

1980 BILL 219

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 219

THE TENANCIES OF MOBILE HOME SITES ACT

MR. ZAOZIRNY

First Reading -----

Second Reading -----

Committee of the Whole -----

Third Reading -----

Royal Assent -----

Bill 219
Mr. Zaozirny

BILL 219

1980

THE TENANCIES OF MOBILE HOME SITES ACT

(Assented to _____, 1980)

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

1. In this Act,

(1) "common area" means an area controlled by a landlord and used for access to a mobile home site or for service to a tenant;

(2) "court" means a court of competent jurisdiction;

(3) "landlord" means the landlord under a mobile home site tenancy and includes a tenant who sublets;

(4) "mobile home park" means a parcel of land which includes three or more mobile home sites rented or held out for rent.

(5) "mobile home site" means a site intended to be occupied by a self-contained residential dwelling unit, the ownership of which is intended to remain separate from the ownership of the site, but does not include sites maintained solely for recreational enjoyment;

(6) "mobile home site tenancy" or "tenancy"

(a) means a tenancy or a licence of a mobile home site, and

(b) includes an arrangement under which a landlord provides a mobile home site to an employee

(i) who provides services in respect of the property of which the mobile home site is a part, or

(ii) in connection with the employee's employment.

(7) "security deposit" means money or any property or right paid or given by a tenant under a mobile home site tenancy to a landlord or his agent or to anyone on his behalf to be held by or for the account of the landlord as security for the performance of an obligation or the payment of a liability of the tenant or to be returned to the tenant upon the fulfillment of a condition.

(8) "subtenancy" means a tenancy created by sublease by a tenant under a mobile home site tenancy;

(9) "tenancy agreement" means a lease or a written or oral agreement creating a mobile home site tenancy;

Explanatory Notes

1. Definitions.

(10) "tenant" means the tenant under a mobile home site tenancy and includes a subtenant.

2. (1) If a tenancy is entered into for the purpose of enabling the tenant to sublet, the provisions of this Act

- (a) apply to the subtenancy, and
- (b) do not apply to the tenancy.

(2) If a tenancy described in subsection (1) is terminated

- (a) the landlord under the tenancy becomes the landlord under the subtenancy, and
- (b) either the landlord or the tenant may terminate the subtenancy by notice to the subtenant under
 - (i) sections 32, 34 or 35 in the case of a subtenancy of a mobile home site which is in a mobile home park, or
 - (ii) sections 33 or 34 in the case of a subtenancy of a mobile home site which is not in a mobile home park.

Tenant's Information

3. (1) A landlord of a mobile home park shall ensure that a notice in Form C is delivered to the tenant at or before the time at which the tenant takes possession of the mobile home site.

(2) A landlord who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine or imprisonment under the provisions of *The Summary Convictions Act* or to both fine and imprisonment.

4. (1) Where a tenancy agreement in writing is executed by a tenant, the landlord shall ensure that a copy of the tenancy agreement is delivered to the tenant within 21 days after its execution and delivery by the tenant.

(2) Until a copy of the tenancy agreement is delivered in accordance with subsection (1) the tenant may withhold payment of all rental payments which fall due.

(3) The landlord may deliver the copy of the tenancy agreement as required by subsection (1)

- (a) personally, or
- (b) by ordinary mail addressed to the tenant
 - (i) at the mobile home site if the tenant has taken possession, or
 - (ii) at any address provided by the tenant for delivery of a copy of the tenancy agreement.

5. With respect to a tenancy of a mobile home site

- (a) the landlord shall disclose fully in writing all fees, charges or assessments prior to a tenant entering into a tenancy agreement, and
- (b) no fees, charges or assessments so disclosed may be increased, nor additional fees, charges or assessments be

2. Application.

3. Information to tenant.

4. Copy of agreement to tenant.

5. Disclosure to tenant of all fees, charges, etc.

imposed, without written notice to the tenant informing him of the increase or addition, which notice shall be given to the tenant at least 6 months before the date on which the increase or addition is to be effective in the case of a site in a mobile home park and 90 days before such date in the case of a site not in a mobile home park.

6. (1) A landlord shall disclose fully in writing all rules and regulations prior to a tenant entering into a tenancy agreement.

(2) Subject to subsection (1), a landlord may from time to time during the tenancy adopt reasonable rules and regulations, the purpose of which is to promote the convenience, safety or welfare of the mobile home site residents, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the residents generally.

(3) Rules established pursuant to subsection (2) are enforceable against the tenant only if

- (a) they apply and are applied to all tenants in a fair manner, and
- (b) they are sufficiently explicit in their prohibition, direction or limitation of the tenant's conduct so as fairly to inform him of what he must or must not do to comply.

(4) Except as provided in subsection (5), a rule or regulation adopted after the tenant enters into the tenancy agreement is enforceable against the tenant only if reasonable notice in writing of its adoption is given to the tenant and if it does not substantially modify his tenancy agreement.

(5) A rule or regulation pertaining to the safety of mobile home site residents or to recreational facilities, may be introduced, amended or deleted by the landlord without advance notice.

Landlord's Obligations

7. In every tenancy agreement there be implied the following covenants between the landlord and the tenant:

- (a) that the mobile home site shall be available for peaceful occupation by the tenant at the commencement of the term,
- (b) that neither the landlord nor anyone claiming under or through the landlord shall in any significant manner disturb the tenant's possession or peaceful enjoyment of the mobile home site,
- (c) that at the commencement of the tenancy the mobile home site and improvements and equipment on it shall be clean and will be sound and suitable for the purpose for which they are intended, and
- (d) that throughout the tenancy the landlord shall:
 - (i) take all reasonable steps to maintain the mobile home site and improvements and equipment on it sound and fit for the purpose for which they are intended and in addition take all reasonable steps to maintain the common areas habitable and in good repair,

6. Disclosure to tenant of all rules and regulations.

7. Landlord's obligations.

- (ii) take all reasonable steps to maintain in good and working order and condition all electrical, plumbing, sanitary, heating, fuel, and other facilities supplied or required to be supplied by him,
- (iii) take all reasonable steps to provide or ensure the availability of a means for the removal or disposal of garbage at reasonable intervals,
- (iv) take all reasonable steps to maintain common roads in a good state of repair and free from excess snow, and
- (v) comply with health, safety, planning and structural standards prescribed by law.

8. (1) Except as provided in this section a landlord is not entitled to enter either a mobile home site or a mobile home situated on a mobile home site without the consent of the tenant or of a person rightfully on the mobile home site or in the mobile home.

(2) A landlord is entitled to enter a mobile home site without consent or notice if he has reasonable grounds to believe that

- (a) an emergency requires entry, or
- (b) the tenant has abandoned the mobile home site.

(3) A landlord is entitled to enter a mobile home site without consent but upon notice and at reasonable times.

- (a) to inspect the state of repair,
- (b) to make repairs,
- (c) to show the mobile home site to prospective purchasers and mortgagees of the property, or
- (d) to show the mobile home site to prospective tenants
 - (i) after notice of termination of a tenancy has been given, or
 - (ii) during the last month of a tenancy for a fixed term.

(4) A notice under subsection (3) shall

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

(5) The landlord shall exercise his rights under this section with due regard to the rights of the tenant under section 7(b).

9. (1) A landlord shall not terminate a tenancy for the reason that the tenant has

- (a) taken steps to enforce a right granted to the tenant or an obligation imposed on the landlord by this Act, or
- (b) made a complaint in good faith to a municipal or governmental authority alleging that the landlord has violated a statute, by-law or regulation dealing with health, safety, planning or structural standards.

8. Tenant's right to privacy and landlord's right of entry.

9. Retaliatory eviction.

(2) A notice of termination given in contravention of subsection (1) is of no force or effect.

(3) A landlord who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine or imprisonment under the provisions of *The Summary Convictions Act* or to both fine and imprisonment.

Rent

10. (1) The following provisions apply to a tenancy of a mobile home site in a mobile home park:

(a) a landlord shall not increase the rent payable under a periodic tenancy agreement or recover any additional rent resulting from such an increase unless he gives to the tenant a written notice of the increase in rent at least 6 months before the date on which the increase is to be effective,

(b) a tenant under

(i) a periodic tenancy, or

(ii) a fixed-term tenancy which, by virtue of section 35 will become a periodic tenancy before the date of rent increase,

who receives a notice under subsection (1)(a) and who fails to give to the landlord notice of termination effective on or before the date of rent increase, shall be deemed to have accepted the same,

(c) a landlord who gives a notice of termination of a tenancy shall not, for a period of 6 months after the date the notice is given, be entitled to demand or retain any rent for the mobile home site in excess of that payable under the tenancy agreement at the time of the notice,

(d) a tenant who pays rent in excess of that permitted by subsections (1)(a) and (1)(c) is entitled to recover such excess rent from the landlord,

(e) this section does not apply if the tenancy agreement provides for a period of notice longer than 6 months.

(2) The same provisions apply to a tenancy of a mobile home site not in a mobile home park but the period of notice shall be 90 days instead of 6 months.

11. A term in a tenancy agreement that provides that, by reason of default in payment of rent due or in observance of any obligation of the tenant under a tenancy agreement, the whole or any part of the remaining rent for the term of the tenancy becomes due and payable, is void.

Tenant's Obligations

12. (1) In every tenancy agreement there are implied the following covenants between the tenant and the landlord:

(a) that neither the tenant, another occupant of the mobile home situated on the mobile home site, nor a person in-

10. Rental payments.

11. Acceleration clauses.

12. Tenant's obligations.

vited to property of which the mobile home site forms a part by the tenant or another occupant, shall

- (i) disturb, in any significant manner, the possession and peaceful enjoyment by the landlord or another tenant of their rights in the property of which the mobile home site forms a part, or
 - (ii) damage the property by any wilful or negligent conduct including, but not limited to, illegal, dangerous, or offensive conduct.
- (b) that the tenant shall maintain the mobile home site including equipment and facilities supplied thereto, in a clean, tidy and sanitary condition, free of garbage and refuse,
 - (c) that the tenant shall observe all reasonable rules of the landlord in connection with the cleanliness, tidiness, safety and general appearance of the exterior of his mobile home and appurtenances to it,
 - (d) that the tenant shall notify the landlord insofar as reasonably possible, of any condition of disrepair in the mobile home site known to the tenant, and
 - (e) that the tenant shall take such emergency action as would be taken by a reasonable tenant under the circumstances, short of permanent repair, to minimize damage to the mobile home site from any cause.

(2) The tenant is not liable under subsection (1)(a) for the conduct of another person other than on the mobile home site unless the tenant could reasonably have prevented the conduct.

(3) The covenant implied by subsection (1)(a) in favour of the landlord also benefits and is enforceable by any other tenant of the landlord affected by a breach thereof.

(4) The tenant is not liable to the landlord under sections (1) and (2) for any damage sustained from fire, unless

- (a) the fire was intentionally caused by the tenant, or
- (b) the insurer under a policy of insurance in favour of the landlord is entitled to and does refuse to indemnify the landlord by reason of the tenant's conduct.

Transfer of Interests

13. (1) This section applies to tenancies of mobile home sites in mobile home parks.

(2) A tenant has the right

- (a) to assign and sublet, and
- (b) to sell, lease or otherwise part with the possession of his mobile home in conjunction with an assignment or subletting.

(3) If the tenancy agreement so provides, the exercise of a right under subsection (2) is subject to the landlord's consent, but the landlord shall not withhold his consent arbitrarily or unreasonably.

13. Tenant's right of transfer.

(4) Unless a contrary intention is expressed in the tenancy agreement, a provision requiring the landlord's consent to the exercise of a right under subsection (2) applies to a subsequent exercise of the same right.

(5) If a landlord does not answer a request for a consent under subsection (3) within 15 days from the date he receives notice of the request, he is deemed to have given his consent.

(6) A landlord shall not exact a commission or fee, save only his reasonable expenses actually incurred, in connection with the exercise by a tenant of a right under subsection (2), except pursuant to a written agency contract.

(7) A landlord shall not require that a tenant designate the landlord or any other person to act as agent in the tenant's exercise of a right under subsection (2).

14. (1) Except as provided in section 44 a subsequent owner of property subject to a tenancy, while he remains owner of the property, has all the rights and is subject to all the obligations of the landlord relating to the tenancy.

(2) An assignee of the interest of the tenant, while he continues to hold the interest, has all the rights and is subject to all the obligations of the tenant relating to the tenancy.

(3) This section is subject to *The Land Titles Act*.

15. Unless otherwise provided this Act does not affect

(1) a remedy to which a landlord or tenant is entitled, or

(2) the power of a court to grant relief.

Tenant's Remedies

16. (1) If a landlord's breach of obligation under the tenancy agreement or under this Act deprives the tenant of a substantial part of the benefit of the tenancy agreement the tenant may

(a) treat the tenancy agreement as terminated and vacate the mobile home site, or

(b) proceed under subsection (2).

(2) The tenant may give the landlord a notice in writing

(a) specifying the breach; and

(b) notifying the landlord that the tenancy agreement will terminate 14 days after the giving of the notice unless within that time the landlord files and serves a notice of application to the court for an order setting aside the notice.

(3) The court shall set aside the notice unless it is satisfied that a breach described in subsection (1) has occurred.

(4) If the landlord does not apply, it shall be conclusively deemed that there was a breach described in subsection (1) and the tenancy is terminated.

14. Rights and obligations of subsequent owners.

15. Existing remedies preserved.

16. Tenant's remedies.

- (5) If a tenancy is terminated under this section
- (a) rent is payable to the date of termination, and no longer, at the rate provided in the tenancy agreement, with pro rata provision for a fractional rental period, and
 - (b) each party is entitled to enforce all rights which accrue to the time of termination, and
 - (c) the tenant is entitled to damages for the loss of the benefit of the agreement over the balance of the unexpired term.

17. (1) If a landlord commits a breach of an obligation under a tenancy agreement or this Act, the tenant may by notice apply for any one or more of the following remedies

- (a) damages suffered by reason of the breach,
- (b) abatement of rent to the extent that the breach deprives the tenant of the benefit of the tenancy agreement, and
- (c) judgment for the cost of making good the landlord's default.

(2) The court may

- (a) make an order or give a judgment applied for under subsection (1),
- (b) direct that the tenant pay into court, pending and after disposition of the application, such amounts of future rent, if any, as the court deems appropriate to secure enforcement of any order applied for or granted under subsection (1), and
- (c) direct that any amount of rent paid into court be disbursed, as appropriate,
 - (i) to the tenant as damages,
 - (ii) to the landlord, the tenant, or a third party, for costs reasonably incurred in making good the landlord's default, and
 - (iii) to the landlord any remaining sums.

(3) The court may refuse to permit the tenant to pay future rent into court upon being satisfied that

- (a) there was no breach, or
- (b) the breach
 - (i) was not significant,
 - (ii) was beyond the landlord's reasonable control, or
 - (iii) was expressly or impliedly waived by the tenant.

Landlord's Remedies

18. (1) If a tenant, by abandonment of the mobile home site or otherwise, gives the landlord reasonable grounds to believe that the tenant has repudiated the 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.

17. Order of the court to give remedies.

18. Landlord's remedies.

- (2) A landlord who proceeds under subsection (1) (a)
 - (a) may recover any rent accrued, and damages suffered by reason of the breach of other obligations of the tenant, to the date of termination of the tenancy, and
 - (b) may recover damages for the loss of the benefit of the tenancy agreement
 - (i) if for a fixed term tenancy, over the unexpired period of the tenancy agreement, or
 - (ii) if for a periodic tenancy, until the earliest date the tenant could have terminated the tenancy if his acts of repudiation had constituted a proper notice of termination,

and

 - (c) is subject to a duty to take reasonable steps to mitigate his damages.
- (3) A landlord who proceeds under subsection (1) (b)
 - (a) may enforce the tenancy agreement, but
 - (b) is subject to a duty to take reasonable steps to rent the mobile home site on behalf of the tenant to mitigate the tenant's liability for rent under the tenancy agreement.

19. (1) If a tenant commits a substantial breach of obligation under a tenancy agreement or under the Act, the landlord may give the tenant notice that the tenancy will terminate 14 days after the date of giving of notice unless within the said period of 14 days the tenant serves on the landlord a notice of objection to the termination.

(2) A notice under subsection (1) shall give particulars of the alleged breach.

(3) Without restricting the generality of subsection (1), "substantial breach" for the purposes of this section includes

- (a) a failure to pay rent,
- (b) doing or permitting substantial damage to the mobile home site or common areas,
- (c) performing illegal acts, or carrying on an illegal trade, business, occupation or calling, on the mobile home site or in the common areas,
- (d) a breach which creates a danger to person or property,
- (e) a breach which causes undue interference with the rights of the landlord or other tenants,
- (f) a series of breaches the cumulative effect of which is substantial.

(4) If the breach is a default in payment of rent, and if the tenant pays the arrears of rent within the said period of 14 days, the notice is ineffective whether or not the landlord applies under subsection (6).

(5) Except as provided in subsection (4) the tenancy shall terminate in accordance with the landlord's notice unless the tenant serves a notice of objection under subsection (1).

19. Notice to terminate for substantial breach.

- (6) The landlord may
 - (a) instead of serving a notice under subsection (1), or
 - (b) if the tenant serves a notice of objection under subsection (1)

apply to the court for an order terminating the tenancy agreement.

(7) Upon an application by a landlord under subsection (6) the court

- (a) if satisfied that the tenant has committed a substantial breach of obligation under the tenancy agreement or under this Act, shall make an order terminating the tenancy agreement, or
- (b) if not so satisfied, shall deny the application.

(8) If a tenancy agreement is terminated under this section

- (a) rent accrued before the date of termination is payable, and
- (b) the rights of the parties shall be determined as in the case of any other termination of a tenancy agreement.

20. (1) A tenancy agreement is frustrated if

- (a) the mobile home site is destroyed or rendered permanently unusable, or
- (b) the mobile home site, 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 damaged property, or
 - (ii) a reasonable tenant would not be willing to remain as tenant.

(2) *The Frustrated Contracts Act* applies to a tenancy agreement which is frustrated.

21. While an overholding tenant remains in possession of a mobile home site after the termination of the tenancy, neither the landlord nor a new tenant is entitled to obtain possession except by consent or under order of a court.

22. (1) Where a tenant overholds after the termination of a tenancy, the landlord has a right to recover from such tenant

- (a) compensation for use and occupation by the overholding tenant, and
- (b) damages suffered by the landlord as a consequence of the overholding, including, but not limited to, indemnification for damages, general and special, for which the landlord is liable to a new tenant, which could reasonably have been foreseen by the overholding tenant as a consequence of the overholding.

(2) Where a landlord breaches his covenant to give a tenant possession of the mobile home site at the commencement of the term, the tenant has the following rights against the landlord

20. Frustration of tenancy agreement.

21. Overholding tenant.

22. Failure to give possession.

- (a) to recover damages, general and special, which could reasonably have been foreseen by the landlord as a consequence of the breach, and either
 - (b) to repudiate the tenancy agreement, or
 - (c) to obtain specific performance of the covenant for possession in the discretion of the court.
- (3) Where a tenant is unable to obtain possession of a mobile home site because it is wrongfully occupied by another, the tenant has a right to recover from the wrongful occupant
- (a) possession of the mobile home site, and
 - (b) damages, general and special, which could reasonably have been foreseen by the wrongful occupant as a consequence of the occupation.

Obtaining Possession

23. (1) Where a tenant, after his tenancy has expired or has been terminated, does not go out of possession of the mobile home site held by him, the landlord may apply by originating notice of motion to the Court of Queen's Bench for an order for possession.

(2) The originating notice shall be served at least three days before the day named in the notice for hearing of the application.

(3) The application of the landlord shall be supported by an affidavit

- (a) setting forth the terms of the tenancy,
- (b) proving the expiration or termination of the tenancy,
- (c) stating the failure of the tenant to deliver up possession and the reasons given for the failure, if any were given, and
- (d) stating any other relevant facts.

24. (1) The originating notice of motion of the landlord may also include

- (a) a claim for arrears of rent,
- (b) a claim for compensation for use and occupation of the mobile home site by the tenant after the expiration or termination of the tenancy, and
- (c) a claim for damages.

(2) Where a claim is made under subsection (1) the affidavit in support of the motion shall also show

- (a) where a claim is made for rent, the amount of rent in arrears and the time during which it has been in arrear,
- (b) where a claim is made for compensation, particulars of the use made of the mobile home site after the expiration or termination of the tenancy, so far as is known, and
- (c) where a claim is made for damages, particulars thereof.

23. Obtaining possession.

24. Notice of motion for order for possession.

25. (1) Upon hearing the motion, or where it is opposed, upon hearing and considering, in a summary way, the oral and affidavit evidence of the parties and their witnesses, the court may

- (a) if it is satisfied that the tenancy has expired, give an order for possession,
- (b) where a claim for rent is made, give judgment for the amount of rent proven to be in arrears,
- (c) where a claim for compensation for use and occupation or for damages is made give judgment in such amount as the court may determine, having regard in the case of a claim for compensation for use and occupation to the nature of the use and occupation and the rent payable during the tenancy, and
- (d) make such order as to costs as it thinks just.

(2) The court may grant or dismiss the application in whole or in part and may direct the trial of an issue to determine any matter in dispute.

26. (1) An order under section 25 granting possession

- (a) shall direct the tenant to deliver up possession of the mobile home site to the landlord by a specified date or within a specified time after service of the order on the tenant, and
- (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 any further order.

(2) The order may be served in the same manner as a notice may be served on a tenant pursuant to section 49.

27. Where the order is not obeyed by the specified date or within the specified time, the landlord is entitled, without any further order, to be issued a writ of possession on filing an affidavit showing service of the order and that it has not been obeyed.

28. Proceedings in respect of a claim for arrears of rent or compensation may continue to judgment notwithstanding that the tenant delivers up possession of or vacates the mobile home site after service upon him of the originating notice of motion.

29. Where an application is made in which the Provincial Court has power to grant an order for possession as provided in section 46, the landlord, instead of proceeding under sections 23 to 29, may apply to the Provincial Court in accordance with the rules and practice of the court for an order for possession, compensation for use and occupation, and damages flowing from the tenant's refusal to give possession.

Termination of Tenancies

30. (1) A weekly or monthly or year-to-year tenancy may be terminated by either the landlord or the tenant upon notice to the other and the notice

25. Court hearing motion.

26. Content of order for possession.

27. Writ of possession.

28. Proceedings for arrears rent.

29. Application to Provincial Court for order for possession.

30. Termination of tenancy.

- (a) shall meet the requirements of section 31,
- (b) shall be given in the manner prescribed by section 48, and
- (c) shall be given in sufficient time to give the period of notice required by section 32, 33, or 34, as the case may be.

(2) Any other kind of tenancy determinable on notice may be terminated as provided by sections 31 and 49.

31. (1) Every notice required to be given by a landlord or a tenant shall be in writing.

(2) A notice in writing

- (a) shall be signed by the person giving the notice, or his agent,
- (b) shall identify the mobile home site in respect of which the notice is given, and
- (c) shall state the date on which the tenancy is to terminate or shall give some formula which will allow the termination date to be calculated precisely.

(3) A notice may state both

- (a) the date on which the tenancy is to terminate, and
- (b) that the tenancy is to terminate on the last day of a specified period of the tenancy,

and if it does state both and the date on which the tenancy is to terminate is incorrectly stated, the notice is nevertheless effective to terminate the tenancy on the last day of the specified period of the tenancy.

(4) A notice need not be in any particular form, but a notice by a landlord to a tenant may be in Form A of the Schedule and a notice by a tenant to a landlord may be in Form B of the Schedule.

32. (1) This section shall not apply to

- (a) tenancies of mobile home sites which are not in mobile home parks,
- (b) subtenancies other than those referred to in section 2.

(2) A notice given by a landlord to terminate a weekly tenancy shall be given on or before the last day of one week of the tenancy to be effective on or after the last day of the 26th week following the week in which notice was given.

(3) A notice given by a landlord to terminate a monthly tenancy or a tenancy governed by section 35(2) shall be given on or before the last day of one month of the tenancy to be effective on or after the last day of the sixth month following the month in which notice was given.

(4) Notwithstanding subsections (2) and (3), a notice given by a landlord under a tenancy in a mobile home park shall not take effect before 12 months from the date of commencement of the tenant's first tenancy in the mobile home park.

31. Notices.

32. Termination of weekly tenancies of mobile home sites in mobile home parks.

(5) A notice given by a tenant to terminate a weekly tenancy shall be given on or before the last day of one week of the tenancy to be effective on or after the last day of the following week of the tenancy.

(6) A notice given by a tenant to terminate a monthly tenancy shall be given on or before the last day of one month of the tenancy to be effective on or after the last day of the following month of the tenancy.

(7) For the purposes of this section and of section 33, "week of the tenancy" means the weekly period on which the tenancy is based and not necessarily a calendar week and, unless otherwise specifically agreed upon, the week shall be deemed to begin on the day upon which rent is payable.

(8) For the purposes of this section and of section 33, "month of the tenancy" means the monthly period on which the tenancy is based and not necessarily a calendar month and, unless otherwise specifically agreed upon, the month shall be deemed to begin on the day upon which rent is payable.

33. (1) This section applies to

- (a) tenancies of mobile home sites which are not in mobile home parks, and
- (b) subtenancies other than those referred to in section 2.

(2) A notice given by a landlord or a tenant to terminate a weekly tenancy shall be given on or before the last day of one week of the tenancy to be effective on or after the last day of the following week of the tenancy.

(3) A notice given by a landlord or a tenant to terminate a monthly tenancy shall be given on or before the last day of one month of the tenancy to be effective on or after the last day of the following month of the tenancy.

(4) In this section "week of the tenancy" and "month of the tenancy" have the same meaning as in section 32.

34. (1) A notice given by a landlord or a tenant to terminate a year-to-year tenancy shall be given on or before the 60th day before the last day of any year of the tenancy to be effective on or after the last day of that year of the tenancy.

(2) For the purposes of this section, "year of the tenancy" means the yearly period on which the tenancy is based and not necessarily a calendar year, and unless otherwise agreed upon, 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.

35. (1) This section applies where a landlord or a tenant enter into a tenancy agreement for a fixed term, but shall not apply

- (a) to tenancies of mobile home sites which are not in mobile home parks,
- (b) to subtenancies, other than those referred to in section 2, or

33. Termination of weekly tenancies of mobile home sites which are not in mobile home parks.

34. Termination of year-to-year tenancies.

35. Termination of fixed term tenancies.

- (c) where at the commencement of the tenancy agreement the landlord has a bona fide intention to close down the mobile home park within 12 months of the date of commencement.
- (2) A monthly tenancy arises at the expiration of the fixed term unless
 - (a) notice is given under subsection (4), or
 - (b) the tenancy agreement is terminated by either party in accordance with the provisions of sections 16, 18, or 19.
- (3) The terms of the monthly tenancy are the same as the terms of the expired tenancy agreement, to the extent that the terms of the expired tenancy agreement are not inconsistent with a monthly tenancy.
- (4) A notice given
 - (a) to prevent a monthly tenancy from arising under subsection (2), or
 - (b) to terminate such a monthly tenancy
 shall meet the requirements of section 31 and be given in the manner prescribed by section 48 and shall be given
 - (c) by the landlord so as to be effective no earlier than the later of
 - (i) the last day of the 6th month of the tenancy following the month in which the notice is given, and
 - (ii) the expiration of 12 months from the date of the commencement of the tenant's first tenancy agreement in the mobile home park, and
 - (d) by the tenant on or before the last day of one month of the tenancy to be effective on or after the last day of the following month of the tenancy.
- (5) Nothing in this section confers upon either party a right to terminate a tenancy for a fixed term before the date fixed in the tenancy agreement.
- (6) Notwithstanding subsection (3), a landlord may before or during a monthly tenancy under subsection (2) give notice under section 10 increasing the rent thereunder.
- (7) For the purposes of this section "month of the tenancy" means
 - (a) a monthly period of a fixed term tenancy commencing with the date of the commencement of the tenancy or with the same date in another calendar month, or
 - (b) a monthly period of a monthly tenancy as defined in section 32(8), and
 "tenancy" includes the periods of both the fixed-term tenancy and the monthly tenancy arising under subsection (2).

- 36.** (1) This section shall not apply to
- (a) tenancies of mobile home sites which are not in mobile home parks,

36. Rent increases.

(b) subtenancies, other than those referred to in section 2.

(2) Any rent increase or other change in the terms of the tenancy agreement which is imposed by a landlord for the purpose of causing a tenant to terminate his tenancy agreement shall be null and void.

37. Notwithstanding anything contained in this Act, where a periodic tenancy has been entered into because of the tenant's employment by the landlord, and the landlord terminates the employment, either the landlord or the tenant may terminate the tenancy by giving a one-month notice to the other which shall in all other respects meet the notice requirements of this Act.

38. Notwithstanding anything to the contrary in any agreement, where

- (a) a landlord of a mobile home site in a mobile home park gives to the tenant a notice of termination of the tenancy,
- (b) the sole or principal reason for giving the notice of termination is to enable the landlord to obtain vacant possession of the mobile home site in order to use it otherwise than as a mobile home site, and
- (c) the giving of the notice of termination is part of a plan or scheme of the landlord to obtain vacant possession of all the mobile home sites in the same mobile home park in order to use them otherwise than as mobile home sites,

the notice of termination of tenancy shall be for a period of not less than one year from the date on which it is given to the tenant.

Implied Tenancy

39. (1) The acceptance by a landlord of arrears of rent, or compensation for use and occupation of a mobile home site, after the expiration of a tenancy or after notice of termination of a tenancy has been given, does not operate as a waiver of the notice or as a reinstatement of the tenancy or as the creation of a new tenancy unless the parties so agree.

(2) The burden of proof that the notice has been waived or that the tenancy has been reinstated or a new tenancy created is upon the person so claiming.

40. Where a periodic tenancy, other than one arising under section 35, is implied by operation of law after the termination of a prior tenancy for a fixed term, the implied tenancy, in the absence of facts showing a contrary intention, is

- (1) where the prior tenancy was for a fixed term of one month or more, a tenancy from month to month, or
- (2) where the prior tenancy was for a fixed term of less than one month, a tenancy from week to week.

Security Deposits

41. A landlord shall not exact from a tenant

37. Tenant employed by landlord.

38. Termination of tenancy mobile home site where site is to be converted to another use.

39. Implied tenancy and acceptance of rent.

40. Periodic tenancy implied by operation of law.

41. Security deposits.

- (1) a security deposit exceeding one month's rent under the tenancy agreement, or
- (2) any sums of money totalling more than the security deposit permitted by subsection (1) and one month's rent in advance.

42. (1) A landlord holds each security deposit paid or given to him or his agent, or to anyone on his behalf, as trustee for the tenant but subject to the provisions of this Act and the tenancy agreement and any other agreement pertaining to it.

(2) Where the security deposit consists of money, the landlord may invest the money in investments authorized by *The Trustee Act* for the investment of trust funds.

(3) Subject to subsection (4), a landlord shall pay annually to the tenant interest on a security deposit consisting of money held by him or his agent or anyone on his behalf at the rate of 6 per cent per year.

(4) Where the security deposit consists of money, a tenant may notify his landlord in writing that he elects not to have the interest on the security deposit paid annually as provided in subsection (3) and in that case the interest shall be payable on the termination or expiration of the tenancy, unless otherwise agreed between the landlord and the tenant.

(5) The 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 under subsection (3) or (4).

(6) Where the landlord and the tenant agree that interest shall be payable under this section at a rate of interest higher than 6 per cent per year, subsections (3), (4) and (5) shall be deemed to refer to the higher rate.

43. (1) Where a landlord holds a security deposit, then, upon the expiry or termination of the tenancy,

- (a) the landlord shall return the security deposit to the tenant within 10 days after the tenant delivered up possession of the mobile home site,
- (b) if all or part of the security deposit may be deducted in accordance with the conditions agreed to by the tenant, the landlord shall
 - (i) deliver a statement of account therefor, and
 - (ii) return the balance of the deposit, if any, to the tenant within 10 days after the tenant delivered up possession of the mobile home site,

or

- (c) if the landlord is entitled to make a deduction from the security deposit for repairs to the mobile home site but is unable to determine the correct amount thereof within 10 days after the tenant delivers up possession of the mobile home site, the landlord may make an estimate thereof, and in that case the landlord

42. Conditions of holding security deposits.

43. Return of security deposits.

- (i) shall
 - (A) deliver an estimated statement of account, and
 - (B) return the estimated balance of the deposit, if any,
 to the tenant within 10 days after the tenant delivered up possession of the mobile home site, and
- (ii) shall
 - (A) deliver a final statement of account, and
 - (B) return the final balance, if any,
 to the tenant within 30 days after the tenant delivered up possession of the mobile home site.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine or imprisonment under the provisions of *The Summary Convictions Act* or to both fine and imprisonment.

(3) Where 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 take proceedings under *The Small Claims Act* to recover the whole of the deposit or that part of the deposit to which the tenant claims to be entitled, if the amount claimed is within the monetary jurisdiction of the court.

(4) In proceedings taken under subsection (3) the magistrate or judge

- (a) shall determine the amounts, if any, which the landlord is entitled to deduct from the security deposit in accordance with the conditions agreed to by the tenant, and
- (b) where the deductions so determined are less than the amount of the deposit, shall give judgment in favour of the tenant for the balance.

(5) In this section, "security deposit" includes any amounts owing to the tenant as interest by virtue of section 42 at the time of termination or expiration of the tenancy.

44. (1) A person who becomes an owner of a mobile home site which is subject to a tenancy is subject to the obligations of the landlord with respect to a security deposit except as provided in subsections (2) and (3).

(2) A purchaser of the property is entitled

- (a) to demand from the seller
 - (i) a statement of account certified by the seller of all security deposits held by the seller at the date of the sale and of the interest accrued to date on each, and
 - (ii) payment to the purchaser of all such security deposits and interest,
 and
- (b) to give to each mobile home site tenant notice not less than 7 days before the completion of the sale of the statement of account of the tenant certified by the seller.

44. Statement of account of security deposits where mobile site is sold.

(3) A purchaser who has complied with subsection (2) is liable to the tenant only for the amount or amounts stated in the statement of account.

(4) Upon paying a security deposit and interest to the purchaser under this section the seller is discharged from all further liability for the amount so paid.

Abandoned Goods

45. (1) In this Act, "abandoned goods" means goods left on a mobile home site by a tenant who has

- (a) abandoned the mobile home site in breach of the tenancy agreement, or
- (b) gone out of possession of the mobile home site upon termination of the tenancy agreement.

(2) A landlord who believes on reasonable grounds that abandoned goods have a market value of less than \$200 may dispose of the goods in any manner he chooses.

(3) If subsection (2) does not apply, 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 the sale,

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

(4) If neither subsection (2) nor subsection (3) applies, 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 abandonment, and
- (b) thereafter may dispose of the goods by public auction.

(5) A landlord may apply to the Provincial Court for directions as to the disposition of any abandoned goods remaining on the mobile home site and upon such application the court may make any order which appears appropriate in the circumstances.

(6) The landlord shall, upon payment of his proper costs of removing and storing the goods, deliver the goods to the tenant or an encumbrancer claiming them.

(7) The landlord may apply the proceeds of the sale

- (a) upon his reasonable costs of removing, storing and selling the goods, and
- (b) upon any judgment obtained by him against the tenant in connection with the tenancy.

(8) The landlord shall pay the balance of any proceeds of sale to the Provincial Treasurer who shall retain the same for one year on behalf of the tenant and thereafter, if the tenant has not claimed

45. Abandoned goods.

the same, pay the same into the general revenue of the Province, following which payment the claim of the tenant shall be extinguished.

(9) This section does not apply if the landlord and the tenant agree to the contrary.

(10) This section does not apply to goods and chattels on premises against which the Sheriff executes a writ of possession.

Courts

46. (1) Except as otherwise provided, the Court of Queen's Bench and the Provincial Court are courts of competent jurisdiction for the purposes of this Act.

(2) Notwithstanding subsection (1), the Provincial Court does not have jurisdiction

- (a) to give judgment for debt or damages under this Act or a tenancy agreement in excess of the amount prescribed by *The Small Claims Act*,
- (b) to grant equitable remedies, or
- (c) to grant an order for possession except in a case in which a tenant who has been denied possession of a mobile home site at the inception of the tenancy brings proceedings for damages and possession.

(3) The Lieutenant Governor in Council may make rules of court for the Provincial Court for disputes between landlords and tenants.

(4) Where it appears in an action or proceeding brought in the Provincial Court under this Act or a tenancy agreement that a question raised therein could for any reason be dealt with more conveniently in the Court of Queen's Bench, the judge of the Provincial Court or a judge of the Court of Queen's Bench may order the action or proceeding to be transferred to the Court of Queen's Bench.

(5) The order to transfer may be made by the court or judge of his own accord, or upon the application of either party on notice to the other parties interested, and at any stage of the action or proceeding.

(6) When an order is made under subsection (1)

- (a) the action or proceeding shall therefore proceed in the Court of Queen's Bench,
- (b) the judges of the Court of Queen's Bench and the officers thereof have the same powers and shall perform the same duties in relation thereto as if the action or proceeding has been originally instituted in the Court of Queen's Bench as the case may be,
- (c) the pleadings and proceedings taken in the court from which the action or proceeding was transferred stand and have effect notwithstanding the transfer and
- (d) subject to the rules of court and to any order in that be-

46. Jurisdiction of courts.

half made by the court or judge, the costs of the proceedings so taken previous to the transfer shall be paid and the solicitor's costs taxed according to the scale of costs in the Provincial Court.

(7) Where an order transferring the action from the Provincial Court to the Court of Queen's Bench is made at the instance of any of the parties thereto, the judge making the order may in his discretion make and impose on the party applying for the order terms with regard to payment of costs, or security for costs or such other terms as he sees fit.

47. (1) An appeal lies from the Provincial Court to the Court of Queen's Bench in a dispute arising under this Act or a tenancy agreement.

(2) The provisions of section 748 to 760 inclusive of the *Criminal Code (Canada)* and the rules promulgated thereunder, and not the provisions of sections 33 to 44 inclusive of *The Small Claims Act*, apply with necessary changes to an appeal under subsection (1).

48. A Landlord and Tenant Advisory Board established pursuant to *The Landlord and Tenant Act, 1979* has jurisdiction to carry out the function described in section 49 of that Act with respect to a tenancy under this Act.

49. (1) Except as otherwise provided, a notice or document shall be served or delivered personally or by registered mail.

(2) For service or delivery by registered mail

(a) a tenant's address is the address of the mobile home site, and

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

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

(4) If a notice or document cannot be served or delivered personally by reason of the tenant's absence from the mobile home site, or by reason of his evading service, service or delivery 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 mobile home site.

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

50. Except as otherwise provided in this Act, this Act applies notwithstanding an agreement to the contrary.

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

47. Appeal.

48. Landlord and tenant advisory boards.

49. Service of documents and notices.

50. Contracting out of provisions of this Act.

51. Crown bound.

52. This Act

(1) applies to

- (a) any tenancy agreement made after its commencement,
- (b) a weekly or monthly tenancy agreement made before its commencement, and
- (c) a yearly tenancy agreement made before its commencement, from and after the first anniversary of its commencement,

and

(2) does not apply to a tenancy agreement for a fixed term made before its commencement, but applies to a renewal of such a tenancy agreement made after its commencement.

53. The following do not apply to mobile home site tenancies:

- (1) *The Grantees of Reversion Act*, 32 Hen. 8, c. 34 (Imp.),
- (2) *The Landlord and Tenant Act*, 4 Geo. 2 c. 28 (Imp.),
- (3) *The Distress for Rent Act*, 11 Geo. 2 c. 19, s. 18 (Imp.), and
- (4) Sections 98 and 99 of *The Land Titles Act*.

54. (1) *The Landlord and Tenant Act, 1979* is amended by this section.

(2) *Section 1(a)* is repealed.

(3) *Section 7(f)* is repealed and the following is substituted:

- (f) "Residential premises" means a self-contained dwelling unit used for residential purposes, but does not include premises used for business purposes with living accommodation attached and rented under a single agreement.

55. *This Act comes into force on a date to be fixed by Proclamation.*

52. Transitional provisions.

53. Exclusion of certain Statutes.

54. Consequential amendments; amends chapter 17, 1979 Alberta Statutes.

TENANCIES OF MOBILE HOME SITES ACT
SCHEDULE

FORM A

NOTICE TO TENANT

TO (Name of Tenant)

I hereby give you notice to deliver up possession of the mobile home site _____

(identify the mobile home site)

_____ day of _____ next, or on the earliest date permitted under sections 29-37 of The Tenancies of Mobile Home Sites Act.

Dated this _____ day of _____ 19_____.

(Landlord)

TENANCIES OF MOBILE HOME SITES ACT
SCHEDULE

FORM B

NOTICE TO LANDLORD

TO (Name of Landlord)

I hereby give you notice that I am giving up possession of the mobile home site _____

(identify the mobile home site)

_____ day of _____ next, or on the earliest date permitted under sections 29-37 of The Tenancies of Mobile Home Sites Act.

Dated this _____ day of _____ 19_____.

(Tenant)

TENANCIES OF MOBILE HOME SITES ACT
SCHEDULE

FORM C

INFORMATION FOR TENANT

IT IS IMPORTANT THAT ALL TENANTS READ THE FOLLOWING:

UNDER THE TENANCIES OF MOBILE HOME SITES ACT:

A. You have the right

1. to receive written details of all fees, charges or assessments, prior to entering into the tenancy agreement;
2. to receive a copy of the tenancy agreement (if it is in writing);
3. to a mobile home site which is clean when you take possession and sound throughout the tenancy;
4. to facilities for heating, fuel, electricity, plumbing, etc. in good and working order and condition if the landlord is, by your agreement, to supply these;
5. to possession and peaceful enjoyment of the mobile home site, subject to your landlord's right to enter in specified circumstances;
6. (if you are in a mobile home park), to assign or sublet, and to sell, lease, or otherwise part with the possession of your mobile home in conjunction with an assignment or subletting, though your landlord's consent will be needed if your tenancy agreement says so;
7. to a copy of the rules and regulations, changes in which are only enforceable against you if reasonable notice is given;
8. to an abatement of rent by court order if the landlord does not perform his obligations;
9. (if you are in a mobile home park), to a minimum of six months' notice of termination from the landlord, but not to be effective until you have been in possession at least 12 months, subject to the landlord's right to terminate for cause;
10. to terminate the tenancy for a very serious breach of your landlord's obligations;
11. to receive back your security deposit and interest less any deductions made under the tenancy agreement.

B. You are obliged to

1. keep the mobile home site clean and observe the landlord's reasonable rules in connection with the external appearance of the mobile home;

2. refrain from disturbing the landlord or other tenants;
3. pay for wilful or careless damage caused by yourself, other occupants of the mobile home, and visitors;
4. notify the landlord of repairs needed and take reasonable emergency steps to prevent damage;
5. give notice of termination of your tenancy;
6. vacate at the end of the tenancy.

C. Your landlord is not entitled to

1. evict you because you assert your legal rights, and
2. increase the rent except on 6 months' notice (90 days' notice in the case of tenancies arising outside mobile home parks).
(Note that if you receive a valid notice of rent increase you must either accept it or terminate the tenancy).

FOR MORE COMPLETE INFORMATION:

1. obtain a copy of The Tenancies of Mobile Home Sites Act;
2. obtain legal advice;
3. consult the Landlord and Tenant Advisory Board if there is one in your area;
4. consult the nearest office of the Provincial Court if you wish to commence legal proceedings.

Note that this notice is a summary of important parts of the Act, which must itself be consulted for a precise statement of the law. The notice is designed to assist you with some of the provisions which may affect you.