

Manitoba Residential  
Tenancies Commission

**Annual Report  
2018-2019**



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, 2019.

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  
Winnipeg, MB R3C 0V8

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, 2019.

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 15 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 – 35 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, 2019. Figures for the fiscal year ending March 31, 2018, 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 15 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 (35) – 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 2019. Des chiffres correspondant à l'exercice se terminant le 31 mars 2018 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, 2018, to March 31, 2019, the Commission received 584 appeals under Parts 1 – 8 of *The Residential Tenancies Act*. The Commission received 343 appeals of orders resulting from Branch hearings and 57 appeals of claims for security deposit or less. The remaining 184 appeals were related to orders to repair and abandonment.

The Commission processed 606 cases from April 1, 2018, to March 31, 2019. The Commission confirmed or upheld the Residential Tenancies Branch's decisions in 210 instances. The Commission varied 309 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 39 decisions of the Branch. Another 47 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 41 motions to extend time to appeal denied. There was one appeal pending as of March 31, 2019.

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 50 applications for leave to appeal, 25 were granted leave and 25 were denied.

From April 1, 2018, to March 31, 2019, there were 19 applications to the Court of Appeal for leave to appeal. The Court of Appeal denied leave on 18 applications. One appeal was withdrawn. There were two hearings pending as of March 31, 2019.

## **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<sup>er</sup> avril 2018 et le 31 mars 2019, la Commission a reçu 584 appels relativement aux parties 1 à 8 de la *Loi sur la location à usage d'habitation*. La Commission a reçu 343 appels d'ordres provenant d'audiences de la Direction et 57 appels de réclamations du dépôt de garantie ou moins. Les 184 appels restants étaient liés à des ordres de réparation et abandon.

Entre le 1<sup>er</sup> avril 2018 et le 31 mars 2019, la Commission a traité 606 causes. Dans 210 cas, la Commission a confirmé ou soutenu les décisions de la Direction de la location à usage d'habitation. La Commission a aussi modifié 309 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 39 décisions de la Direction, et 47 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 41 motions en prorogation du délai d'appel. L'un était toujours en instance au 31 mars 2019.

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 50 demandes d'autorisation d'appel : elle en a accordé 25 et rejeté 25.

Entre le 1 avril 2018 et le 31 mars 2019, il y a eu 21 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 18 demandes d'autorisation. Un appel a été retiré. Deux audiences étaient toujours en instance au 31 mars 2019.

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

	<b><u>April 1, 2017 – March 31, 2018</u></b>	<b><u>April 1, 2018 – March 31, 2019</u></b>
	<b>(Cases)</b>	<b>(Cases)</b>
<b><u>ABANDONMENT OF PERSONAL PROPERTY</u></b>		
Carried forward from previous year	0	0
Appeals Received	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>
Decisions Confirmed	0	0
Decisions Varied	0	0
<b>TOTAL APPEALS CLOSED</b>	<b>0</b>	<b>0</b>
<b>ACTIVE</b>	<b>0</b>	<b>0</b>
<b><u>CLAIM FOR SECURITY DEPOSIT OR LESS</u></b>		
Carried forward from previous year	10	12
Appeals Received	65	57
<b>TOTAL</b>	<b>75</b>	<b>69</b>
Decisions Confirmed	22	22
Decisions Varied	27	19
Decisions Rescinded	9	6
Appeals Withdrawn/Rejected	3	9
Cancelled	2	1
Appeals Pending	0	0
<b>TOTAL APPEALS CLOSED</b>	<b>63</b>	<b>57</b>
<b>ACTIVE</b>	<b>12</b>	<b>12</b>
<b><u>DISPUTES</u></b>		
Carried forward from previous year	0	0
Appeals Received	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>
Decisions Varied	0	0
Decisions Rescinded	0	0
Appeals Withdrawn/Rejected	0	0
Cancelled	0	0
<b>TOTAL APPEALS CLOSED</b>	<b>0</b>	<b>0</b>
<b>ACTIVE</b>	<b>0</b>	<b>0</b>



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

	<b><u>April 1, 2017 – March 31, 2018</u></b>	<b><u>April 1, 2018 – March 31, 2019</u></b>
	<b>(Cases)</b>	<b>(Cases)</b>
<b><u>DISTRAINT AND LOCKOUT</u></b>		
Carried forward from previous year	0	0
Appeals Received	3	8
<b>TOTAL</b>	<b>3</b>	<b>8</b>
Decisions Confirmed	0	5
Decisions Withdrawn	2	0
Decisions Rescinded	1	2
<b>TOTAL APPEALS CLOSED</b>	<b>3</b>	<b>7</b>
<b>ACTIVE</b>	<b>0</b>	<b>1</b>
<b><u>ENFORCEMENT</u></b>		
Carried forward from previous year	0	0
Appeals Received	0	1
<b>TOTAL</b>	<b>0</b>	<b>1</b>
Decisions Confirmed	0	1
<b>TOTAL APPEALS CLOSED</b>	<b>0</b>	<b>1</b>
<b>ACTIVE</b>	<b>0</b>	<b>0</b>
<b><u>HEARINGS</u></b>		
Carried forward from previous year	69	77
Appeals Received	347	343
<b>TOTAL</b>	<b>416</b>	<b>420</b>
Decisions Confirmed	157	168
Decisions Varied	129	135
Decisions Rescinded	22	29
Appeals Withdrawn/Rejected	21	13
Cancelled	8	18
Appeals Pending	2	1
<b>TOTAL APPEALS CLOSED</b>	<b>339</b>	<b>364</b>
<b>ACTIVE</b>	<b>77</b>	<b>56</b>

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

	<b><u>April 1, 2017 – March 31, 2018</u></b> (Cases)	<b><u>April 1, 2018 – March 31, 2019</u></b> (Cases)
<b><u>REPAIRS</u></b>		
Carried forward from previous year	2	4
Appeals Received	20	175 <sup>1</sup>
<b>TOTAL</b>	<b>22</b>	<b>179<sup>1</sup></b>
Decisions Confirmed	10	14
Decisions Varied	5	155 <sup>1</sup>
Decisions Rescinded	1	2
Cancelled	0	1
Appeals Withdrawn/Rejected	2	5
Appeals Pending	0	0
<b>TOTAL APPEALS CLOSED</b>	<b>18</b>	<b>177<sup>1</sup></b>
<b>ACTIVE</b>	<b>4</b>	<b>2</b>
<b><u>UTILITIES</u></b>		
Carried forward from previous year	0	0
Appeals Received	2	0
<b>TOTAL</b>	<b>2</b>	<b>0</b>
Decisions Confirmed	1	0
Decisions Varied	0	0
Decisions Rescinded	0	0
Appeals Withdrawn/Rejected	1	0
Cancelled	0	0
<b>TOTAL APPEALS CLOSED</b>	<b>2</b>	<b>0</b>
<b>ACTIVE</b>	<b>0</b>	<b>0</b>

1 A landlord appealed 151 Orders to the Commission which related to one issue, regarding multiple rental units in one residential complex.

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

	<b><u>April 1, 2017 – March 31, 2018</u></b> (Cases)	<b><u>April 1, 2018 – March 31, 2019</u></b> (Cases)
<b><u>TOTAL APPEALS</u></b>		
Carried forward from previous year	81	93
Appeals Received	437	584 <sup>2</sup>
<b>TOTAL</b>	<b>518</b>	<b>677<sup>2</sup></b>
Decisions Confirmed	190	210
Decisions Varied	161	309 <sup>2</sup>
Decisions Rescinded	34	39
Appeals Withdrawn/Rejected	28	27
Cancelled	10	20
Appeals Pending	2	1
<b>TOTAL APPEALS CLOSED</b>	<b>425</b>	<b>606<sup>2</sup></b>
<b>ACTIVE</b>	<b>93</b>	<b>71</b>

2 A landlord appealed 151 Orders to the Commission which related to one issue, regarding multiple rental units in one residential complex.

	<b><u>April 1, 2017 – March 31, 2018</u></b> (Cases)	<b><u>April 1, 2018 – March 31, 2019</u></b> (Cases)
<b><u>LEAVE TO APPEAL APPLICATIONS TO THE RESIDENTIAL TENANCIES COMMISSION</u></b>		
Carried forward from previous year	0	0
Applications Received	66	50
<b>TOTAL</b>	<b>66</b>	<b>50</b>
Leave to Appeal Granted	28	25
Leave to Appeal Denied	38	25
<b>TOTAL APPEALS CLOSED</b>	<b>66</b>	<b>50</b>
<b>ACTIVE</b>	<b>0</b>	<b>0</b>

## **APPEAL ACTIVITY SUMMARY**

### **PART 9 OF *THE RESIDENTIAL TENANCIES ACT***

The Commission received appeals for 100 buildings affecting 931 rental units on orders the Residential Tenancies Branch issued under Part 9 of *The Residential Tenancies Act* between April 1, 2018, and March 31, 2019.

The Commission processed appeals on orders for 81 buildings affecting 761 rental units in the fiscal year ending March 31, 2019. The Commission upheld orders on 210 units in 28 buildings and varied orders on 62 units in 14 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 39 other buildings affecting 489 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 100 immeubles comptant 931 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<sup>er</sup> avril 2018 et le 31 mars 2019.

La Commission a traité des appels d'ordres pour 81 immeubles comptant 761 unités locatives pendant l'exercice se terminant le 31 mars 2019. La Commission a confirmé les ordres concernant 210 unités dans 28 immeubles et a modifié les ordres concernant 62 unités dans 14 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 39 autres immeubles comptant 489 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***

	<b><u>April 1, 2017 – March 31, 2018</u></b>		<b><u>April 1, 2018 – March 31, 2019</u></b>	
	<b>Bldgs.</b>	<b>Units</b>	<b>Bldgs.</b>	<b>Units</b>
<b>APPLICATION - LAUNDRY INCREASE</b>				
Carried forward from previous year	0	0	0	0
Appeals Received	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Decisions Varied	0	0	0	0
Appeals Withdrawn/Rejected	0	0	0	0
<b>TOTAL APPEALS CLOSED</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>ACTIVE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>APPLICATION - REHABILITATION</b>				
Carried forward from previous year	3	3	0	0
Appeals Received	11	11	3	4
<b>TOTAL</b>	<b>14</b>	<b>14</b>	<b>3</b>	<b>4</b>
Decisions Confirmed	11	11	2	2
Decisions Varied	2	2	0	0
Decisions Rescinded	0	0	0	0
Appeals Withdrawn/Rejected	1	1	0	0
<b>TOTAL APPEALS CLOSED</b>	<b>14</b>	<b>14</b>	<b>2</b>	<b>2</b>
<b>ACTIVE</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>
<b>LIFE LEASE</b>				
Carried forward from previous year	0	0	1	1
Appeals Received	1	1	0	0
<b>TOTAL</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>1</b>
Decisions Confirmed	0	0	1	1
Appeals Withdrawn/Rejected	0	0	0	0
<b>TOTAL APPEALS CLOSED</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>
<b>ACTIVE</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>

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

	<b><u>April 1, 2017 – March 31, 2018</u></b>		<b><u>April 1, 2018 – March 31, 2019</u></b>	
	<b>Bldgs.</b>	<b>Units</b>	<b>Bldgs.</b>	<b>Units</b>
<b>TENANT OBJECTIONS TO GUIDELINE OR LESS</b>				
Carried forward from previous year	0	0	0	0
Appeals Received	1	1	0	0
<b>TOTAL</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
Decisions Confirmed	1	1	0	0
Decisions Varied	0	0	0	0
<b>TOTAL APPEALS CLOSED</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>
<b>ACTIVE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>APPLICATION - WITHDRAWAL OF SERVICE</b>				
Carried forward from previous year	1	8	0	0
Appeals Received	0	0	3	14
<b>TOTAL</b>	<b>1</b>	<b>8</b>	<b>3</b>	<b>14</b>
Decisions Confirmed	0	0	0	0
Decisions Varied	1	8	1	1
Appeals Withdrawn/Rejected	0	0	0	0
Appeals Cancelled	0	0	0	0
<b>TOTAL APPEALS CLOSED</b>	<b>1</b>	<b>8</b>	<b>1</b>	<b>1</b>
<b>ACTIVE</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>13</b>
<b>COMPLIANCE</b>				
Carried forward from previous year	3	5	4	12
Appeals Received	6	14	12	28
<b>TOTAL</b>	<b>9</b>	<b>19</b>	<b>16</b>	<b>40</b>
Decisions Confirmed	0	0	2	10
Decisions Varied	4	5	4	4
Appeals Withdrawn/Rejected	1	2	3	4
<b>TOTAL APPEALS CLOSED</b>	<b>5</b>	<b>7</b>	<b>9</b>	<b>18</b>
<b>ACTIVE</b>	<b>4</b>	<b>12</b>	<b>7</b>	<b>22</b>

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

	<b><u>April 1, 2017 – March 31, 2018</u></b>		<b><u>April 1, 2018 – March 31, 2019</u></b>	
	<b>Bldgs.</b>	<b>Units</b>	<b>Bldgs.</b>	<b>Units</b>
<b>APPLICATION – RENT INCREASE ABOVE GUIDELINE</b>				
Carried forward from previous year	13	15	17	121
Appeals Received	69	282	82	885
<b>TOTAL</b>	<b>82</b>	<b>297</b>	<b>99</b>	<b>1006</b>
Decisions Confirmed	28	76	23	197
Decisions Varied	4	11	9	57
Appeals Withdrawn/Rejected	32	88	33	43
Appeals Cancelled	1	1	3	442
<b>TOTAL APPEALS CLOSED</b>	<b>65</b>	<b>176</b>	<b>68</b>	<b>739</b>
ACTIVE	17	121	31	267



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

	<b><u>April 1, 2017 – March 31, 2018</u></b>		<b><u>April 1, 2018 – March 31, 2019</u></b>	
	<b>Bldgs.</b>	<b>Units</b>	<b>Bldgs.</b>	<b>Units</b>
<b>TOTAL APPEALS</b>				
Carried forward from previous year	21	32	22	134
Appeals Received	88	309	100	931
<b>TOTAL</b>	<b>109</b>	<b>341</b>	<b>122</b>	<b>1065</b>
Decisions Confirmed	40	88	28	210
Decisions Varied	11	26	14	62
Appeals Withdrawn/Rejected	33	90	36	47
Appeals Cancelled	1	1	3	442
<b>TOTAL APPEALS CLOSED</b>	<b>86</b>	<b>206</b>	<b>81</b>	<b>761</b>
ACTIVE	22	134	41	304

**TABLE 3**  
**MOTION FOR EXTENSION OF TIME TO APPEAL**

	<b><u>April 1, 2017 – March 31, 2018</u></b> (Cases)	<b><u>April 1, 2018 – March 31, 2019</u></b> (Cases)
<b><u>MOTIONS FOR EXTENSION OF TIME TO APPEAL</u></b>		
Carried forward from previous year	0	0
Applications Received	66	92
<b>TOTAL</b>	66	92
Decisions Denied	36	49
Decisions Granted	30	43
<b>TOTAL</b>	66	92
<b>ACTIVE</b>	0	0

**TABLE 4**  
**APPEAL HEARINGS BY JUDICIAL DISTRICT**  
**RESIDENTIAL TENANCIES COMMISSION**

	<b><u>April 1, 2017 - March 31, 2018</u></b>	<b><u>April 1, 2018 - March 31, 2019</u></b>
<b>Winnipeg</b>	<b>484</b>	<b>476</b>
<b>Brandon</b>	<b>10</b>	<b>12</b>
<b>Dauphin</b>	<b>1</b>	<b>0</b>
<b>Morden/Winkler</b>	<b>0</b>	<b>1</b>
<b>Portage la Prairie</b>	<b>3</b>	<b>2</b>
<b>Russell</b>	<b>1</b>	<b>0</b>
<b>Steinbach</b>	<b>2</b>	<b>2<sup>3</sup></b>
<b>Thompson</b>	<b>1</b>	<b>0</b>
<b>TOTAL</b>	<b><u>502</u></b>	<b><u>493</u></b>

3 *A landlord appealed 151 Orders to the Commission which related to one issue, regarding multiple rental units in one residential complex. One hearing was held as these matters were heard together.*

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

	<b><u>April 1, 2017 - March 31, 2018</u></b>	<b><u>April 1, 2018 - March 31, 2019</u></b>
<b>Granted</b>	<b>0</b>	<b>0</b>
<b>Denied</b>	<b>28</b>	<b>18</b>
<b>Withdrawn/Abandoned</b>	<b>0</b>	<b>1</b>
<b>Pending</b>	<b><u>2</u></b>	<b><u>2</u></b>
<b>TOTAL</b>	<b><u>30</u></b>	<b><u>21</u></b>

# **SIGNIFICANT DECISIONS**

## **Significant Decisions**

The following are summaries of significant decisions of the Residential Tenancies Commission (the Commission) and the reasons for the decisions that were issued in the 2018/19 fiscal year.

### **1. Impairment of Safety and Duty Not to Disturb**

The *Residential Tenancies Act* (the *Act*) imposes a duty on tenants not to disturb others (s. 73) and not to impair the safety of others or interfere with their rights (s. 74). Section 96 of the *Act* permits a landlord to provide a Notice of Termination if the tenant contravenes or fails to comply with these duties. If the breach of a duty is serious enough to be found to pose an immediate risk to health or safety or an extraordinary disturbance, the landlord may give a notice of termination that is effective five days after the notice is given (s. 96(3)).

#### **Decision #1:**

The tenant was aware that the landlord would be in her unit to do maintenance work. The tenant returned while the landlord was still in the unit. When she arrived, she threatened to kill the landlord and then chased him down the street. The landlord filed a notice of termination and applied for an Order of Possession on the grounds that the tenant caused an impairment of safety.

The landlord submitted that he was frightened by the tenant's conduct and there was an immediate risk to his safety. The tenant argued that she didn't mean anything by her actions and was "just kidding". The landlord's evidence was found to be very credible. The Commission held that uttering threats to kill must be taken seriously as safety is paramount. It was noted that sixteen police calls had been made to the tenant's unit in the past and that she was charged with an assault and uttering threats to her social worker the day after her incident with the landlord. The tenant's defense that she was "just kidding" was rejected and the Order of Possession was granted.

## **Decision #2:**

The landlord made a clerical error on a receipt sent to the tenant, but corrected it shortly after. The tenant also complained that his apartment lock didn't work. The tenant was frustrated with the lock as well as the clerical error, and sent a series of angry emails to numerous landlord representatives. Some emails were obscene and vulgar. The emails demanded that a variety of landlord employees be fired. The tenant also left angry voice mails.

The landlord sent two warning letters to the tenant. The emails continued, and the tenant had one face-to-face confrontation with a landlord representative in which the tenant aggressively held a pen to the representative's face. The landlord gave notice to terminate the tenancy and applied for an Order of Possession.

The Commission found that regardless of whether or not the lock worked, the tenant's behaviour was unacceptable. The emails sent by the tenant to landlord representatives used obscene and unacceptable language. There was also no remorse by the tenant. The behaviour of the tenant was a clear breach of s. 73 of the *Act* and the Order of Possession was granted.

The Manitoba Court of Appeal denied the tenant's application for leave to appeal of the Commission's decision.

## **2. Raised Rent with Intention to Evict**

Subsection 68(1) of the *Act* states that a landlord shall not increase the rent for a rental unit with the expectation or intention that the increase will cause the tenant to vacate the rental unit. If it is found that the landlord raised the rent with the intention or expectation that the tenant would move out, the landlord may be ordered to pay the tenant's reasonable moving expenses and to compensate the tenant for reasonable additional expenses, such as increased rent.

### **Decision:**

The landlord raised the tenant's rent. The tenants argued that the landlord raised the rent to get them to move out of the unit. The evidence showed that the landlord was unhappy with the tenants and angry because of an oil stain on the driveway. The Commission found that the landlord wanted the tenants to move out of the unit due to the damage to the driveway and raised the rent with the expectation or intention that the tenants would move out of the unit. The landlord was ordered to pay the tenants \$600 (three months of rent increases) plus \$500 in moving costs.

The Manitoba Court of Appeal dismissed the landlord's application for leave to appeal of the Commission's decision.

### **3. Security Deposit**

Section 29 of the *Act* makes it clear that a security deposit may not be more than one half of the first month's rent payable under the tenancy agreement. If it exceeds one half, the landlord will be ordered to return the difference.

#### **Decision #1:**

The landlord and the tenant formed an oral tenancy agreement setting the rent at \$755 a month. The tenant paid the landlord a \$400 security deposit. Before the parties could sign a written tenancy agreement, the tenant informed the landlord that he had lost his job and could no longer move in. The landlord immediately tried to find new tenants, but the rental unit sat vacant for a month. The landlord filed a claim against the tenant to keep the security deposit.

The Commission found that the landlord was entitled to the security deposit as there was a tenancy agreement, and the landlord lost one month's rent because the tenant terminated this agreement with insufficient notice. However, because the rent was \$755 per month, the maximum security deposit the landlord was entitled to collect was \$377.50. The landlord argued that \$20 of the \$400 paid by the tenant was meant to be a "key deposit". The Commission found that the legislation makes no provision for a "key deposit". As the landlord collected more security deposit than he was entitled to under the *Act*, the landlord was ordered to return \$22.50 to the tenant.

#### **Decision #2:**

The landlord filed a claim for unpaid rent, damages, cleaning, utility bills, late payment fees and other items. The Commission awarded the landlord nearly \$5,000 in compensation. The landlord was able to retain the security deposit and apply it against the amount of money owed by the tenants. However, the evidence showed that the landlord collected \$750 for the security deposit rather than \$725 as allowed under the *Act*. Even though the tenants were ordered to pay the landlord nearly \$5,000, the landlord was still ordered to return the security deposit overpayment of \$25 plus interest to the tenants.



#### **4. Notice of Rent Increase**

The *Act* has specific notice requirements for rent increases. Subsection 25(1) of the *Act* states that “a landlord shall not increase the rent for a rental unit without giving the tenant a written notice of the intended increase at least three months before the effective date of the rent increase. The *Act* also sets out the content of the notice.

#### **Decision:**

The landlord applied for a rent increase. In support of its application, the landlord filed notices of rent increase dated June 1, 2017, setting out the amount of rent payable by the tenants immediately before the intended increase effective October 1, 2017. However, these notices were not provided to the tenants as required by s. 25(1) of the *Act*. As a result, the rent increase was void. However, the Commission found the landlord provided valid notice of rent increase to new tenants in two units.

**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, 2018 to March 31, 2019:

<b>Information Required Annually (per Section 18 of the Act)</b>	<b>April 1, 2018 to March 31, 2019</b>
The number of disclosures received, and the number acted on and not acted on. <i>Subsection 18(2)(a)</i>	<b>NIL</b>