice or application required or permitted to be given under this Act, Services of notices, etc.

(a) by a tenant to a landlord, is sufficiently given if delivered personally to the landlord or his agent or sent by ordinary mail addressed to the landlord at the address posted under section 104 of *The Landlord and Tenant Act*; or R.S.O. 1970, c. 236

(b) by a landlord to a tenant, is sufficiently given if delivered personally to the tenant, but, where the notice or application cannot be given by reason of the tenant's absence from his premises or by reason of his evading service, the notice or application may be given,

(i) by handing it to an apparently adult person on the tenant's premises,

(ii) by posting it up in a conspicuous place upon some part of the premises, or

(iii) by sending it by registered mail to the tenant at the address where he resides.

(2) Where an application is sent by mail, it shall be deemed to have been received on the fifth day after the date of mailing. Idem

17. Any person who knowingly contravenes section 4, subsection 1 or 2 of section 5, or section 10, is guilty of an offence and on summary conviction is liable to a fine not exceeding \$2,000. Penalties

18. The moneys required for the administration of this Act shall, until the 31st day of March, 1976, be paid out of the Consolidated Revenue Fund and thereafter out of the moneys appropriated therefor by the Legislature. Moneys

19.—(1) The Minister is responsible for the administration of this Act. Administration of Act

(2) Such officers, clerks and servants as the Minister considers necessary from time to time for the purposes of this Act may be appointed under *The Public Service Act*. Staff

R.S.O. 1970,
c. 386

(3) The Minister may engage persons to provide professional, technical or other assistance to Rent Review Officers, the Board, or persons appearing before a Rent Review Officer or the Board. Professional assistance

Commence-
ment and
expiry

20. This Act, upon receiving Royal Assent, shall be deemed to have come into force on the 29th day of July, 1975, and is retroactive to the extent necessary to give full force and effect to its provisions on, from and after that date, and is repealed on the 1st day of August, 1977.

Short title

21. This Act may be cited as *The Residential Premises Rent Review Act, 1975 (2nd Session)*.