

## Circular

**Date:** July 21, 2014

**CIRCULAR NUMBER:** EIA #2014-38 K    **Alternate Programs:**

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**To:** Community Social Service Supervisors/Program Managers

**Subject:** **Residential Tenancies Branch and Rent Increases**

**Reference:** #2012-34 – Residential Tenancies Branch Claims for Compensation

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<b>Type:</b>	<input type="checkbox"/> Policy	<b>Replaces:</b>
	<input checked="" type="checkbox"/> Procedure	
	<input type="checkbox"/> Rate	
	<input checked="" type="checkbox"/> Information Only	

**Effective Date:** Immediately

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With the implementation of Rent Assist, there is a possibility that a number of landlords may increase rent in excess of the rent guidelines approved by the Residential Tenancies Branch (RTB). This circular outlines options for participants or EIA staff in addressing illegal rent increases.

The annual rent increase guideline is the percentage that a landlord can increase the rent without applying to RTB for approval. The 2014 rent increase guideline is **2.0%** effective Jan. 1, 2014. Landlords can increase rent only once every 12 months with three months prior written notice to the tenant.

It is important that participants are aware of the rent increase guidelines and the RTB resources available to help them to address concerns they may have with their rental arrangements. Where participants indicate that there is a concern with an illegal rent increase, or in the state of repair of their accommodations, staff should encourage participants to first discuss the concerns with their landlord. If participants are not satisfied with the results of these discussions, staff should inform participants of their right to contact the RTB to file a formal claim. Fees to file a claim of compensation with RTB are waived for EIA participants.

Where participants indicate that they are not comfortable approaching their landlord in this manner, EIA staff can encourage participants to contact RTB for assistance in filing a formal claim.

In some situations participants may not be interested in challenging a rent increase. EIA staff may want to advise supervisors of rent increases that appear to be excessive where clients indicate that there is no evidence of any significant renovations or improvements that would

explain the rent increase. Supervisors should then advise the EIA Program Specialists of these suspected illegal rent increases so that they may consult with EIA Programs to establish if further action is warranted.

Note: A third party, such as EIA, may file a claim for illegal rent increases on behalf of a tenant(s), but cannot file a claim for any other complaint, such as needed repairs. These types of claims must come from the tenant.

EIA staff are to consider the following when processing EIA participant rent forms:

- Review rent amounts listed on new rent forms against historical amounts paid for same address.
- If there is a significant discrepancy, consider advising the participant to contact RTB.
- **Note:** EIA shelter amounts to be authorized in SAMIN are to be based on the most current rent form information, even if the amount of rent is being challenged via the RTB. RTB will determine if the rent increase is justified or is to be changed and will advise the participant and landlord.

If the decision from the RTB claim results in a rent refund or compensation for utilities that were paid by EIA, and the participant is still living at the address, the participant should provide confirmation from the landlord regarding how the claim will be paid.

- RTB will provide shelter claim refund/awards directly to tenants.
- The refund or award is not to be applied against EIA eligibility or benefits if the excess funds came out of the participant's basic needs.
- If the agreement is to reduce the rent for a subsequent month(s), the participant's shelter assistance should NOT be adjusted if the participant has used their basic needs or exempted sources to pay the rent overage.
- If shelter payments are paid directly to the landlord, shelter payments should be redirected to the participant for the months that the rent is to be reduced until such point that the participant is fully compensated for the value of the RTB award.

Additional information on tenant rights and responsibilities is attached, available at [www.gov.mb.ca/cca/rtb/faqsrent.html](http://www.gov.mb.ca/cca/rtb/faqsrent.html) or by contacting:

<b>Winnipeg</b>	<b>Brandon:</b>	<b>Thompson:</b>
Residential Tenancies Branch 302 - 254 Edmonton St. Winnipeg, Manitoba R3C 3Y4 Telephone: 204-945-2476 Toll Free in Manitoba: 1-800-782-8403 FAX: 204-945-6273 email: <a href="mailto:rtb@gov.mb.ca">rtb@gov.mb.ca</a>	Residential Tenancies Branch 143 - 340 9th Street Brandon, Manitoba R7A 6C2 Telephone: 204-726-6230 Toll Free in Manitoba: 1-800-656-8481 FAX: 204-726-6589 email: <a href="mailto:rtbbrandon@gov.mb.ca">rtbbrandon@gov.mb.ca</a>	Residential Tenancies Branch 113 - 59 Elizabeth Road Thompson, Manitoba R8N 1X4 Telephone: 204-677-6496 Toll Free in Manitoba: 1-800-229-0639 FAX: 204-677-6415 email: <a href="mailto:rtbthompson@gov.mb.ca">rtbthompson@gov.mb.ca</a>

## Manitoba Residential Tenancies Branch Frequently Asked Questions

(see [www.gov.mb.ca/cca/rtb/faqsrent.html](http://www.gov.mb.ca/cca/rtb/faqsrent.html))

### **How often can my landlord increase my rent?**

Your landlord can usually increase your rent only once every 12 months. You must be given three months prior written notice of a proposed rent increase.

### **What is the annual rent increase guideline?**

The annual rent increase guideline is the percentage that a landlord can increase your rent without applying to The Residential Tenancies Branch for approval. The guideline limits the amount a landlord can increase rent. The government sets the amount every year. The government usually announces the guideline for the next year in late August or early September. The guideline takes effect on January 1 of each year and applies to increases to take effect in that calendar year.

### **Does the guideline apply to every rental unit?**

The guideline applies to most rental units, including apartments, single rooms, houses, duplexes, mobile homes and mobile home lots. There are some exceptions:

- units renting for more than \$1,395 a month
- units managed by, or for, the Government of Canada, Government of Manitoba or a municipality
- caretaker/employee units
- life lease complexes that are run on a non-profit basis
- rental units in hotels or motels
- units in nursing homes or personal care homes
- student housing

The guideline also does not apply to newer rental units. If a residential complex was built and occupied after April 9, 2001, the units are exempt for 15 years. If a complex was built and occupied after March 7, 2005, the units are exempt from the guideline for 20 years.

### **My landlord says they're going to increase my rent. How much notice do they have to give me?**

Your landlord must give you at least three months notice, in writing, before they can increase the rent. The rent increase notice must tell you:

- the date of the increase;
- the rent you're paying now;
- what the rent is going to be and the amount of the increase, both in dollars and as a percentage; For example: This is an increase of \$25 or 2.5%;
- the annual rent increase guideline;
- the rent increase isn't allowed unless you get three months notice; and
- you have the right to object to the increase.

### **My landlord is increasing the rent by the guideline, but I still don't agree with the increase. Is there anything I can do?**

Yes, you can send a written objection to The Residential Tenancies Branch. A tenant can object to *any* rent increase, whether it's at, above or below the rent increase guideline. To object, you'll need to send a letter to the Branch explaining why you

don't agree with the increase. The Branch must receive your letter at least 60 days before your rent increase date. If the Branch doesn't get your letter on time, it can't consider your objection. When the Branch receives your objection, an officer will speak with you and your landlord about your concerns.

### **Is my landlord allowed to increase my rent by more than the guideline?**

A landlord can apply to The Residential Tenancies Branch for an above the guideline increase if they can show that the guideline won't cover their cost increases. A landlord must give the Branch information to support or justify a larger rent increase. Your landlord can only increase your rent by more than the guideline if they apply to the Branch.

### **What should I do if I don't agree with an above guideline increase?**

You can send an objection to the Branch when you get your rent increase notice. You'll also get a chance to see and make comments on the landlord's application before the Branch sets your rent. When a landlord applies for an above guideline increase, the Branch considers the rent for each unit. So, even if you don't send an objection to the Branch, the Branch will still issue an order setting the rent on your unit.

### **How does my landlord apply for an above guideline increase?**

To apply for an above guideline increase, your landlord must give the Branch information on their expenses. They have to show their operating expenses (e.g. property taxes, utility bills, repair costs) and their capital expenses (e.g. how much it cost to replace the roof or to buy new appliances). These expenses are for services or things that the landlord has already paid for or received bills. A landlord can't apply for an above guideline increase because they plan to do work on a residential complex or they think their operating costs might be going up. For example: If a landlord plans to re-surface the parking lot at a complex next year, they can't apply for an above guideline increase now to cover the cost of the work

### **What does the Branch do when my landlord applies for a rent increase above the guideline?**

A Residential Tenancies officer checks the information your landlord gives to the Branch to make sure they have everything needed. Sometimes the officer may ask the landlord for more information. Once the officer has all the information, they will then send a letter inviting you to come to the Branch to review the application. If you have any questions or concerns, you can give the Branch your comments in writing. For example, If the landlord says they put new carpet in the hallways and you know they didn't, let the Branch know. Since a rent increase application has your landlord's confidential financial information, the Branch is not allowed to give you copies of any of the material on file. After the tenants look at the file and make comments, your landlord will have a chance to see and respond to those comments. The officer then reviews all the information from the tenants and landlord and issues an order setting the rents.

### **My rent is supposed to go up next week. The Branch hasn't issued an order setting my rent yet. How much rent should I pay?**

The Branch's goal is to issue an order setting rent before the rent increase date or within 90 days of receiving the rent increase application. But, sometimes there may be a delay. If this happens, you must pay the proposed rent your landlord showed

on your Notice of Increase in Rent. If the Branch issues an order that sets your rent at a lower amount, the Residential Tenancies Act requires your landlord to refund your rent overpayment. Your landlord may give you a cheque for the overpayment or tell you to deduct the amount from your next month's rent.

**What does the Branch consider before it issues an order setting rent?**

When setting rent, the Branch considers:

- increases or decreases in operating expenses;
- capital expenditures;
- any changes in the services the landlord provides;
- the landlord's deficit, if any; and
- any written comments or objections from tenants.

The order setting the rent includes reasons so both the landlord and tenants will know how the officer arrived at the decision.

**Will my rent increase be the same as the tenant who lives in the suite next to me?**

Not necessarily. A landlord can choose how to distribute a rent increase among their tenants. They can ask that each tenant receive an equal dollar rent increase (e.g. each tenant's rent is increased by \$10 a month) or that each tenant receive a rent increase of an equal percentage (e.g. each tenant receives a 3% rent increase).

**The Residential Tenancies Branch just issued an order setting my rent. I don't agree with the decision. What can I do?**

You can appeal the order to the Residential Tenancies Commission. You can file your appeal by sending a letter to the Commission. There's no charge to file this kind of appeal. The Commission will set up a hearing to consider your appeal. After the hearing, the Commission will issue an order setting your rent. The Commission's order is final.

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