

Manitoba Residential
Tenancies Commission

**Annual Report
2017-2018**



Manitoba Residential Tenancies Commission

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Her Honour the Honourable Janice C. Filmon, C.M., O.M.
Lieutenant Governor of Manitoba
Room 235, Legislative Building
Winnipeg, MB R3C 0V8

May It Please Your Honour:

I have the privilege of presenting, for the information of your Honour, the Annual Report of the Residential Tenancies Commission for the year ended March 31, 2018.

Respectfully submitted,

Honourable Cliff Cullen
Minister of Justice
Attorney General



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Honourable Cliff Cullen
Minister of Justice
Attorney General of Manitoba
Room 104, Legislative Building
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Dear Minister:

Section 151(1) of *The Residential Tenancies Act* states that within six months after the end of each fiscal year, the Chief Commissioner shall submit an annual report to the Minister respecting the activities of the Commission and setting out the significant decisions of the Commission and the reasons for those decisions.

It is my pleasure to submit the Annual Report for the Residential Tenancies Commission for the fiscal year ended March 31, 2018.

Respectfully submitted,

Karin Linnebach
Acting Chief Commissioner
Residential Tenancies Commission

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INTRODUCTION

The Residential Tenancies Commission (the Commission) is a quasi-judicial, specialist tribunal that hears appeals from decisions and orders of the Director of the Residential Tenancies Branch under *The Residential Tenancies Act*.

The Residential Tenancies Commission consists of:

- The Chief Commissioner - a full-time position; appointed for up to a five-year term, located in Winnipeg.
- Deputy Commissioners – one full-time position appointed for up to a four-year term, one 0.6 full-time position appointed for up to a four-year term and 16 part-time positions appointed for up to a four-year term, located in Winnipeg, Brandon and Virden. The Deputy Commissioners may exercise the powers and perform the duties of the Chief Commissioner.
- Panel members – 36 panel members – approximately half representing the views of the landlords, the others the views of the tenants; from Winnipeg, Portage La Prairie, Thompson and Brandon.

The Commission may conduct hearings orally, in person or by telephone, in writing or partly orally and partly in writing. Hearings outside of Winnipeg are held at the nearest judicial district.

Some appeals are heard only by the Chief Commissioner or a Deputy Chief Commissioner and some appeals are heard by a panel of three consisting of one landlord and one tenant representative and either the Chief Commissioner or a Deputy Chief Commissioner as the neutral Chairperson. If there is not a majority decision, the decision of the neutral Chairperson is the decision of the Commission.

The Residential Tenancies Commission decisions in Part 1 – 8 matters can be appealed to the Court of Appeal, but only on a question of law or jurisdiction. A Court of Appeal judge must grant leave or permission to appeal. Section 179 of *The Residential Tenancies Act*

dealing with rent regulation states that: “*No appeal lies from a decision or order of the commission made in a matter arising under Part 9.*” The Residential Tenancies Commission's decision in Part 9 matters is final.

The Residential Tenancies Act requires the Chief Commissioner to submit a report on the administration of the *Act* to the Minister within six months after the end of each fiscal year. The reporting period for this report is the fiscal year ending March 31, 2018. Figures for the fiscal year ending March 31, 2017, have also been provided for purposes of comparison. The statistics are broken down by activity, i.e. security deposits, repairs, utilities.

INTRODUCTION

La Commission de la location à usage d'habitation (la Commission) est un tribunal quasi-judiciaire spécialisé chargé d'entendre les appels des décisions et des ordonnances que rend le directeur de la Direction de la location à usage d'habitation en vertu de la *Loi sur la location à usage d'habitation*.

La Commission de la location à usage d'habitation se compose :

- du commissaire en chef – poste à temps plein; nommé pour une période de cinq ans maximum et basé à Winnipeg;
- des commissaires adjoints – un poste à temps plein, occupé pour une période de quatre ans maximum, un 0.6 poste à temps plein, occupé pour une période de quatre ans maximum et 16 postes à temps partiel, occupés pour une période de quatre ans maximum; basés à Winnipeg, à Brandon et à Virden. Les commissaires adjoints peuvent exercer les pouvoirs et les fonctions du commissaire en chef;
- des membres des comités (36) – une moitié approximativement représente le point de vue des locateurs, l'autre moitié celui des locataires; basés à Winnipeg, Portage-la-Prairie, Thompson et Brandon.

La Commission peut tenir des audiences à l'oral (en personne ou par téléphone) ou par écrit, ou encore en partie à l'oral et en partie par écrit. Les audiences à l'extérieur de Winnipeg ont lieu dans le district judiciaire le plus proche.

Certains appels ne sont entendus que par le commissaire en chef ou par un commissaire en chef adjoint, alors que d'autres appels sont entendus par un comité composé de trois personnes, à savoir un représentant du locateur, un représentant du locataire et un commissaire neutre, le commissaire en chef ou l'un des adjoints, qui préside. En l'absence de majorité, la décision du président neutre est la décision de la Commission.

Il est possible d'interjeter appel des décisions de la Commission de la location à usage d'habitation relativement aux parties 1 à 8 devant la Cour d'appel, mais seulement sur une question de droit ou de compétence. Un juge de la Cour d'appel doit accorder une autorisation d'appel. L'article 179 de la *Loi sur la location à usage d'habitation* concernant le contrôle des loyers stipule ce qui suit : « *Les décisions ou les ordonnances que la*

Commission rend à l'égard de questions régies par la partie 9 ne peuvent faire l'objet d'aucun appel. » Dans ce cas de questions relatives à la partie 9, la décision de la Commission de la location à usage d'habitation est définitive.

La *Loi sur la location à usage d'habitation* exige du commissaire en chef qu'il soumette au ministre un rapport sur l'administration de la *Loi* six mois après la fin de chaque exercice. La période visée par le présent rapport est l'exercice se terminant le 31 mars 2018. Des chiffres correspondant à l'exercice se terminant le 31 mars 2017 sont également fournis à des fins de comparaison. Les statistiques sont fractionnées par activité (p. ex., dépôts de garantie, réparations, services publics).

APPEAL ACTIVITY SUMMARY

PARTS 1 – 8 OF *THE RESIDENTIAL TENANCIES ACT*

Parts 1 – 8 of *The Residential Tenancies Act* deal with all residential landlord and tenant matters, except for rent regulation. Table 1 provides a statistical summary of the activities of the Residential Tenancies Commission under Parts 1 – 8 of the legislation. Between April 1, 2017, to March 31, 2018, the Commission received 437 appeals under Parts 1 – 8 of *The Residential Tenancies Act*. The Commission received 347 appeals of orders resulting from Branch hearings and 65 appeals of claims for security deposit or less. The remaining 25 appeals were related to orders to repair and abandonment.

The Commission processed 425 cases from April 1, 2017, to March 31, 2018. The Commission confirmed or upheld the Residential Tenancies Branch's decisions in 190 instances. The Commission varied 161 of the Branch's decisions. These variations sometimes occurred because the Commission received information from the parties at the appeal hearing that the Branch did not have before issuing its decision. The Commission rescinded 34 decisions of the Branch. Another 38 appeals were either rejected by the Commission, withdrawn or cancelled by the appellant. Most rejections are caused by late appeals or appeals without a filing fee. Withdrawals are usually due to either: (1) the affected parties being able to reach a settlement; or (2) the appellant changing his or her mind and no longer wishing to continue with the appeal. There were 36 motions to extend time to appeal denied. There was two appeals pending as of March 31, 2018.

A person who did not attend or otherwise participate in the hearing before the director can not appeal an order granting an order of possession to a landlord for the termination of the tenancy for non-payment of rent or a tenant services charge, unless the Commission, on application, grants the person leave to appeal. The Commission received 66 applications for leave to appeal, 28 were granted leave and 38 were denied.

From April 1, 2017, to March 31, 2018, there were 30 applications to the Court of Appeal for leave to appeal. The Court of Appeal denied leave on 28 applications. There were 2 hearings pending as of March 31, 2018.

SOMMAIRES DES ACTIVITÉS RELATIVES AUX APPELS

PARTIES 1 À 8 DE LA *LOI SUR LA LOCATION À USAGE D'HABITATION*

Les parties 1 à 8 de la *Loi sur la location à usage d'habitation* statuent sur l'ensemble des questions afférentes au locateur et au locataire d'habitation, exception faite du contrôle du loyer. Le tableau n° 1 présente un résumé statistique des activités exercées par la Commission de la location à usage d'habitation en vertu des parties 1 à 8 de la *Loi*. Entre le 1^{er} avril 2017 et le 31 mars 2018, la Commission a reçu 437 appels relativement aux parties 1 à 8 de la *Loi sur la location à usage d'habitation*. La Commission a reçu 347 appels d'ordres provenant d'audiences de la Direction et 65 appels de réclamations du dépôt de garantie ou moins. Les 25 appels restants étaient liés à des ordres de réparation et abandon.

Entre le 1^{er} avril 2017 et le 31 mars 2018, la Commission a traité 425 causes. Dans 190 cas, la Commission a confirmé ou soutenu les décisions de la Direction de la location à usage d'habitation. La Commission a aussi modifié 161 décisions de la Direction. Parfois, ces modifications ont été dues au fait que la Commission a reçu au cours de l'audience d'appel des renseignements des parties que la Direction n'avait pas avant de rendre sa décision. La Commission a également annulé 34 décisions de la Direction, et 38 autres appels ont aussi été rejetés par la Commission, ou retirés ou annulés par l'appelant. La plupart des rejets sont causés par des appels en retard ou sans frais d'administration. Les raisons des retraits tiennent généralement du fait que : (1) les parties concernées ont pu arriver à une entente; ou (2) l'appelant a changé d'avis et ne souhaite pas poursuivre le processus d'appel. La Commission a aussi rejeté 36 motions en prorogation du délai d'appel. Deux étaient toujours en instance au 31 mars 2018.

Toute personne qui ne s'est pas présentée à l'audience devant le directeur ou qui n'a pas participé à celle-ci ne peut pas interjeter appel d'un ordre autorisant un ordre de reprise de possession à un locateur relativement à la résiliation d'une location pour non-paiement de loyer ou des frais de services aux locataires, à moins que la Commission, au moment de la demande, accorde à cette personne l'autorisation d'appel. La Commission a reçu 66 demandes d'autorisation d'appel : elle en a accordé 28 et rejeté 38.

Entre le 1 avril 2017 et le 31 mars 2018, il y a eu 30 demandes d'autorisation d'appel auprès de la Cour d'appel et deux demandes de l'exercice précédent étaient encore en instance. La Cour d'appel a rejeté 28 demandes d'autorisation. Deux audiences étaient toujours en instance au 31 mars 2018.

TABLE 1 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PARTS 1 - 8 OF THE RESIDENTIAL TENANCIES ACT

	<u>April 1, 2016 – March 31, 2017</u>	<u>April 1, 2017 – March 31, 2018</u>
	(Cases)	(Cases)
<u>ABANDONMENT OF PERSONAL PROPERTY</u>		
Carried forward from previous year	0	0
Appeals Received	1	0
TOTAL	1	0
Decisions Confirmed	1	0
Decisions Varied	0	0
TOTAL APPEALS CLOSED	1	0
ACTIVE	0	0
<u>CLAIM FOR SECURITY DEPOSIT OR LESS</u>		
Carried forward from previous year	7	10
Appeals Received	57	65
TOTAL	64	75
Decisions Confirmed	26	22
Decisions Varied	15	27
Decisions Rescinded	7	9
Appeals Withdrawn/Rejected	4	3
Cancelled	2	2
Appeals Pending	0	0
TOTAL APPEALS CLOSED	54	63
ACTIVE	10	12
<u>DISPUTES</u>		
Carried forward from previous year	0	0
Appeals Received	0	0
TOTAL	0	0
Decisions Varied	0	0
Decisions Rescinded	0	0
Appeals Withdrawn/Rejected	0	0
Cancelled	0	0
TOTAL APPEALS CLOSED	0	0
ACTIVE	0	0

TABLE 1 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PARTS 1 - 8 OF THE RESIDENTIAL TENANCIES ACT

	<u>April 1, 2016 – March 31, 2017</u> (Cases)	<u>April 1, 2017 – March 31, 2018</u> (Cases)
<u>DISTRAINT AND LOCKOUT</u>		
Carried forward from previous year	0	0
Appeals Received	0	3
TOTAL	0	3
Decisions Confirmed	0	0
Decisions Withdrawn	0	2
Decisions Rescinded	0	1
TOTAL APPEALS CLOSED	0	3
ACTIVE	0	0
<u>ENFORCEMENT</u>		
Carried forward from previous year	0	0
Appeals Received	0	0
TOTAL	0	0
Decisions Confirmed	0	0
TOTAL APPEALS CLOSED	0	0
ACTIVE	0	0
<u>HEARINGS</u>		
Carried forward from previous year	78	69
Appeals Received	334	347
TOTAL	412	416
Decisions Confirmed	128	157
Decisions Varied	149	129
Decisions Rescinded	35	22
Appeals Withdrawn/Rejected	27	21
Cancelled	3	8
Appeals Pending	1	2
TOTAL APPEALS CLOSED	343	339
ACTIVE	69	77

TABLE 1 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PARTS 1 - 8 OF *THE RESIDENTIAL TENANCIES ACT*

	<u>April 1, 2016 – March 31, 2017</u> (Cases)	<u>April 1, 2017 – March 31, 2018</u> (Cases)
<u>REPAIRS</u>		
Carried forward from previous year	1	2
Appeals Received	22	20
TOTAL	23	22
Decisions Confirmed	12	10
Decisions Varied	5	5
Decisions Rescinded	0	1
Cancelled	0	0
Appeals Withdrawn/Rejected	4	2
Appeals Pending	0	0
TOTAL APPEALS CLOSED	21	18
ACTIVE	2	4
<u>UTILITIES</u>		
Carried forward from previous year	0	0
Appeals Received	0	2
TOTAL	0	2
Decisions Confirmed	0	1
Decisions Varied	0	0
Decisions Rescinded	0	0
Appeals Withdrawn/Rejected	0	1
Cancelled	0	0
TOTAL APPEALS CLOSED	0	2
ACTIVE	0	0

TABLE 1 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PARTS 1 - 8 OF *THE RESIDENTIAL TENANCIES ACT*

	<u>April 1, 2016 – March 31, 2017</u> (Cases)	<u>April 1, 2017 – March 31, 2018</u> (Cases)
<u>TOTAL APPEALS</u>		
Carried forward from previous year	86	81
Appeals Received	414	437
TOTAL	500	518
Decisions Confirmed	167	190
Decisions Varied	169	161
Decisions Rescinded	42	34
Appeals Withdrawn/Rejected	35	28
Cancelled	5	10
Appeals Pending	1	2
TOTAL APPEALS CLOSED	419	425
ACTIVE	81	93

	<u>April 1, 2016 – March 31, 2017</u> (Cases)	<u>April 1, 2017 – March 31, 2018</u> (Cases)
<u>LEAVE TO APPEAL APPLICATIONS TO THE RESIDENTIAL TENANCIES COMMISSION</u>		
Carried forward from previous year	0	0
Applications Received	51	66
TOTAL	51	66
Leave to Appeal Granted	18	28
Leave to Appeal Denied	33	38
TOTAL APPEALS CLOSED	51	66
ACTIVE	0	0

APPEAL ACTIVITY SUMMARY

PART 9 OF *THE RESIDENTIAL TENANCIES ACT*

The Commission received appeals for 88 buildings affecting 309 rental units on orders the Residential Tenancies Branch issued under Part 9 of *The Residential Tenancies Act* between April 1, 2017, and March 31, 2018.

The Commission processed appeals on orders for 85 buildings affecting 206 rental units in the fiscal year ending March 31, 2018. The Commission upheld orders on 88 units in 40 buildings and varied orders on 26 units in 11 buildings. These variations sometimes occurred because the Commission received information at the appeal hearing that the Branch did not have before issuing its decision. Appeals in 35 other buildings affecting 92 units were either rejected by the Commission or withdrawn or cancelled by the appellant.

There is no appeal to the Court of Appeal on rent regulation matters.

SOMMAIRES DES ACTIVITÉS RELATIVES AUX APPELS

PARTIE 9 DE LA LOI SUR LA LOCATION À USAGE D'HABITATION

La Commission a reçu des appels pour 88 immeubles comptant 309 unités locatives relativement à des ordres rendus par la Direction de la location à usage d'habitation en vertu de la partie 9 de la *Loi sur la location à usage d'habitation* entre le 1^{er} avril 2017 et le 31 mars 2018.

La Commission a traité des appels d'ordres pour 85 immeubles comptant 206 unités locatives pendant l'exercice se terminant le 31 mars 2018. La Commission a confirmé les ordres concernant 88 unités dans 40 immeubles et a modifié les ordres concernant 26 unités dans 11 immeubles. Parfois, ces modifications ont été dues au fait que la Commission a reçu au cours de l'audience d'appel des renseignements que la Direction n'avait pas avant de rendre sa décision. Des appels concernant 35 autres immeubles comptant 92 unités ont été rejetés par la Commission, ou retirés ou annulés par l'appelant.

Il n'y a pas d'appel auprès de la Cour d'appel relativement au contrôle des loyers.

TABLE 2 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PART 9 OF *THE RESIDENTIAL TENANCIES ACT*

	<u>April 1, 2016 – March 31, 2017</u>		<u>April 1, 2017 – March 31, 2018</u>	
	Bldgs.	Units	Bldgs.	Units
APPLICATION - LAUNDRY INCREASE				
Carried forward from previous year	0	0	0	0
Appeals Received	0	0	0	0
TOTAL	0	0	0	0
Decisions Varied	0	0	0	0
Appeals Withdrawn/Rejected	0	0	0	0
TOTAL APPEALS CLOSED	0	0	0	0
ACTIVE	0	0	0	0
APPLICATION - REHABILITATION				
Carried forward from previous year	4	14	3	3
Appeals Received	4	4	11	11
TOTAL	8	18	14	14
Decisions Confirmed	3	13	11	11
Decisions Varied	2	2	2	2
Decisions Rescinded	0	0	0	0
Appeals Withdrawn/Rejected	0	0	1	1
TOTAL APPEALS CLOSED	5	15	14	14
ACTIVE	3	3	0	0
LIFE LEASE				
Carried forward from previous year	1	1	0	0
Appeals Received	0	0	1	1
TOTAL	1	1	1	1
Decisions Confirmed	1	1	0	0
Appeals Withdrawn/Rejected	0	0	0	0
TOTAL APPEALS CLOSED	1	1	0	0
ACTIVE	0	0	1	1

TABLE 2 - APPEALS**STATISTICAL SUMMARY FOR MANITOBA
PART 9 OF *THE RESIDENTIAL TENANCIES ACT***

	<u>April 1, 2016 – March 31, 2017</u>		<u>April 1, 2017 – March 31, 2018</u>	
	Bldgs.	Units	Bldgs.	Units
TENANT OBJECTIONS TO GUIDELINE OR LESS				
Carried forward from previous year	0	0	0	0
Appeals Received	0	0	1	1
TOTAL	0	0	1	1
Decisions Confirmed	0	0	1	1
Decisions Varied	0	0	0	0
TOTAL APPEALS CLOSED	0	0	1	1
ACTIVE	0	0	0	0
APPLICATION - WITHDRAWAL OF SERVICE				
Carried forward from previous year	4	41	1	8
Appeals Received	0	0	0	0
TOTAL	4	41	1	8
Decisions Confirmed	0	0	0	0
Decisions Varied	3	33	1	8
Appeals Withdrawn/Rejected	0	0	0	0
Appeals Cancelled	0	0	0	0
TOTAL APPEALS CLOSED	3	33	1	8
ACTIVE	1	8	0	0
COMPLIANCE				
Carried forward from previous year	5	5	3	5
Appeals Received	6	9	6	14
TOTAL	11	14	9	19
Decisions Confirmed	5	5	0	0
Decisions Varied	3	4	4	5
Appeals Withdrawn/Rejected	0	0	1	2
TOTAL APPEALS CLOSED	8	9	5	7
ACTIVE	3	5	4	12

TABLE 2 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PART 9 OF *THE RESIDENTIAL TENANCIES ACT*

	<u>April 1, 2016 – March 31, 2017</u>		<u>April 1, 2017 – March 31, 2018</u>	
	Bldgs.	Units	Bldgs.	Units
APPLICATION – RENT INCREASE ABOVE GUIDELINE				
Carried forward from previous year	11	145	13	15
Appeals Received	54	213	69	282
TOTAL	65	358	82	297
Decisions Confirmed	21	97	28	76
Decisions Varied	8	174	4	11
Appeals Withdrawn/Rejected	22	68	32	88
Appeals Cancelled	1	4	1	1
TOTAL APPEALS CLOSED	52	343	65	176
ACTIVE	13	15	17	121

TABLE 2 - APPEALS
STATISTICAL SUMMARY FOR MANITOBA
PART 9 OF *THE RESIDENTIAL TENANCIES ACT*

	<u>April 1, 2016 – March 31, 2017</u>		<u>April 1, 2017 – March 31, 2018</u>	
	Bldgs.	Units	Bldgs.	Units
TOTAL APPEALS				
Carried forward from previous year	25	206	21	32
Appeals Received	64	226	88	309
TOTAL	89	432	109	341
Decisions Confirmed	30	116	40	88
Decisions Varied	16	213	11	26
Appeals Withdrawn/Rejected	21	68	34	91
Appeals Cancelled	1	3	1	1
TOTAL APPEALS CLOSED	68	400	86	206
ACTIVE	21	32	23	135

TABLE 3
MOTION FOR EXTENSION OF TIME TO APPEAL

	<u>April 1, 2016 – March 31, 2017</u> (Cases)	<u>April 1, 2017 – March 31, 2018</u> (Cases)
<u>MOTIONS FOR EXTENSION OF TIME TO APPEAL</u>		
Carried forward from previous year	0	0
Applications Received	65	66
TOTAL	65	66
Decisions Denied	25	36
Decisions Granted	40	30
TOTAL	65	66
ACTIVE	0	0

TABLE 4
APPEAL HEARINGS BY JUDICIAL DISTRICT
RESIDENTIAL TENANCIES COMMISSION

	<u>April 1, 2016 - March 31, 2017</u>	<u>April 1, 2017 - March 31, 2018</u>
Winnipeg	406	484
Brandon	6	10
Dauphin	1	1
Morden/Winkler	0	0
Portage la Prairie	20	3
Russell	0	1
Steinbach	2	2
Thompson	0	1
TOTAL	<u>437</u>	<u>502</u>

TABLE 5
APPLICATIONS FOR LEAVE TO APPEAL TO THE COURT OF APPEAL

	<u>April 1, 2016 - March 31, 2017</u>	<u>April 1, 2017 - March 31, 2018</u>
Granted	0	0
Denied	19	28
Withdrawn/Abandoned	0	0
Pending	<u>15</u>	<u>2</u>
TOTAL	<u>34</u>	<u>30</u>

SIGNIFICANT DECISIONS

Significant Decisions

The following are summaries of significant decisions of the Commission and the reasons for the decisions that were issued in the 2017/18 fiscal year.

1. Tenant's claim for compensation for losses caused by landlord's negligence

The landlord's caretaker negligently left windows in a vacant unit open, causing pipes to freeze and a flood to occur in the rental unit below. The tenants' bed and some belongings were soaked with dirty water. Water dripped down through a light fixture and a tenant got a shock when he touched the light switch. The tenants left the unit to stay with relatives, at least for a short time. The landlord acted promptly to start the repair process, but the process was slow and the landlord did not communicate effectively with the tenants. The kitchen in the unit was not usable at least from February 17 to 22. Most rooms in the unit, including the bedroom, were patched and painted at some point during February and/or March. Unaware of their legal rights, and uncertain when repairs might be finished, the tenants handed in the keys and moved out at the end of February. February rent had been paid on February 1 by a third party, and the third party also paid the landlord rent for March. The tenants moved into a new rental unit but had to pay for hydro and laundry in their new unit (whereas the landlord paid for hydro and laundry in the old unit). The tenants did not have tenant insurance, even though the landlord recommended it. The tenants filed a claim for the return of rent from February 10 to March 31, for compensation for water-damaged belongings, and for the cost of hydro and laundry in their new rental unit. The landlord never filed any Landlord Claims, but did not return the entire security deposit.

The Residential Tenancies Branch (the Branch) ordered the landlord to return the balance of the deposit because it had never filed a Landlord Claim. Also, the Branch ordered the landlord to pay the tenants the full amount of rent that they claimed; reasonable compensation for damaged belongings, and reasonable compensation for hydro and laundry for ten months.

The landlord appealed to the Residential Tenancies Commission (the Commission). The Commission agreed with the Branch that the landlord must return the balance of the deposit because it never filed a Landlord Claim. The landlord admitted that the flood was caused because the landlord's employee left windows open in the winter, and the pipes froze. The tenants testified credibly about the relevant issues. Whether or not the tenants had tenant insurance, the tenants' loss was caused by the landlord's negligence. Furthermore, a rental unit without a usable kitchen is essentially uninhabitable. The tenancy agreement was deemed terminated on February 10. The landlord was not entitled to keep rent from February 10 to March 31. The Branch's estimate of the depreciated value of the tenant's belongings was slightly high, and should be slightly reduced. The tenants chose their new rental unit for their own reasons. Rental units all have advantages and disadvantages, some of which are difficult to quantify. The landlord is not liable for the tenants' decision to sign a new tenancy agreement which made them responsible for hydro and laundry. The Branch's decision was varied.

2. Determination regarding a landlord's no-pet policy

The tenants applied to the Residential Tenancies Branch (the Branch) for a determination about whether the tenants were permitted to have pets in the rental unit.

The written tenancy agreement said nothing about pets. The tenant saw dogs in the building dozens of times. On one occasion, the tenant saw the caretaker witness a tenant with dog in the building. Thinking about getting a pet, the tenant contacted the Property Manager to ask if there was a pet-policy. The Property Manager told him that there was a no-pet policy. The landlord then slipped a note under the doors of all tenants saying there was a no-pet policy. Relying on the fact that the original application form which the tenant filled out mentioned a no-pet policy, the Branch ruled that pets are not permitted in the rental unit.

The tenants appealed to the Residential Tenancies Commission (the Commission). The application form was not a tenancy agreement. Indeed, the tenant was not even a "tenant" when he filled out the form; he was just a potential future tenant. *The Residential Tenancies Act* (the *Act*) says that "house rules" have to be reasonable. The Residential Tenancies Branch Guidebook says that landlords can introduce new no-pet rules but, if they do, pets already in the complex are effectively grandfathered. Landlords cannot selectively enforce rules against some tenants but not others. However, just because landlords were formerly casual in enforcing rules does not mean they cannot start to enforce them more diligently. In this case, the landlord advised all tenants in writing that no pets would be allowed in the building. These tenants did not have pets at the time. The rule is reasonable in respect of these tenants. The Branch's decision was confirmed, although for different reasons.

3. **Application – Rent Increase Above Guideline**

The following case provides an illustration of some of the issues that the Commission needs to address when determining a tenant appeal of a landlord's application for a rent increase above guideline. According to subsection 132(2) of *The Residential Tenancies Act* (the *Act*), a landlord who desires to increase the rent for a rental unit by more than the maximum increase permitted by the regulations, shall apply to the Residential Tenancies Branch director for an order permitting the increase. A rent increase above guideline is determined by the landlord's expenses relating to the complex. The landlord decides what work to do in their building and provides copies of general ledgers and or invoices for the reported expenses. The Branch reviews the invoices and ledgers provided by the landlord to ensure the expenses are correct and reasonable and in accordance with the *Act* and the *Residential Rent Regulation*.

In this case, the landlord applied for a rent increase of 31.79%. After considering the information provided by the landlord and tenants, the Branch approved an increase of 25% and issued Orders to that effect. Tenants from two units appealed to the Residential Tenancies Commission. On appeal, the Commission considered the adjustments made by the Branch as well as the concerns raised by the tenants. In advance of the hearing, the Commission put the parties on notice of the adjustments it was considering to the Branch's calculations so that they had full opportunity to respond.

Based on the submissions of the landlord and tenants, a review of the file and evidence and in accordance with the *Act*, the Regulations, and the Branch's *Policies and Procedures Guidebook*, the Commission determined that the landlord was entitled to a slightly lower rent increase than awarded by the Branch, namely a rent increase of 24.4%. The adjustments made by the Commission included the following:

- Decreased revenue to remove the revenue from exempt units.
- Disallowed the late fees included in the revenue in the application.
- Made various adjustments to the operating expenses such as removing duplicate expenses and disallowing expenses from exempt units.

- Made various adjustments to capital expenses such as corrections to the amount transferred by the Branch from operating to capital and disallowing expenses for exempt units and expenses incurred outside the current period.

The Public Interest Disclosure (Whistleblower Protection) Act

The Public Interest Disclosure (Whistleblower Protection) Act came into effect in April 2007. This law gives employees a clear process for disclosing concerns about significant and serious matters (wrongdoing) in the Manitoba public service, and strengthens protection from reprisal. The Act builds on protections already in place under other statutes, as well as collective bargaining rights, policies, practices and processes in the Manitoba public service.

Wrongdoing under the Act may be: contravention of federal or provincial legislation; an act or omission that endangers public safety, public health or the environment; gross mismanagement; or, knowingly directing or counseling a person to commit a wrongdoing. The Act is not intended to deal with routine operational or administrative matters.

A disclosure made by an employee in good faith, in accordance with the Act, and with a reasonable belief that wrongdoing has been or is about to be committed is considered to be a disclosure under the Act, whether or not the subject matter constitutes wrongdoing. All disclosures receive careful and thorough review to determine if action is required under the Act, and must be reported in a department's annual report in accordance with Section 18 of the Act. The Residential Tenancies Commission has received an exemption from the Ombudsman under Section 7 of the Act. As a result any disclosures received by the Chief Commissioner or a supervisor are referred to the Ombudsman in accordance with the exemption.

The following is a summary of disclosures received by the Residential Tenancies Commission for April 1, 2017 to March 31, 2018:

Information Required Annually (per Section 18 of the Act)	April 1, 2017 to March 31, 2018
The number of disclosures received, and the number acted on and not acted on. <i>Subsection 18(2)(a)</i>	NIL