

1979 BILL 25

First Session, 19th Legislature, 28 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 25

THE LANDLORD AND TENANT ACT, 1979

THE MINISTER OF CONSUMER AND CORPORATE
AFFAIRS

First Reading

Second Reading

Committee of the Whole.....

Third Reading

Royal Assent

THE LANDLORD AND TENANT ACT, 1979

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BILL 25

1979

THE LANDLORD AND TENANT ACT, 1979

(Assented to _____, 1979)

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

1 In this Act,

- (a) “common areas” means areas controlled by a landlord and used for access to residential premises or for the service or enjoyment of a tenant;
- (b) “council” means
 - (i) the council of a city, town, village, municipal district or county, or
 - (ii) the Minister of Municipal Affairs, in the case of an improvement district or special area;
- (c) “court” means
 - (i) the Provincial Court, or
 - (ii) the Court of Queen’s Bench;
- (d) “mobile home site” means land rented as a site for a mobile home used for residential purposes whether or not the landlord also rents that mobile home to the tenant;
- (e) “Provincial Court” means the Provincial Court of Alberta;
- (f) “residential premises” means
 - (i) a self contained dwelling unit used for residential purposes, or
 - (ii) a mobile home site,

but does not include premises occupied for business purposes with living accommodation attached and rented under a single agreement;

Explanatory Notes

1 Definitions.

(g) “residential tenancy agreement” means a written, oral or implied agreement to rent residential premises;

(h) “security deposit” means any money, property or right paid or given by a tenant of residential premises to a landlord or to anyone on his behalf to be held by or for the landlord as security for the performance of an obligation or the payment of a liability by the tenant or to be returned to the tenant upon the happening of a condition;

(i) “substantial breach” means

(i) a breach of a covenant specified in section 16, or

(ii) a series of breaches of a residential tenancy agreement, the cumulative effect of which is substantial.

2(1) This Act does not apply to minerals held separately from the surface of land or to any dealings in minerals.

(2) Sections 2(4), 4(3), 9 to 18, 20(e), 21, 23, 24, 26, 29 to 32, 35, 37 to 47, 50(a) and 51 apply only to residential tenancies.

(3) Nothing in this Act prohibits the application of principles contained in this Act to tenancies other than tenancies of residential premises.

(4) Any waiver or release by a tenant of residential premises of the rights, benefits or protections provided to him under this Act is void.

3 The Crown in right of Alberta is bound by this Act.

2 Application of the Act.

3 Applies to the Crown.

PART 1

PERIODIC TENANCIES

4(1) A weekly, monthly or yearly tenancy may be terminated by either the landlord or the tenant upon notice to the other and the notice

(a) shall be served in sufficient time to give the period of notice required by section 5, 6 or 7, as the case may be, and

(b) shall meet the requirements of section 8.

(2) A tenancy not referred to in subsection (1) that is terminable on notice shall, unless otherwise agreed upon, be terminated as provided by section 8 and served on the landlord or tenant, as the case may be.

(3) If a periodic tenancy of residential premises is for a period of more than one week but less than one year, that tenancy is for the purposes of terminating the tenancy deemed to be a monthly tenancy.

5(1) A notice to terminate a weekly tenancy must be served before the commencement of the tenancy week to be effective on the last day of that tenancy week.

(2) In this section and section 8(3)(a), “tenancy week” means the weekly period on which the tenancy is based whether or not it is a calendar week and, unless otherwise specifically agreed upon by the landlord and the tenant, the week shall be deemed to begin on the day on which rent is payable.

6(1) A notice to terminate a monthly tenancy must be served

(a) by a tenant on his landlord or by a landlord of premises that are not residential premises on his tenant, prior to the commencement of a tenancy month to be effective on the last day of that tenancy month, or

(b) by a landlord of residential premises on his tenant, prior to the commencement of a notice period to be effective on the last day of the notice period.

(2) In this section and section 8(3)(b),

(a) “notice period” means a period of 3 consecutive tenancy months;

(b) “tenancy month” means the monthly period on which the tenancy is based whether or not it is a calendar month and, unless otherwise specifically agreed upon by the land-

4 Notice of termination of a periodic tenancy.

5 Notice to terminate a weekly tenancy.

6 Notice to terminate a monthly tenancy.

lord and the tenant, the month shall be deemed to begin on the day on which rent is payable.

7(1) A notice to terminate a yearly tenancy must be served

(a) by a tenant on his landlord or by a landlord of premises that are not residential premises on his tenant, on or before the 60th day before the last day of any tenancy year, or

(b) by a landlord of residential premises on his tenant, on or before the 90th day before the last day of any tenancy year,

to be effective on the last day of the tenancy year.

(2) In this section and section 8(3)(c), “tenancy year” means the yearly period on which the tenancy is based whether or not it is a calendar year and, unless otherwise specifically agreed upon by the landlord and the tenant, the year shall be deemed to begin on the day, or the anniversary of the day, on which the tenant first became entitled to possession.

8(1) A notice to terminate a tenancy shall

(a) be in writing,

(b) be signed by the person giving the notice or his agent,

(c) identify the premises in respect of which the notice is served, and

(d) state the date on which the tenancy is to terminate.

(2) A notice need not be in any particular form, but

(a) a notice by a landlord of premises that are not residential premises to his tenant may be in Form A of the Schedule,

(b) a notice by a tenant to his landlord may be in Form B of the Schedule, and

(c) a notice by a landlord of residential premises to his tenant may be in Form C of the Schedule.

(3) If a notice to terminate a weekly, monthly or yearly tenancy is not served in sufficient time to give the period of notice required by section 5, 6 or 7, as the case may be, the notice is still effective to terminate

(a) the weekly tenancy on the last day of the first complete tenancy week following the date on which the notice is served,

7 Notice to terminate a yearly tenancy.

8 Form of notice.

(b) the monthly tenancy

(i) if the notice is served by a tenant on his landlord or by a landlord of premises that are not residential premises on his tenant, on the last day of the first complete tenancy month following the date on which the notice is served, or

(ii) if the notice is served by a landlord of residential premises on his tenant, on the last day of the first complete notice period following the date on which the notice is served,

or

(c) the yearly tenancy

(i) if the notice is served before the end of the tenancy year by a tenant on his landlord or by a landlord of premises that are not residential premises on his tenant, 60 days from the date on which the notice is served, or

(ii) if the notice is served before the end of the tenancy year by a landlord of residential premises on his tenant, 90 days from the date on which the notice is served.

9 If a periodic tenancy of residential premises has been entered into by reason of the tenant's employment by the landlord and that employment is terminated, either the landlord or the tenant may terminate the tenancy by serving notice on the other party in sufficient time to provide a period of notice of termination of the tenancy that is

(a) equal to the period of notice of termination of employment required under any law in force in Alberta that is applicable to the tenant's employment,

(b) equal to the period of notice of termination of employment agreed to by the landlord and the tenant, or

(c) of one week's duration,

whichever period is longer.

10(1) In this section,

(a) "condominium plan" means a condominium plan as defined in *The Condominium Property Act*;

(b) "condominium unit" means a unit as defined in *The Condominium Property Act*.

9 Notice to terminate a tenancy of an employee.

10 Notice to terminate for condominium conversion.

(2) If after the commencement of a periodic tenancy of residential premises

(a) a condominium plan is registered or is proposed to be registered in the Land Titles Office that includes or is proposed to include those residential premises, and

(b) termination of that tenancy is sought for the purpose of obtaining vacant possession of the residential premises in order that the residential premises or any part of them may be sold as a condominium unit or as part of a condominium unit,

the landlord may terminate that tenancy by serving a notice of termination on the tenant at least 180 days before the day named in the notice for the termination of the residential tenancy agreement.

(3) Notwithstanding subsection (2), if the residential tenancy agreement is terminated by the tenant before the day specified in the notice, the landlord may rent the premises to another tenant for the period remaining until the day specified in the notice, if he gives that tenant notice of the termination date before entering into the residential tenancy agreement.

11 A periodic residential tenancy agreement cannot be terminated by a landlord for the reason that the tenant

(a) made an application or filed a statement under this Act, *The Temporary Rent Regulation Measures Act* or *The Rent Decontrol Act*,

(b) made a complaint, assisted in an investigation or inquiry or gave evidence at a hearing under this Act, *The Temporary Rent Regulation Measures Act* or *The Rent Decontrol Act*, or

(c) refused to pay a rental rate increase which is not in accordance with *The Temporary Rent Regulation Measures Act* or *The Rent Decontrol Act*.

12 If a periodic residential tenancy is implied by operation of law after the expiration or termination of a prior residential tenancy agreement for a fixed term, the implied tenancy, in the absence of facts showing a contrary intention, is

(a) if the prior tenancy was for a fixed term of one month or more, a monthly tenancy, or

(b) if the prior tenancy was for a fixed term of less than one month, a weekly tenancy.

11 Bar against terminating a residential tenancy agreement.

12 Term of an implied residential tenancy agreement.

13(1) A landlord shall not increase the rent payable under a residential tenancy agreement or recover any additional rent resulting from the increase unless he gives to the tenant a written notice of the increase in rent at least 90 days before the date on which the increase is to be effective.

(2) Notwithstanding subsection (1), if the residential tenancy agreement provides for a period of notice longer than 90 days, the landlord must give at least that longer period of notice before increasing the rent payable or recovering any additional rent resulting from the increase.

(3) A tenant under a periodic tenancy who receives a notice under subsection (1) or (2) and who fails to give to the landlord notice of termination effective on or before the date the rent increase is to be effective is deemed to have agreed to the increase of rent to the extent that the increase does not contravene *The Temporary Rent Regulation Measures Act* or *The Rent Decontrol Act*.

(4) A tenant who pays rent in excess of that permitted by subsections (1) and (2) may recover the excess rent from the landlord by commencing an action in a court.

13 Notice of increase in rent under a residential tenancy agreement.

PART 2

OBLIGATIONS OF LANDLORDS AND TENANTS

14 The following covenants of the landlord form part of every residential tenancy agreement:

- (a) that the premises will be available for occupation by the tenant at the beginning of the tenancy;
- (b) that, subject to section 17, neither the landlord nor a person having a claim to the premises under the landlord will in any significant manner disturb the tenant's possession or peaceful enjoyment of the premises;
- (c) that the premises will be habitable by the tenant at the commencement of the tenancy.

15(1) If a residential tenancy agreement is in writing and the tenant has signed and returned the written residential tenancy agreement to the landlord, the landlord shall, within 21 days of the written residential tenancy agreement being returned to the landlord, serve on the tenant a copy of the written residential tenancy agreement signed by the landlord.

(2) A tenant may withhold payment of rent until he is served with a copy of the residential tenancy agreement under subsection (1).

16 The following covenants of the tenant form part of every residential tenancy agreement:

- (a) that the rent will be paid when due;
- (b) that the tenant will not in any significant manner interfere with the rights of either the landlord or other tenants in the premises, the common areas or the property of which they form a part;
- (c) that the tenant will not perform illegal acts or carry on an illegal trade, business or occupation in the premises, the common areas or the property of which they form a part;
- (d) that the tenant will not endanger persons or property in the premises, the common areas or the property of which they form a part;
- (e) that the tenant will not do or permit significant damage to the premises, the common areas or the property of which they form a part;
- (f) that the tenant will maintain the premises and any property rented with it in a reasonably clean condition;

14 Covenants of a landlord.

15 Copy of residential tenancy agreement to be sent to the tenant.

16 Covenants of a tenant.

(g) that the tenant will vacate the premises at the expiration or termination of the tenancy.

17(1) Except as otherwise permitted in this section, a landlord is not entitled to enter residential premises rented by him without the consent of the tenant or of an adult person lawfully on the premises.

(2) A landlord is entitled to enter residential premises rented by him without consent or notice if he has reasonable grounds to believe that

- (a) an emergency requires him to enter the premises, or
- (b) the tenant has abandoned the premises.

(3) A landlord is entitled to enter residential premises rented by him without consent but after notice to the tenant

- (a) to inspect the state of repair of the premises,
- (b) to make repairs to the premises,
- (c) to show the premises to prospective purchasers or mortgagees of the premises, or
- (d) to show the premises to prospective tenants after a landlord or tenant has served notice of termination of a periodic tenancy or during the last month of a tenancy for a fixed term.

(4) A notice under subsection (3) must

- (a) be in writing,
- (b) be served on the tenant at least 24 hours before the time of entry, and
- (c) name a reasonable time of entry.

18(1) Neither a tenant nor a landlord shall add to or change locks on doors giving access to residential premises or to the property of which the residential premises form a part without the consent of the other party.

(2) Notwithstanding subsection (1), a landlord may add to or change locks on doors giving access to residential premises or to the property of which the residential premises form a part, if a key is made available to the tenant as soon as the addition or change is made.

(3) Subsection (1) does not apply to the installation by a tenant of a security device that

17 Entry of residential premises by a landlord.

18 Locks and security devices.

(a) is capable of being put into effect only while a person is inside the residential premises, and

(b) can be installed and removed without damage to the premises or will remain affixed to the premises and become the property of the landlord when the tenancy is terminated.

19(1) Subject to *The Land Titles Act*, a person who acquires the reversionary interest of the landlord or the leasehold interest of the tenant has all the rights and is subject to all the obligations based on the real covenants relating to the tenancy during the time that he holds the interest.

(2) *The Grantees of Reversion Act*, 32 Hen. 8, c.34, does not apply to the rights of a landlord or of a tenant.

19 Acquisition of the interests of a landlord or of a tenant.

PART 3

REMEDIES OF LANDLORDS AND TENANTS

20 If a tenant commits a breach of a tenancy agreement, the landlord may apply to a court for one or more of the following remedies:

- (a) recovery of arrears of rent;
- (b) recovery of damages resulting from the breach;
- (c) recovery of compensation for the use and occupation of premises by the overholding tenant after the tenancy has expired or been terminated;
- (d) recovery of possession of the premises from the overholding tenant;
- (e) in the case of a residential tenancy agreement, termination of the tenancy by reason of a substantial breach.

21(1) If a tenant by abandonment of the residential premises or otherwise gives the landlord reasonable grounds to believe that the tenant has repudiated the residential tenancy agreement, the landlord may either

- (a) accept the repudiation as a termination of the tenancy, or
- (b) refuse to accept the repudiation and continue the tenancy.

(2) In the case of a periodic residential tenancy, for the purposes of subsections (3) and (7), the tenant's acts of repudiation constitute a proper notice effective to terminate the tenancy on the earliest date that the tenant could have terminated the tenancy under this Act.

(3) A landlord who accepts the repudiation as a termination of the residential tenancy may recover

- (a) damages resulting from a breach of the tenancy agreement prior to the repudiation, and
- (b) damages for the loss of the benefit of the tenancy agreement
 - (i) in the case of fixed term tenancy, until it would have expired had the landlord not accepted the repudiation, or
 - (ii) in the case of a periodic tenancy, until the termination date.

20 Remedies of a landlord.

21 Repudiation of a residential tenancy.

(4) Notwithstanding subsection (3)(b), a landlord shall make reasonable efforts to mitigate the damages for the loss of the benefits of the residential tenancy agreement.

(5) A landlord who refuses to accept the repudiation and elects to continue the tenancy shall make reasonable efforts to mitigate the tenant's liability for rent under the residential tenancy agreement.

(6) A landlord who rents the premises to a new tenant in order to mitigate a tenant's liability for rent under a residential tenancy agreement

(a) is deemed to have accepted the repudiation of his previous tenant as terminating that tenancy at the time the new tenancy commences, and

(b) may recover damages in the same manner as if the landlord had accepted the tenant's repudiation of the residential tenancy agreement.

(7) Subject to subsection (5), a landlord who refuses to accept the repudiation and elects to continue the residential tenancy may, so long as he has not rented the premises to a new tenant, recover rent accruing under the residential tenancy agreement

(a) in the case of a fixed term tenancy, until it expires, or

(b) in the case of a periodic tenancy, until the termination date.

22 The acceptance of payments by a landlord that he is entitled to receive either as compensation for use and occupation by an overholding tenant or for arrears of rent does not, unless the parties so agree, operate as

(a) a waiver of a prior notice to terminate the tenancy, or

(b) the creation of a new tenancy on the same terms as the prior tenancy or with modified terms.

23(1) If a tenant commits a substantial breach under a residential tenancy agreement, the landlord may terminate the tenancy under subsection (2) or, in the case of a substantial breach other than a failure to pay rent, apply to a court for termination of the tenancy.

(2) The landlord may terminate the tenancy by serving the tenant with at least 14 days' notice in writing stating the details of the alleged substantial breach and the effective date of the termination.

22 Acceptance of payments by a landlord.

23 Termination of a tenancy for substantial breach by a tenant.

(3) A notice served under subsection (2) is ineffective if, before the termination date given in the notice, the tenant either

(a) serves the landlord with a notice in writing objecting to the termination and stating his reasons for objecting, or

(b) if the alleged breach is a failure to pay rent, pays all arrears of rent.

(4) If the tenant serves the landlord with a notice under subsection (3)(a) objecting to the termination, the landlord may apply to a court for termination of the tenancy.

24(1) In this section, “abandoned goods” means goods left on residential premises by a tenant who has

(a) abandoned the premises, or

(b) vacated the premises upon the expiration or termination of the residential tenancy agreement.

(2) A landlord who believes on reasonable grounds that abandoned goods have a total market value of less than \$300 may dispose of the goods.

(3) Notwithstanding that abandoned goods have a value of \$300 or more, a landlord who on reasonable grounds believes

(a) that the storage of the goods would be unsanitary or unsafe or would rapidly result in total or substantial depreciation in their market value, or

(b) that the cost of removing, storing and selling the goods would exceed the proceeds of their sale,

may sell the goods by a means and for a price that he believes is reasonable.

(4) If subsections (2) and (3) do not apply, the landlord

(a) shall store or arrange for storage of the goods on behalf of the tenant until the expiration of a period of 60 days after the date of their abandonment, and

(b) thereafter may dispose of the goods by public auction or, with the approval of a court, by private sale.

(5) If no bid is received for the abandoned goods at a public auction held under subsection (4)(b), the landlord may dispose of the goods.

(6) No liability attaches to a person

24 Abandoned goods.

(a) making the sale of goods under subsection (3) or (4)(b), or

(b) disposing of goods under subsection (2) or (5).

(7) On abandoned goods being disposed of or sold under this section, the person acquiring the goods on the disposal or sale acquires the tenant's interest in those goods and the tenant's interest in the goods is extinguished.

(8) A landlord shall, on payment of his proper costs of removing and storing the abandoned goods, give up possession of the goods to the tenant or to the person entitled to them.

(9) A landlord may apply the proceeds of any sale of abandoned goods

(a) to his proper costs of removing, storing and selling the goods, and

(b) to any judgment obtained by him against the tenant in respect of the tenancy,

and shall pay the surplus, if any, to the Provincial Treasurer.

(10) The Provincial Treasurer shall retain the surplus on behalf of the tenant for one year and thereafter, if the tenant has not claimed it, pay the surplus into the General Revenue Fund.

(11) On payment of the surplus into the General Revenue Fund under subsection (10) the tenant's claim to that surplus is extinguished.

(12) This section does not apply to goods on premises against which a sheriff executes a writ of possession.

25 In determining the amount of compensation recoverable by a landlord for the use and occupation of premises by an overholding tenant after the tenancy has expired or been terminated, the court shall consider the nature of the use and occupation by the overholding tenant and the rent payable under the prior tenancy.

26 In an application to a court for the recovery of damages resulting from the tenant's breach of his covenant to vacate the residential premises at the expiration or termination of the residential tenancy, a landlord may recover

(a) general damages he has suffered resulting from the tenant's failure to vacate the premises, and

25 Compensation by an overholding tenant.

26 Damages recoverable from an overholding tenant.

(b) special damages he has suffered resulting from his liability to a new tenant because of his failure to deliver possession of the premises to the new tenant, if those damages could reasonably have been foreseen by the tenant as a consequence of his failure to vacate the premises.

27 An order for possession for the recovery of premises

(a) shall direct the tenant to deliver possession of the premises to the landlord by a specified date or within a specified time after service of the order on the tenant,

(b) shall state that if the order is not obeyed by the specified date or within the specified time, a writ of possession will issue without a further order, and

(c) may be served in a manner provided for by section 48 or in any other manner that the court directs.

28 If an order for possession for the recovery of premises is not complied with by the specified date or within the specified time, the landlord is entitled, without a further order, to a writ of possession on filing an affidavit showing that the order has been served and has not been complied with.

29 If a landlord commits a breach of a residential tenancy agreement or contravenes this Act, the tenant may apply to a court for one or more of the following remedies:

(a) recovery of damages resulting from the breach or contravention;

(b) abatement of rent to the extent that the breach or contravention deprives the tenant of the benefit of the tenancy agreement;

(c) compensation for the cost of performing the landlord's obligations;

(d) termination of the tenancy by reason of the breach or contravention if in the opinion of the court the breach or contravention is of such significance that the tenancy should be terminated.

30 If a landlord breaches his covenant that the residential premises will be available for occupation by the tenant at the beginning of the tenancy, the tenant may

(a) repudiate the residential tenancy agreement or apply to the Court of Queen's Bench for specific performance of the covenant,

27 Terms of an order for possession.

28 Writ of possession.

29 Remedy of a tenant.

30 Remedies of a tenant unable to obtain possession.

(b) recover general damages resulting from the breach, and

(c) recover special damages resulting from the breach if those damages could reasonably have been foreseen by the landlord as a consequence of the breach.

31 On hearing an application by a tenant for the recovery of damages or for compensation for the cost of performing the landlord's obligation a court may

(a) direct that the tenant pay into the court, pending and after disposition of the application, those amounts of rent as they become due that the court considers appropriate, and

(b) direct that any amount of rent paid into the court be disbursed,

(i) to the tenant as damages, or

(ii) to the landlord, the tenant or a third party, for costs reasonably incurred in performing the landlord's obligations,

and that any remaining amount be paid to the landlord.

32(1) A residential tenancy agreement is frustrated if

(a) the residential premises that are the subject of the agreement are destroyed, or

(b) the residential premises, the common areas or the property of which they form a part are damaged to such an extent that

(i) a reasonable landlord would not repair the damage, or

(ii) a reasonable tenant would not be willing to remain as a tenant.

(2) The law pertaining to frustration of a contract applies with respect to a residential tenancy agreement that is frustrated.

33 If a landlord or tenant applies to a court to obtain a remedy under section 20 or 29, he shall serve on the other party to the application a notice of the application and a supporting affidavit at least 3 days, exclusive of holidays and Saturdays, or such shorter period of time that the court may approve before the day named in the notice for the hearing.

31 Compensation to tenant.

32 Frustration of a residential tenancy agreement.

33 Service of Notice of Application and supporting affidavit.

34 A landlord's application to obtain a remedy under section 20 shall be supported by an affidavit setting forth the following:

(a) if a claim is made for the recovery of arrears of rent, the amount of rent in arrears and the time during which it has been in arrears;

(b) if a claim is made for the recovery of damages resulting from a breach of the tenancy agreement, the details of the breach and the amount of damages claimed;

(c) if a claim is made for the recovery of compensation for the use and occupation of premises by an overholding tenant,

(i) the date of the expiration of the tenancy or, if the tenancy was terminated, the method of termination and the effective date of the termination,

(ii) the reasons for the tenant's failure to vacate the premises, to the extent known,

(iii) the nature of the use and occupation by the overholding tenant, to the extent known,

(iv) the rent payable under the prior tenancy agreement, and

(v) the amount of compensation claimed;

(d) if a claim is made for recovery of possession of the premises from an overholding tenant,

(i) the date of the expiration of the tenancy or, if the tenancy was terminated, the method of termination and the effective date of the termination, and

(ii) the reasons for the tenant's failure to vacate the premises, to the extent known;

(e) if a claim is made for the termination of the tenancy by reason of a substantial breach of the tenancy agreement, the details of the breach and the requested termination date.

35 A tenant's application to obtain a remedy under section 29 shall be supported by an affidavit setting forth the following:

(a) if a claim is made for the recovery of damages resulting from a breach of the residential tenancy agreement or a contravention of this Act, the details of the breach or contravention and the amount of damages claimed;

34 Landlord's supporting affidavit.

35 Tenant's supporting affidavit.

(b) if a claim is made for abatement of rent by reason of a breach of a residential tenancy agreement or a contravention of this Act,

- (i) the rent payable under the tenancy agreement,
- (ii) the details of the breach or contravention,
- (iii) the benefit of the tenancy agreement that the tenant was deprived of, and
- (iv) the amount of rent abatement claimed;

(c) if a claim is made for compensation for the cost of performing the landlord's obligations,

- (i) the rent payable under the tenancy agreement,
- (ii) the details of the breach of the residential tenancy agreement or of the contravention of this Act,
- (iii) the obligations performed on the landlord's behalf, and
- (iv) the amount of compensation claimed;

(d) if a claim is made for termination of the tenancy by reason of a breach of the residential tenancy agreement or a contravention of this Act, the details of the breach or contravention and the requested termination date.

36 On hearing an application and considering in a summary manner the oral and affidavit evidence submitted, a court may

- (a) make an order granting or denying the remedy in whole or in part, or
- (b) direct a trial to determine an issue that remains unresolved by the evidence submitted.

36 Order of a court.

PART 4

SECURITY DEPOSITS

37(1) A landlord shall not require a tenant to provide a security deposit that is greater than one month's rent under the residential tenancy agreement or that is greater than the rent that would be payable for one month under the residential tenancy agreement if the rent were payable monthly.

(2) If before the coming into force of this section a tenant has provided a security deposit that is greater than that permitted under subsection (1), the landlord shall return the excess to the tenant within 90 days of the coming into force of this section.

38(1) Subject to subsection (2), a landlord shall pay annually to the tenant interest on a security deposit consisting of money held by him or anyone on his behalf at the rate of 6% per year.

(2) If a security deposit consists of money, a tenant and his landlord may agree in writing that the interest on the security deposit shall not be paid annually and in that case the interest of 6% per year shall be compounded annually and be paid to the tenant on the termination or expiration of the tenancy.

(3) A landlord is entitled to retain any interest and profit resulting from the investment of a security deposit in excess of the amount of interest payable to the tenant under this section.

(4) If a landlord and tenant agree that interest shall be payable under this section at a rate higher than 6% per year, subsections (1), (2) and (3) shall be deemed to refer to the higher rate.

39(1) A landlord who holds a security deposit shall within 10 days of the day that the tenant gave up possession of the premises

(a) deliver the security deposit to the tenant,

(b) if all or part of the security deposit has been deducted in accordance with the conditions agreed to by the tenant, deliver to the tenant the balance of the deposit, if any, and a statement of account showing the amount of the deposit used, or

(c) if he is entitled to make a deduction from the security deposit in accordance with the conditions agreed to by the tenant but is unable to determine the correct amount of the deduction, deliver to the tenant the balance of the deposit, if any, that he does not intend to use and an estimated statement of account of the anticipated deduction and within 30 days after the day that the tenant gave up possession of

37 Amount of security deposit.

38 Custody of security deposits.

39 Return of a security deposit.

the premises deliver to the tenant the remaining balance of the deposit, if any, and a final statement of account.

(2) If a landlord fails to return all or part of a security deposit to a tenant in accordance with subsection (1), then, whether or not a statement of account was delivered to the tenant, the tenant may commence an action in a court to recover the whole of the deposit or that part of the deposit to which the tenant claims to be entitled.

(3) In proceedings taken under subsection (2), the court

(a) shall determine the amounts, if any, that the landlord is entitled to deduct from the security deposit in accordance with the conditions agreed to by the tenant, and

(b) if the deductions so determined are less than the amount of the deposit, shall give judgment in favour of the tenant for the balance.

(4) No deduction may be made from a tenant's security deposit for normal wear and tear to the residential premises during the period of his tenancy.

(5) In this section, "security deposit" includes any amount owing to the tenant as interest under section 38 at the time of termination or expiration of the tenancy.

40 A person who acquires the interest of a landlord in residential premises has the rights and is subject to the obligations of the previous landlord with respect to a security deposit paid to the previous landlord in respect of the residential premises.

40 Obligations and rights of a new landlord with respect to a security deposit.

PART 5

THE PROVINCIAL COURT

41(1) The Provincial Court has the jurisdiction to grant any remedy or relief under this Act other than

- (a) giving a judgment for debt or damages in excess of the amount prescribed under Part 4 of *The Provincial Court Act, 1978*,
- (b) granting an equitable remedy, or
- (c) granting a relief or remedy required by this Act to be granted in the Court of Queen's Bench.

(2) The Provincial Court may only give an order for possession of premises under this Act if

- (a) the premises are residential premises,
- (b) the rent is not more than \$500 per month, and
- (c) the term under the tenancy is for not more than 3 years.

(3) Nothing in this Part prohibits a landlord or a tenant from proceeding under this Act in the Court of Queen's Bench.

42 The provisions of Part 4 of *The Provincial Court Act, 1978* and the regulations made under that Act to the extent they are not changed by or provided for in this Act or the regulations under this Act apply to proceedings before the Provincial Court and to appeals from a decision of the Provincial Court.

43 A person wishing to commence an application in the Provincial Court shall file with a clerk of the Provincial Court

- (a) a written notice identifying the premises in respect of which the application is being commenced and setting forth the remedy being applied for, and
- (b) an affidavit referred to in section 34 or 35, as the case may be.

44(1) Upon a notice and an affidavit being filed under section 43, a clerk of the Provincial Court shall issue a notice of application stating the time and place at which the application will be heard.

41 Jurisdiction of the Provincial Court.

42 Application of The Provincial Court Act, 1978.

43 Commencement of application.

44 Issuance of a notice of application.

(2) A copy of the notice and the affidavit filed under section 42 shall be attached to and form a part of the notice of application issued by a clerk of the Provincial Court.

45 Upon the notice of application issued under section 44 and the documents attached to it being served on the other party to the application, the Provincial Court shall hear the matter in accordance with Part 3.

46(1) A party to an order made by the Provincial Court may, within 30 days of the order being entered under section 47 and served, appeal the order to the Court of Queen's Bench by way of an originating notice.

(2) The party commencing an appeal under this section shall file with the Court of Queen's Bench copies of

(a) all notices, documents and affidavits filed in the Provincial Court in respect of the application made in the Provincial Court, and

(b) the order being appealed from.

(3) The originating notice and copies of the notices, documents and affidavits filed with the Court of Queen's Bench under subsection (2) shall be served upon the other parties to the action at least 3 days, exclusive of holidays and Saturdays, before the day named in the originating notice for the hearing of the application.

(4) Upon hearing the matter the Court of Queen's Bench may make any order it could have made had the application for the order being appealed from been commenced in the Court of Queen's Bench instead of in the Provincial Court.

(5) The commencement of an appeal under this section does not stay the order being appealed except as directed by the Court of Queen's Bench.

47(1) An order made by the Provincial Court may be entered in the Court of Queen's Bench and upon being so entered it is enforceable in the same manner as an order of the Court of Queen's Bench.

(2) An order made by the Provincial Court does not take effect until it is entered under subsection (1) and served under section 48 or as directed by the Provincial Court upon the other parties to the application other than the party entering the order.

45 Application to be heard by the Provincial Court.

46 Appeal.

47 Entering of an order.

PART 6

GENERAL

48(1) Subject to subsections (4), (5) and (6), a notice, order or document under this Act shall be served personally, by registered mail or certified mail.

(2) For the purpose of service by registered mail or certified mail

(a) a tenant's address is the address of the premises rented by him, and

(b) a landlord's address is the address at which rent is payable.

(3) A landlord or a tenant may from time to time change his address for service by written notice served upon the other party.

(4) If a landlord is unable to serve a tenant by reason of the tenant's absence from the premises or by reason of his evading service, service may be effected

(a) upon any adult person who apparently resides with the tenant, or

(b) by posting it in a conspicuous place upon some part of the premises.

(5) This section does not apply to service governed by the rules or practice of a court.

(6) If the landlord or tenant is a corporation, a notice, order or document may be served in the manner permitted under section 289 of *The Companies Act*.

49(1) A council may by by-law establish a Landlord and Tenant Advisory Board and provide for the remuneration of its members and any other matters pertaining to its procedures or incidental to the exercise of its functions.

(2) The functions of a Landlord and Tenant Advisory Board are as follows:

(a) to advise landlords and tenants in tenancy matters;

(b) to receive complaints and seek to mediate disputes between landlords and tenants;

48 Service of notices, orders and documents.

49 Landlord and Tenant Advisory Boards.

(c) to disseminate information for the purpose of educating and advising landlords and tenants concerning rental practices, rights and remedies;

(d) to receive and investigate complaints of conduct in contravention of legislation governing tenancies.

50 A person who contravenes or fails to comply with

(a) section 18, 37(1) or (2), 38(1) or (2) or 39(1), or

(b) an order of a court made under this Act,

is guilty of an offence and liable on summary conviction to a fine of not more than \$1000.

51 The Lieutenant Governor in Council may make regulations governing the practice and procedures in matters before the Provincial Court under this Act.

52 An application made under this Act to the Court of Queen's Bench shall be by originating notice.

53(1) The doctrine of "interesse termini" is abolished.

(2) *The Landlord and Tenant Act*, 4 Geo. 2, c.28, and section 28 of *The Distress for Rent Act*, 11 Geo. 2, c.19 do not apply to tenancies.

50 Offences.

51 Regulations.

52 Application to the Court of Queen's Bench.

53 Non-application of other law.

PART 7

TRANSITIONAL AND CONSEQUENTIAL

54(1) This Act applies to

- (a) any tenancy entered into after the commencement of the Act,
- (b) a weekly or monthly tenancy entered into before the commencement of the Act, and
- (c) a yearly tenancy entered into before the commencement of the Act, from and after the first anniversary of the tenancy occurring after the Act's commencement.

(2) This Act does not apply to a tenancy entered into for a fixed term made before its commencement, but applies to a renewal of that tenancy entered into after the commencement of this Act.

(3) Notwithstanding that *The Landlord and Tenant Act* or any provision of it is repealed, that Act or provision, as the case may be, remains in force in respect of a tenancy to which this Act does not apply.

55(1) A tenant may take proceedings under *The Small Claims Act* to recover money under section 13 or Part 4 of this Act if the amount claimed is within the jurisdiction of a provincial judge under *The Small Claims Act*.

(2) This section is repealed upon the commencement of Part 5 of this Act.

56 *The Condominium Property Act* is amended in section 27.2(2) (b) by striking out "*The Landlord and Tenant Act*" and substituting "*The Landlord and Tenant Act, 1979*".

57 *The Land Titles Act* is amended

(a) in section 98 by adding "or if the lease is for residential premises as defined in *The Landlord and Tenant Act, 1979*" after "unless a contrary intention appears therein",

(b) in section 99 by adding "or if the lease is for residential premises as defined in *The Landlord and Tenant Act, 1979*" after "unless a different intention appears therein", and

(c) in section 101 by adding ", other than a lease of residential premises as defined in *The Landlord and Tenant Act, 1979*," after "made under this Act".

54 Application of Act on commencement.

55 Transitional provision respecting the recovery of claims before a provincial judge.

56 Amends chapter 62 of the Revised Statutes of Alberta 1970.

57 Amends chapter 198 of the Revised Statutes of Alberta 1970.

58 *The Real Estate Agents' Licensing Act is amended in section 20(2.2) by striking out "The Landlord and Tenant Act" and substituting "The Landlord and Tenant Act, 1979".*

59 *The Rent Decontrol Act is amended*

(a) in sections 7(1)(a)(i), 10(4), 11(3)(b) and 12(2) by striking out "section 21 of The Landlord and Tenant Act" and substituting "section 13 of The Landlord and Tenant Act, 1979", and

(b) in sections 37(2) and 39 by striking out "The Landlord and Tenant Act" and substituting "The Landlord and Tenant Act, 1979".

60 *The Temporary Rent Regulations Measures Act is amended in sections 7(1)(a)(i), 10(4), 11(3)(b) and 12(2) by striking out "section 21 of The Landlord and Tenant Act" and substituting "section 13 of The Landlord and Tenant Act, 1979".*

61 *The Landlord and Tenant Act is repealed.*

62 *The Landlord and Tenant Act, 1978 is repealed.*

63(1) This Act, except section 1(c)(i) and (e), Part 5 and section 50, comes into force on July 1, 1979.

(2) Section 1(c)(i) and (e), Part 5 and section 50 come into force on a date or dates to be fixed by Proclamation.

58 Amends chapter 311 of the Revised Statutes of Alberta 1970.

59 Amends chapter 41 of the Statutes of Alberta, 1977.

60 Amends chapter 84 of the Statutes of Alberta, 1975(2).

61 Repeal

62 Repeals chapter 65 of the Statutes of Alberta, 1978.

SCHEDULE

FORM A

NOTICE TO A NON-RESIDENTIAL TENANT

TO *(Name of Tenant)*

I hereby give you notice to deliver up possession of the premises which you hold
(identify the premises)
of me as tenant, on the day of next.

Dated this day of 19.....

.....
(Landlord)

If this notice is not served upon you in sufficient time to give the period of notice required by section 5, 6, or 7, as the case may be, of *The Landlord and Tenant Act, 1979*, you are required to give up possession of the above premises on the following date:

(a) in the case of a weekly tenancy, on the last day of the first complete tenancy week (as defined in section 5(2) of *The Landlord and Tenant Act, 1979*) following the date on which this notice is served;

(b) in the case of a monthly tenancy, on the last day of the first complete tenancy month (as defined in section 6(2) of *The Landlord and Tenant Act, 1979*) following the date on which this notice is served;

(c) in the case of a yearly tenancy, 60 days from the date on which this notice is served if the notice is served before the end of the tenancy year (as defined in section 7(2) of *The Landlord and Tenant Act, 1979*).

NOTICE TO LANDLORD

TO (*Name of Landlord*)

I hereby give you notice that I am giving up possession of the premises which I hold
(*identify the premises*)
of you as tenant, on the day of next.

Dated this day of19

.....
(*Tenant*)

If this notice is not served upon you in sufficient time to give the period of notice required by section 5, 6 or 7, as the case may be, of *The Landlord and Tenant Act, 1979*, I will give up possession of the above premises on the following date:

(a) in the case of a weekly tenancy, on the last day of the first complete tenancy week (as defined in section 5(2) of *The Landlord and Tenant Act, 1979*) following the date on which this notice is served;

(b) in the case of a monthly tenancy, on the last day of the first complete tenancy month (as defined in section 6(2) of *The Landlord and Tenant Act, 1979*) following the date on which this notice is served;

(c) in the case of a yearly tenancy, 60 days from the date on which this notice is served if this notice is served before the end of the tenancy year (as defined in section 7(2) of *The Landlord and Tenant Act, 1979*).

FORM C

NOTICE TO A RESIDENTIAL TENANT

TO (*Name of Tenant*)

I hereby give you notice to deliver up possession of the premises which you hold
(identify the premises)
of me as tenant, on the day of next.

Dated this day of19.....

.....
(Landlord)

If this notice is not served upon you in sufficient time to give the period of notice required by section 5, 6 or 7, as the case may be, of *The Landlord and Tenant Act, 1979*, you are required to give up possession of the above premises on the following date:

- (a) in the case of a weekly tenancy, on the last day of the first complete tenancy week (as defined in section 5(2) of *The Landlord and Tenant Act, 1979*) following the date on which this notice is served;
- (b) in the case of a monthly tenancy, on the last day of the 3rd consecutive tenancy month (as defined in section 6(2) of *The Landlord and Tenant Act, 1979*) following the date on which this notice is served;
- (c) in the case of a yearly tenancy, 90 days from the date on which this notice is served if this notice is served before the end of the tenancy year (as defined in section 7(2) of *The Landlord and Tenant Act, 1979*).