

Manitoba Residential
Tenancies Commission

**Annual Report
2022-2023**



Indigenous Land Acknowledgement

We recognize that Manitoba is on the Treaty Territories and ancestral lands of the Anishinaabe, Anishinewuk, Dakota Oyate, Denesuline and Nehethowuk peoples.

We acknowledge Manitoba is located on the Homeland of the Red River Métis.

We acknowledge northern Manitoba includes lands that were and are the ancestral lands of the Inuit.

We respect the spirit and intent of Treaties and Treaty Making and remain committed to working in partnership with First Nations, Inuit and Métis people in the spirit of truth, reconciliation and collaboration.

Reconnaissance du territoire

Nous reconnaissons que le Manitoba se trouve sur les territoires visés par un traité et sur les terres ancestrales des peuples anishinaabe, anishinewuk, dakota oyate, denesuline et nehethowuk.

Nous reconnaissons que le Manitoba se situe sur le territoire des Métis de la Rivière-Rouge.

Nous reconnaissons que le nord du Manitoba comprend des terres qui étaient et sont toujours les terres ancestrales des Inuits.

Nous respectons l'esprit et l'objectif des traités et de la conclusion de ces derniers. Nous restons déterminés à travailler en partenariat avec les Premières Nations, les Inuits et les Métis dans un esprit de vérité, de réconciliation et de collaboration.

Manitoba Residential Tenancies Commission

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**MINISTER
OF CONSUMER PROTECTION AND GOVERNMENT SERVICES**

Room 343
Legislative Building
Winnipeg, Manitoba R3C 0V8
CANADA

August 31, 2023

Her Honour, the Honourable Anita R. Neville P.C., 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 Manitoba Residential Tenancies Commission for the year ended March 31, 2023.

Respectfully submitted,

"original signed by"

Honourable James Teitsma
Minister of Consumer Protection and Government Services





**MINISTRE
DE LA PROTECTION DU CONSOMMATEUR ET DES SERVICES GOUVERNEMENTAUX**

Bureau 343
Palais législatif
Winnipeg (Manitoba) R3C 0V8
CANADA

31 août 2023

Son Honneur l'honorable Anita R. Neville, P.C., O.M.
Lieutenante-gouverneure du Manitoba
Palais législatif, bureau 235
Winnipeg (Manitoba) R3C 0V8

Madame la Lieutenante-Gouverneure,

J'ai le privilège de vous présenter, à titre informatif, le rapport annuel du Commission de la location à usage d'habitation pour l'exercice qui s'est terminé le 31 mars 2023.

Le tout respectueusement soumis

“original signé par”

Monsieur James Teitsma
Ministre de la Protection du consommateur et
des Services gouvernementaux





Residential Tenancies Commission
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Honourable James Teitsma
Minister of Consumer Protection and Government Services
Room 343 Legislative Building
Winnipeg, MB R3C 0V8

Dear Minister:

I am pleased to present for your approval the 2022/2023 Annual Report of the Residential Tenancies Commission.

Respectfully submitted,

“original signed by”

Karin Linnebach Chief Commissioner
Residential Tenancies Commission



Commission de la location à usage d'habitation
155, rue Carlton, bureau 1650, Winnipeg (Manitoba) Canada R3C 3H8
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Monsieur James Teitsma
Ministre de la Protection du consommateur et des Services gouvernementaux Palais
législatif, bureau 343
Winnipeg (Manitoba) R3C 0V8

Dear Minister:

J'ai le plaisir de présenter à votre approbation le rapport annuel du Commission de la location à usage d'habitation pour l'exercice qui s'est terminé le 31 mars 2023.

Le tout respectueusement soumis

“original signé par“

Karin Linnebach Commissaire en chef
Commission de la location à usage d'habitation

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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 (the Branch) under The Residential Tenancies Act (the RTA).

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 Deputy Chief Commissioner, one 0.3 Deputy Chief Commissioner and one 0.6 Deputy Chief Commissioner appointed for up to a four-year term and 10 part-time Deputy Chief Commissioners appointed for up to a four-year term, located in Winnipeg, Steinbach, Dauphin and St. Pierre-Jolys. The Deputy Commissioners may exercise the powers and perform the duties of the Chief Commissioner.
- Panel members – 17 part-time panel members appointed for up to a two-year term located in Winnipeg, Carman, St. Anne, Shoal Lake, Thompson and Brandon – approximately half representing the views of the landlords, the others the views of the tenants.

The Commission may conduct hearings orally, in person or by telephone, in writing or partly orally and partly in writing. 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.

Effective June 3, 2019, all Commission decisions are final and binding. However, the Chief Commissioner may correct or amend a decision or order of the Commission in limited circumstances as set out in sections 171.01 and 160.1(1) of the RTA. The RTA requires the Chief Commissioner to submit a report on the administration of the RTA 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, 2023. Figures for the fiscal year ending March 31, 2022, have also been provided for purposes of comparison. The statistics are broken down by activity (e.g., 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 :

- Le commissaire en chef – un poste à temps plein; nommé pour un mandat d'au plus cinq ans; situé à Winnipeg.
- Des commissaires adjoints – un commissaire en chef adjoint à temps plein, un 0.3 poste à temps plein, un 0.6 poste à temps plein, occupé pour une période de quatre ans maximum et 10 postes à temps partiel, occupés pour une période de quatre ans maximum; basés à Winnipeg, à Steinbach, à Dauphin et à St. Pierre-Jolys. Les commissaires adjoints peuvent exercer les pouvoirs et les fonctions du commissaire en chef;
- Des membres des comités – 17 membres à temps partiel nommés pour un mandat pouvant aller jusqu'à deux ans et situés à Winnipeg, Carman St. Anne, Shoal Lake, Thompson et Brandon – environ la moitié représentant les points de vue des propriétaires, les autres, les points de vue des locataires.

La Commission peut tenir des auditions oralement, en personne ou par téléphone, par écrit ou en partie oralement et en partie par écrit. Certains appels sont entendus uniquement par le commissaire en chef ou un commissaire en chef adjoint et certains appels sont entendus par un comité de trois composé d'un propriétaire et d'un représentant des locataires et soit le commissaire en chef ou un commissaire en chef adjoint en tant que président neutre. S'il n'y a pas de décision majoritaire, la décision du Président neutre est la décision de la Commission.

À compter du 3 juin 2019, toutes les décisions de la Commission sont définitives et exécutoires. Cependant, le commissaire en chef peut corriger ou modifier une décision ou une ordonnance de la Commission dans circonstances limitées, telles qu'énoncées aux articles 171.01 et 160.1(1) de la Loi sur la location à usage d'habitation.

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 2023. Des chiffres correspondant à l'exercice se terminant le 31 mars 2022 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 RTA deal with all residential landlord and tenant matters, except for rent regulation. Table 1 provides a statistical summary of the activities of the Commission under Parts 1 – 8 of the RTA. Between April 1, 2022 and March 31, 2023, the Commission received 478 appeals under Parts 1 – 8 of the RTA. The Commission received 384 appeals of orders resulting from Branch hearings and 55 appeals of claims for security deposit or less. The remaining 39 appeals were related to orders to repair, abandonment, utilities, distraint/lockout and administrative penalties.

The Commission processed 372 cases from April 1, 2022 to March 31, 2023. The Commission confirmed or upheld the Branch's decisions in 176 instances. The Commission varied 127 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 28 decisions of the Branch. Another 41 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 their mind and no longer wishing to continue with the appeal. There were no appeals pending as of March 31, 2023. There were 56 motions to extend time to appeal denied.

A person who did not attend or otherwise participate in the hearing before the director cannot 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 77 applications for leave to appeal, 31 were granted leave and 46 were denied. The Commission received 25 requests to correct or amend an order. One order was amended and the remaining 24 orders were upheld.

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 2022 et le 31 mars 2023, la Commission a reçu 478 appels relativement aux parties 1 à 8 de la *Loi sur la location à usage d'habitation*. La Commission a reçu 384 appels d'ordres provenant d'audiences de la Direction et 55 appels de réclamations du dépôt de garantie ou moins. Les 39 réalisés aux ordres de réparation, abandon, services publics, saisie/lock-out et sanctions administratives.

Entre le 1^{er} avril 2022 et le 31 mars 2023, la Commission a traité 372 causes. Dans 176 cas, la Commission a confirmé ou soutenu les décisions de la Direction de la location à usage d'habitation. La Commission a aussi modifié 127 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 28 décisions de la Direction, et 41 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. Il y avait deux appel en instance au 31 mars 2023. La Commission a aussi rejeté 56 motions en prorogation du délai d'appel.

Toute personne qui ne s'est pas présenté 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 77 demandes d'autorisation d'appel : elle en a accordé 31 et rejeté 46. La Commission a reçu 25 demandes ou de correction ou de modification d'une ordonnance. Une ordonnance a été modifiée et les 24 ordonnances restantes ont été confirmées.

TABLE 1 – APPEALS

STATISTICAL SUMMARY FOR MANITOBA PARTS 1 – 8 OF THE RESIDENTIAL TENANCIES ACT

	April 1, 2021 – March 31, 2022 (Cases)	April 1, 2022 – March 31, 2023 (Cases)
<u>ADMINISTRATIVE PENALTIES</u>		
Carried forward from previous year	0	0
Appeals Received	0	0
TOTAL	0	0
Decisions Confirmed	0	0
Decisions Varied	0	0
TOTAL APPEALS CLOSED	0	0
ACTIVE	0	0
<u>CLAIM FOR SECURITY DEPOSIT OR LESS</u>		
Carried forward from previous year	7	26
Appeals Received	41	55
TOTAL	48	81
Decisions Confirmed	9	15
Decisions Varied	9	13
Decisions Rescinded	3	4
Appeals Withdrawn/Rejected	0	8
Cancelled	1	0
Appeals Pending	0	0
TOTAL APPEALS CLOSED	22	40
ACTIVE	26	41
<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

	April 1, 2021 – March 31, 2022 (Cases)	April 1, 2022 – March 31, 2023 (Cases)
<u>DISTRAINT AND LOCKOUT</u>		
Carried forward from previous year	1	0
Appeals Received	1	2
TOTAL	2	2
Decisions Confirmed	2	0
Decisions Varied	0	0
Decisions Withdrawn	0	2
Decisions Rescinded	0	0
TOTAL APPEALS CLOSED	2	2
ACTIVE	0	0
<u>ENFORCEMENT</u>		
Carried forward from previous year	0	2
Appeals Received	3	2
TOTAL	3	4
Decisions Confirmed	1	0
Decisions Withdrawn/Settled	0	4
TOTAL APPEALS CLOSED	1	4
ACTIVE	2	0
<u>ORDER OF POSSESSION AND CLAIM HEARINGS</u>		
Carried forward from previous year	88	130
Appeals Received	313	384
TOTAL	401	514
Decisions Confirmed	136	148
Decisions Varied	100	110
Decisions Rescinded	14	23
Appeals Withdrawn/Rejected	9	16
Cancelled	10	2
Appeals Pending	2	0
TOTAL APPEALS CLOSED	271	299
ACTIVE	130	215

TABLE 1 – APPEALS

STATISTICAL SUMMARY FOR MANITOBA PARTS 1 – 8 OF THE RESIDENTIAL TENANCIES ACT

	April 1, 2021 – March 31, 2022 (Cases)	April 1, 2022 – March 31, 2023 (Cases)
<u>REPAIRS</u>		
Carried forward from previous year	2	3
Appeals Received	15	33
TOTAL	17	36
Decisions Confirmed	7	12
Decisions Varied	2	3
Decisions Rescinded	1	1
Cancelled	0	2
Appeals Withdrawn/Rejected	4	7
Appeals Pending	0	0
TOTAL APPEALS CLOSED	14	25
ACTIVE	3	11
<u>UTILITIES</u>		
Carried forward from previous year	0	0
Appeals Received	3	1
TOTAL	3	1
Decisions Confirmed	1	1
Decisions Varied	0	0
Decisions Rescinded	0	0
Appeals Withdrawn/Rejected	2	0
Cancelled	0	0
TOTAL APPEALS CLOSED	3	1
ACTIVE	0	1
<u>ABANDONMENT</u>		
Carried forward from previous year	1	0
Appeals Received	0	1
TOTAL	1	1
Decisions Varied	1	1
TOTAL APPEALS CLOSED	1	1
ACTIVE	0	0

TABLE 1 – APPEALS

STATISTICAL SUMMARY FOR MANITOBA PARTS 1 – 8 OF THE RESIDENTIAL TENANCIES ACT

	April 1, 2021 – March 31, 2022 (Cases)	April 1, 2022 – March 31, 2023 (Cases)
<u>TOTAL APPEALS</u>		
Carried forward from previous year	101	162
Appeals Received	376	478
TOTAL	477	640
Decisions Confirmed	157	176
Decisions Varied	111	127
Decisions Rescinded	18	28
Appeals Withdrawn/Rejected	16	37
Cancelled	11	4
Appeals Pending	2	0
TOTAL APPEALS CLOSED	315	372
ACTIVE	162	268

	April 1, 2021 – March 31, 2022 (Cases)	April 1, 2022 – March 31, 2023 (Cases)
<u>LEAVE TO APPEAL APPLICATIONS TO THE RESIDENTIAL TENANCIES COMMISSION</u>		
Carried forward from previous year	0	0
Applications Received	46	77
TOTAL	46	77
Leave to Appeal Granted	18	31
Leave to Appeal Denied	28	46
TOTAL APPEALS CLOSED	46	77
ACTIVE	0	0

APPEAL ACTIVITY SUMMARY

PART 9 OF THE RESIDENTIAL TENANCIES ACT

The Commission received appeals for 70 buildings affecting 714 rental units on orders the Branch issued under Part 9 of the RTA between April 1, 2022 and March 31, 2023.

The Commission processed appeals on orders for 63 buildings affecting 369 rental units in the fiscal year ending March 31, 2023. The Commission upheld orders on 55 units in 22 buildings and varied orders on 285 units in 23 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 18 other buildings affecting 29 units were either rejected by the Commission or withdrawn or cancelled by the appellant.

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 70 immeubles comptant 714 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 2022 et le 31 mars 2023.

La Commission a traité des appels d'ordres pour 63 immeubles comptant 369 unités locatives pendant l'exercice se terminant le 31 mars 2023. La Commission a confirmé les ordres concernant 55 unités dans 22 immeubles et a modifié les ordres concernant 285 unités dans 23 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 18 autres immeubles comptant 29 unités ont été rejetés par la Commission, ou retirés ou annulés par l'appelant.

TABLE 2 – APPEALS

STATISTICAL SUMMARY FOR MANITOBA PART 9 OF THE RESIDENTIAL TENANCIES ACT

	April 1, 2021 – March 31, 2022		April 1, 2022 – March 31, 2023	
	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	1	15	5	19
Appeals Received	4	4	5	5
TOTAL	5	19	10	24
Decisions Confirmed	0	0	0	0
Decisions Varied	0	0	4	4
Decisions Rescinded	0	0	0	0
Appeals Withdrawn/Rejected	0	0	2	2
TOTAL APPEALS CLOSED	0	0	6	6
ACTIVE	5	19	4	18
LIFE LEASE				
Carried forward from previous year	1	5	0	0
Appeals Received	0	0	1	1
TOTAL	1	5	1	1
Decisions Confirmed	1	5	0	0
Appeals Withdrawn/Rejected	0	0	0	0
TOTAL APPEALS CLOSED	1	5	0	0
ACTIVE	0	0	1	1

TABLE 2 – APPEALS

STATISTICAL SUMMARY FOR MANITOBA PART 9 OF THE RESIDENTIAL TENANCIES ACT

	April 1, 2021 – March 31, 2022		April 1, 2022 – March 31, 2023	
	Bldgs.	Units	Bldgs.	Units
APPLICATION - WITHDRAWAL OF SERVICE				
Carried forward from previous year	0	0	2	2
Appeals Received	3	19	1	2
TOTAL	3	19	3	4
Decisions Confirmed	0	0	1	1
Decisions Varied	1	17	1	1
Appeals Withdrawn/Rejected	0	0	0	0
Appeals Cancelled	0	0	0	0
TOTAL APPEALS CLOSED	1	17	2	2
ACTIVE	2	2	1	2
COMPLIANCE				
Carried forward from previous year	10	18	7	45
Appeals Received	7	47	13	79
TOTAL	17	65	20	124
Decisions Confirmed	4	14	1	21
Decisions Varied	4	4	4	7
Appeals Withdrawn/Rejected	1	1	2	7
Appeals Cancelled	1	1	0	0
TOTAL APPEALS CLOSED	10	20	7	35
ACTIVE	7	45	13	89

TABLE 2 - APPEALS

STATISTICAL SUMMARY FOR MANITOBA PART 9 OF THE RESIDENTIAL TENANCIES ACT

	April 1, 2021 – March 31, 2022		April 1, 2022 – March 31, 2023	
	Bldgs.	Units	Bldgs.	Units
APPLICATION – RENT INCREASE ABOVE GUIDELINE				
Carried forward from previous year	22	120	28	169
Appeals Received	43	296	50	627
TOTAL	65	416	78	796
Decisions Confirmed	19	42	20	33
Decisions Varied	5	115	14	273
Appeals Withdrawn/Rejected	11	89	11	10
Appeals Cancelled	2	1	3	10
TOTAL APPEALS CLOSED	37	247	48	326
ACTIVE	28	169	30	470

TABLE 2 - APPEALS

STATISTICAL SUMMARY FOR MANITOBA PART 9 OF THE RESIDENTIAL TENANCIES ACT

	April 1, 2021 – March 31, 2022		April 1, 2022 – March 31, 2023	
	Bldgs.	Units	Bldgs.	Units
TOTAL APPEALS				
Carried forward from previous year	34	158	42	235
Appeals Received	57	366	70	714
TOTAL	91	524	112	949
Decisions Confirmed	24	61	22	55
Decisions Varied	10	136	23	285
Appeals Withdrawn/Rejected	12	90	15	19
Appeals Cancelled	3	2	3	10
TOTAL APPEALS CLOSED	49	289	63	369
ACTIVE	42	235	49	580

TABLE 3

MOTION FOR EXTENSION OF TIME TO APPEAL

	April 1, 2021 – March 31, 2022 (Cases)	April 1, 2022 – March 31, 2023 (Cases)
<u>MOTIONS FOR EXTENSION OF TIME TO APPEAL</u>		
Carried forward from previous year	0	0
Applications Received	48	87
TOTAL	48	87
Decisions Denied	26	59
Decisions Granted	22	28
TOTAL	48	87
ACTIVE	0	0

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

	April 1, 2021 - March 31, 2022	April 1, 2022 - March 31, 2023
Winnipeg	360	435
Brandon	0	0
Dauphin	0	0
Morden/Winkler	0	0
Portage la Prairie	0	0
Russell	0	0
Steinbach	0	0
Thompson	0	0
TOTAL	360	435

TABLE 5

REQUEST TO CORRECT OR AMEND AN ORDER

	April 1, 2021 – March 31, 2022 (Cases)	April 1, 2021 – March 31, 2023 (Cases)
<u>REQUEST TO CORRECT OR AMEND AN ORDER</u>		
Carried forward from previous year	0	0
Applications Received	23	25
TOTAL	23	25
Decisions Denied	21	24
Decisions Granted	2	1
TOTAL	23	25
ACTIVE	0	0

SIGNIFICANT DECISIONS

SIGNIFICANT DECISIONS

The following are summaries of significant decisions issued by the Commission and the reasons for the decisions that were issued in the 2022/23 fiscal year.

1. Order of Possession (OP) Granted – Tenant was responsible for illegal firearms stored in her unit

Winnipeg Police Service executed a search warrant at the tenant's unit. The landlord asserted that police found drugs and numerous firearms in the tenant's unit and that the tenant was arrested. Because of this incident, the landlord gave the tenant a notice of termination and filed an application for an OP for impairment of safety, nuisance and disturbance, breach of tenancy agreement and violation of house rules.

The tenant was adamant that no drugs were found in the home during the police search. She said she was not charged by police and was only detained by police because it was her residence and firearms were found in a "musical case". She acknowledged two individuals were charged.

The tenant explained that she decided to help a friend by letting her store her belongings at the rental unit. She said she did not know that her friend had firearms. Her friend and another individual were charged by police. Her friend told her that the weapons belonged to another friend and the friend did not know they were in the instrument case. The tenant stated that after the police search, she removed her friend's belongings and has not allowed "those individuals" back in the unit. She asked that an OP not be granted because she did not know that she had weapons stored in the rental unit.

Because the landlord gave less notice to move than one rental period, the landlord was required to prove that the tenant's breaches of the RTA posed an immediate risk to health or safety, substantially interfered with rights or resulted in an extraordinary disturbance. The Commission found that the tenant's improper storage of illegal firearms in her unit at a multi-family complex constituted an immediate risk to health and safety. There was no dispute that there were illegal firearms in an instrument case in the tenant's unit. Even if the tenant did not know about the firearms, she is responsible for the items which she allowed to be stored in her unit. A reasonable tenant would have made efforts to know what she was storing and for whom. The OP was granted and costs were awarded to the landlord.

2. Rent Abatement and Compensation for Alternate Lodging and Expenses - Landlords failed to investigate sewer problem

The tenants advised the landlords that sewer water had backed up into the basement. The landlord believed the tenants caused the problem and did not attend to the unit to investigate. The tenants could not live in the unit because they could not flush the toilets or run water without more water backing up. Correspondence from a public health inspector who attended the unit confirmed that the smell of sewage in the unit was strong. The tenants ultimately called a plumber and had the backup repaired. The tenants found alternate accommodations until the repair was completed. The landlord agreed to compensate the tenants for the plumbing repair but refused to compensate the tenants for any other losses or a refund of rent.

There was no evidence before the Commission that the tenants caused the sewer pipes to clog. The tenants said the repair person told them the main sewer line was clogged by tree roots. This was supported by documentation from the repair person. The landlord disputed this was accurate, but had no first-hand knowledge of what occurred because he never attended to the unit. The Commission found a reasonable landlord would have investigated after becoming aware of the problem.

The RTA allows for compensation to tenants for unreasonable delay in completing repairs (s. 59.1). The RTA also refers to a landlord's duty not to interfere with a tenant's enjoyment of the rental unit for all usual purposes (s. 62(1)). The Commission has awarded compensation under s. 62(1) as a result of loss of use of services and facilities and access to portions of a unit due to repairs. While a tenant might have to endure brief, minor inconveniences from time to time because of proper repairs being done to units and/or complexes, the Commission has awarded an abatement of rent even in the absence of unreasonable delay or any bad faith on behalf of the landlord when doing repairs because of the significant inconvenience of the repairs. In this case, the inconvenience was significant given the lack of action on behalf of the landlord, who did not just delay, but did nothing at all.

The Commission found the tenants were entitled to an abatement of rent. Because of the clogged sewer line, the tenants did not get the full benefit of the rent that they were paying. The tenants were also awarded compensation for alternate lodging and costs incurred to do laundry and cook while living elsewhere. Had the landlord investigated and called a plumber when informed of the problem, the repair might have been completed right away and there would have been no need for the tenants to find alternate lodging.

3. Request for a Determination - What is a “New Building” for the purpose of residential rent regulation exemptions

The landlord asked for a finding that a building it had renovated was a “new building” for the purpose of the RTA. The RTA gives a 20-year exemption from rent regulation for new buildings (s. 116(2.2)). An alternate exemption is available under the RTA for “rehabilitation schemes”, but the landlord did not apply for approval of a rehabilitation scheme within the required timeframe.

The building had been previously used as a residential apartment complex. The landlord completed significant renovations. The renovations involved decreasing the overall number of units in the complex, but increasing the average square footage per unit, adding a new structure and new foundations to create balcony spaces, significant demolition to the front and structure, the construction of a new annex and a new parkade, and significant asbestos remediation work. The landlord said about 60% of the original building remained. The landlord argued that the decision to renovate instead of tear down and build new was not based on pure financial considerations, but rather on social and environmental considerations. They argued that because of the social and environmental considerations and because of the significant nature of the renovations, the building should be considered a new building for the purpose of rent regulation.

Because “new building” is not defined in the RTA, the Commission reviewed the applicable principles of statutory interpretation. The Commission concluded that the plain language meaning of the words “new building” and its lack of ambiguity, the scheme and object of the RTA, and the intention of the legislature all favoured a determination that the building was not a “new building” under the RTA.

4. Rent Regulation - New landlord liable for rents charged above the guideline

When the landlord purchased the residential complex in 2019, the former landlord told the landlord that the rents were registered with the Branch and were correct. A little more than a year after purchasing the property, the landlord gave notice of rent increase to the tenant and the Branch.

There were two lawful ways to increase the rents at this complex: by the maximum prescribed amount under the legislation (the guideline amount) or by applying for an above-guideline increase. Neither the landlord nor the former landlord applied for an above-guideline increase at any time.

The Branch initiated an investigation into the amount of rent being charged. The last registered rent dated back to 2007 and was significantly less than the rent the landlord was charging even before the proposed increase. Using the last registered rent as a starting point, the Branch set the rent for the unit. The Branch also ordered the landlord to reimburse the excess rent charged, including for a period prior to the date the landlord took possession of the complex.

Anyone who is considering the purchase of a rental property can apply to the Branch for a Rent Status Report, which provides information on a property's rent history and can alert purchasers to potential rent increase problems. The landlord acknowledged that he did not obtain a Rent Status Report before purchasing the property.

The landlord argued it was the former landlord who got the rent wrong. He felt the Branch should be pursuing the former landlord and not him because he acted legally and did nothing wrong. The landlord also argued the tenant agreed to the rent increases and did not complain about the rent.

A current landlord is responsible for the two-year period prior to his purchase for any contravention of an obligation of the former landlord as per s. 52(2) of the RTA. This two-year rule is in effect so tenants can obtain quick resolution without having to bring former landlords into the process. A new landlord is entitled to recover against a former landlord for money paid because of the former landlord's breach (s. 52(4)).

It was up to the landlord to obtain a Rent Status Report before purchasing the property. Had the landlord done so, he would have learned that the last registered rent was significantly less than the former landlord said they were charging for rent. Although the landlord may have a claim against the former landlord, the landlord was still not entitled to charge the rent he was charging.

Regarding the landlord's argument that the tenant agreed to the rent increase, the Commission found that the RTA permits a landlord to increase rent in specific situations. Agreement by the parties is not one of those situations. Further, the RTA explicitly states that any agreement that contravenes the RTA is void (s.6). The parties must follow the RTA and cannot contract out of it.

The Commission set the rent, allowing guideline rent increases from 2007. Because the landlord charged rents greater than permitted, the landlord was ordered to refund the current tenant's overpayment in rent, including for a period of time when the former landlord collected the incorrect rent.

The Public Interest Disclosure (Whistleblower Protection) Act

The Public Interest Disclosure (Whistleblower Protection) Act (PIDA) came into effect in April 2007. PIDA gives employees a clear process for disclosing concerns about significant and serious matters (wrongdoing) in the Manitoba public service, and strengthens protection from reprisal. PIDA 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 PIDA 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. PIDA is not intended to deal with routine operational or administrative matters.

A disclosure made by an employee in good faith, in accordance with the PIDA, and with a reasonable belief that wrongdoing has been or is about to be committed is considered to be a disclosure under PIDA, whether or not the subject matter constitutes wrongdoing.

All disclosures receive careful and thorough review to determine if action is required under PIDA, and must be reported in a department's annual report in accordance with section 18 of PIDA. The Commission has received an exemption from the Ombudsman under section 7 of PIDA. 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 Commission for April 1, 2022 to March 31, 2023:

Information Required Annually (per Section 18 of the PIDA)	April 1, 2022 to March 31, 2023
The number of disclosures received, and the number acted on and not acted on. Subsection 18(2)(a)	NIL