

1990 BILL 208

Second Session, 22nd Legislature, 39 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 208

RENT REVIEW ACT

MR. EWASIUK

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 208
Mr. Ewasiuk

BILL 208

1990

RENT REVIEW ACT

(Assented to , 1990)

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

Definitions

1 In this Act,

(a) "rent" means the housing charge set by the landlord for the rental of the premises and may include utilities, cable and parking but does not include telephone, recreational fees or other ancillary fees;

(b) "tenant" means anyone who rents property for residential purposes including but not limited to: renter, roomer, roomer with board, resident in a senior's lodge or apartment complex, resident in a public or private non-profit housing unit, resident in a co-operative housing project, resident of a government-owned property, resident of a mobile home;

(c) "unoccupied" means with respect to any suite, a suite which has been vacant for no less than 3 consecutive tenancy months and which has previously been rented as a residential property;

(d) "new" means with respect to any suite, a suite which has never been rented as a residential property.

Mobile homes

2 If there is a conflict between this Act and the *Mobile Home Sites Tenancies Act*, the Act that provides greater benefit or protection to the tenant shall apply.

Rent Review
Commissioner

3(1) There shall be established in the Province of Alberta the position of a Rent Review Commissioner whose duty shall be to

administer the rent review provisions of this Act.

(2) The Commissioner shall operate as a part of the Office of the Ombudsman and shall report to the Ombudsman.

(3) The Commissioner shall be hired pursuant to the *Public Service Act* through a public competition and shall be remunerated in the same range as an assistant deputy minister, providing money has been appropriated to that purpose by the Legislature.

(4) The Commissioner shall be assisted by such staff as the Ombudsman may deem necessary who shall be hired through public competition pursuant to the *Public Service Act*, providing money has been appropriated to that purpose by the Legislature.

Rent increases for unoccupied suites

4(1) A landlord may set the rent for a new or unoccupied suite.

(2) A landlord may not evict a tenant for the purposes of rendering the suite unoccupied in order to increase the rent, and

(3) A landlord who contravenes subsection (2) is guilty of an offence and liable on conviction to a fine of not more than \$1000 and may be ordered to pay damages to the tenant in such amount as the court determines.

(4) A tenant who believes that a landlord has violated subsection (2) may apply to a court under the provisions of sections 29, 31, 33, 35 and 36 of the *Landlord and Tenant Act*.

(5) If a landlord is found to have violated subsection (2) he shall submit a request for a rent rate decision to the Rent Review Commissioner, who shall establish the rent rate for the suite pursuant to section 6.

Rent increases for occupied suites

5(1) A landlord shall not collect an increase in rent from a tenant until 12 months have expired following

(a) the date the last lawful increase in rent for that tenant became effective; or

(b) where there has been no previous increase in rent for that tenant, the date on which the tenant became entitled to possession.

(2) A landlord shall give the tenant written notice of a rent increase not less than 90 days before the rent increase is to be effective.

(3) A landlord shall attach to the notice of rent increase either

(a) documentation showing that the increase equal to or less than the increase set out in section 6; or

(b) a copy of an order issued by the Rent Review Commissioner under section 9 granting permission for a larger increase.

(4) Where rent is increased other than in accordance with this Part, the increase is void and unenforceable.

Increase tied to
C.P.I.

6(1) The rent of an occupied suite shall not be increased by a percentage greater than the one year change in the housing portion of the Alberta Consumer Price Index as established by Statistics Canada.

(2) Every 3 months, the Rent Review Commissioner shall publish in the Alberta Gazette and elsewhere as he may determine, the figure for the next quarter.

(3) If a landlord wishes to raise rents by a greater amount than that indicated by section 6(1), he must first apply for permission from the Rent Review Commissioner and not give notice of the increase to tenants unless he receives their permission.

Application to
Commissioner

7(1) The landlord, when making application under section 6, shall submit a written request to the Commissioner, in a form acceptable to the Commissioner, which shows for the building in which the rented premises are situated,

(a) operating expenses for 12 months immediately preceding the date of the request; and

(b) a statement showing the projected expenditures for the fiscal year in which the rent increase is to take effect; and

(c) the amount of rent increase requested and the purposes for which the monies over and above those specified under section 6(3) will be used.

(2) The landlord shall file the request with the office of the Commissioner, and

(a) upon receipt of a submission the Commissioner or his agent shall review the form of the submission and, if it is deemed acceptable, shall provide the landlord with a notice of application stating the time and place which the application will be heard.

Information to tenants

(3) The landlord shall, no less than 2 weeks before the date of the hearing, serve any tenant who is or who may be affected by the rent increase with notice by

(a) providing the tenant with a copy of all the documents referred to in section 8(1); and

(b) serving the notice either personally or by double registered mail; and

(c) if the notice is served personally, the landlord shall prove that notice has been effected by having a signed affidavit.

Right to appear

8(1) Every application made under section 6 shall be heard in a public setting.

(2) At every hearing for an application for a rental increase the Commissioner or his agent shall

(a) establish that all tenants who are or may be affected the rental increase have been properly served with notice under section 7; and

(b) provide equal time for the landlord, his agent, the tenant and his agent to make their arguments.

Powers of Commissioner

9(1) Upon completion of a hearing under section 8, the Commissioner or his agent may

(a) where the Commissioner is satisfied that the landlord's reasonable operating and capital expenses justify the amount of the rent increase, approve the full amount of the rent increase; or

(b) order that the landlord reduce the amount of the rent increase to an amount the Commissioner may specify in the order.

(2) For the purposes of subsection (1), the Commissioner may determine whether an operating or capital expense is reasonable.

(3) Notwithstanding subsection (2), financing costs associated with a change of ownership of the residential property or the landlord's corporate structure or ownership are not to be considered in the assessment of rent.

(4) The Commissioner shall provide a written decision to both the landlord and the tenant no later than 14 days after the hearing.

Appeal

10(1) If either the landlord or tenant does not agree with a decision under section 9, he has the right to appeal in writing to the Commissioner not more than 14 days after the Commissioner's decision.

(2) A landlord may not increase rents or provide notice of increase of rents during the appeal period.

(3) The landlord must serve tenants with notice of the appeal with the process set out in section 7.

(4) An appeal shall be heard by an impartial person appointed by the Ombudsman.

(5) The decision of the appeal hearing shall be final.

RSA 1980 c.L-6

11(1) *The Landlord and Tenant Act is amended by this section.*

(2) *Section 14 is amended by adding the following after subsection*

(3):

(d) that the landlord agrees to abide by the rental increase process set out in the Act to provide for rent review.

RSA 1980 c.0-7

12(1) *The Ombudsman Act is amended by this section.*

(2) *Section 11 is amended by adding the following after subsection*

(6):

(7) The Ombudsman shall be responsible for the Rent Review Commissioner appointed under the *Rent Review Act*.