

1993 BILL 361

Fourth Session, 22nd Legislature, 42 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 361

LANDLORD AND TENANT AMENDMENT ACT, 1993

MR. CHIVERS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 361
Mr. Chivers

BILL 361

1993

LANDLORD AND TENANT AMENDMENT ACT, 1993

(Assented to , 1993)

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

1 The Residential Tenancies Act is amended by this Act.

2 The following is added after section 14(c):

(d) A landlord is responsible for providing and maintaining the rented premises in a good state of repair and fit for habitation during the tenancy and for complying with all applicable health and safety standards, regardless of the condition of the rented premises and the knowledge of the tenant of that condition when the tenancy agreement was entered into.

3 The following is added after section 15.1:

15.11(1) For any matter relating to a tenancy, during a tenancy or after a tenancy has been terminated the address of the tenant shall be the address of the rented premises.

(2) A tenant may, by written notice, provide an address other than that of the rented premises, provided it is a street address and postal address in Alberta.

Explanatory Notes

1 This Bill will amend Chapter R-15.3 of the Revised Statutes of Alberta.

2 Section 14 reads in part

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

4 Section 16(a) is amended by adding the words "subject to section 16.01" after "that".

5 The following is added after section 16:

16.01 A tenant will not be in breach of section 16(a) if the rent is unpaid due to the landlord's breach of section 14(b) or 14(d), or the landlord's failure to supply adequate heat, power, water or other services where the landlord has agreed to provide them.

6 The following is added after section 29:

29.1(1) Notwithstanding the remedies set out in section 29, a tenant may, if a landlord commits a breach of a residential tenancy agreement or contravenes this Act,

(a) file an affidavit with the Sheriff setting forth the details of the contravention or breach; and,

(b) give notice to the landlord in accordance with section 33; and

(c) pay the rent which would otherwise be due to the landlord to the Sheriff.

(2) If the landlord does not, within 14 days of receipt of the notice referred to in subsection (1)(b), file with the Sheriff a written notice of objection to the payment of the rent to the Sheriff, the money paid under subsection (1)(c) shall be released by the Sheriff to the tenant.

(3) If the landlord files, within 14 days of receipt of the notice referred to in subsection (1)(b), with the Sheriff a written notice of objection to the payment of the rent to the Sheriff, the tenant shall make an application to the Court in accordance with part 5 of this Act, for one of the remedies set out in section 29.

(4) If the tenant is denied the remedy sought under subsection (3) the Court shall award the landlord his costs with respect to the application.

Section 16(a) reads

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

(a) that the rent will be paid when due;

7 *The following is added after section 32:*

32.1 The common law rules respecting the effect of the breach of a material covenant by one party to a contract on the obligation to perform by the other party apply to tenancy agreements.

32.2(1) Where more than one person has a common interest in respect of an application under this Part, one or more of those persons may be authorized by a Court to make or defend an application on behalf of, or for the benefit of all persons having a common interest.

(2) This section will not be applied unless the following criteria are met:

- (a)** the names of the persons the plaintiff seeks to represent are stated;
- (b)** the persons so named have an identity of interest with the named plaintiff;
- (c)** in the case of tenancy agreements, the tenants do not each have different contracts with the landlord and do not pay rent directly to the landlord;
- (d)** all persons named are members of the class at the time the action is commenced; and
- (e)** there is a clear indication that the persons named wish to be so represented and are willing to pay costs if the action fails.

8 *The following is added after section 35(d):*

- (e)** if a claim is made under section 16.01 by a tenant or group of tenants,
 - (i)** the details of the breach,
 - (ii)** the notification provided by the tenant to the landlord,

Section 8 reads in part:

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

(iii) a receipt from the Sheriff for the amount of money paid to the Sheriff.

9 *Section 41(1)(b) is repealed.*

10 *This Act comes into force on Proclamation.*

9 *Section 41(1)(b) reads*

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

(b) granting an equitable remedy,