2015

CHAPTER 19

An Act to amend *The Residential Tenancies Act, 2006*

(Assented to May 14, 2015)

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

Short title

1 This Act may be cited as *The Residential Tenancies Amendment Act, 2015*.

S.S. 2006, c.R-22.0001 amended

2 *The Residential Tenancies Act, 2006* is amended in the manner set forth in this Act.

Section 2 amended

3 Section 2 is amended:

(a) by adding the following clause after clause (a):

"(a.1) **'business day'** means a day other than a Saturday, Sunday or holiday**";**

(b) by adding the following clause after clause (e):

"(e.1) **'housing program'** means a program offered pursuant to an Act or an Act of the Parliament of Canada that provides rental living accommodation to individuals during their participation in the program**"; and**

(c) by adding the following clause after clause (f):

"(f.1) **'minister'** means the member of the Executive Council to whom for the time being the administration of this Act is assigned**".**

Section 5 amended

4 Section 5 is amended:

(a) in clause (b) by striking out "or a farm vacation home**" and substituting "**, a farm vacation home or a hostel**";**

(b) by striking out "or**" after clause (e); and**

(c) by repealing clause (f) and substituting the following:

"(f) living accommodation provided by the Young Men's Christian Association, the Young Women's Christian Association or The Salvation Army;

"(g) living accommodation rented under a tenancy agreement that grants a right of occupancy:

(i) for the life of the tenant; or

(ii) for a fixed period of not less than 20 years; or

"(h) prescribed tenancy agreements, rental units or residential property, or prescribed categories of tenancy agreements, rental units or residential property**".**

New section 11

5 Section 11 is repealed and the following substituted:

"Frustrated contracts

11(1) A tenancy agreement is terminated if, due to unforeseen circumstances that prevent achievement of its objectives or render its performance illegal, it becomes practically impossible to complete.

(2) *The Frustrated Contracts Act* applies to tenancy agreements**".**

Section 14 amended

6 Subsection 14(1) is amended by striking out "Lieutenant Governor in Council**" and substituting "**minister**".**

New sections 22.1 and 22.2

7 The following sections are added after section 22:

"Right of landlord to impose rules

22.1(1) Subject to subsection (2), in addition to the obligations set out in a tenancy agreement, a landlord may establish and enforce rules about:

(a) the tenant's use, occupancy or maintenance of the rental unit or residential property; and

(b) the tenant's use of services and facilities.

(2) Subsection (1) applies if the rules are in writing, are made known to the tenant and are reasonable.

(3) If an application is made for an order pursuant to section 70 on the grounds that the rules imposed by a landlord pursuant to subsection (1) are not reasonable, a hearing officer may make any order that the hearing officer considers just and equitable having regard to the circumstances.

"Tenancy agreements for housing programs

22.2(1) A landlord of a rental unit that is used for a housing program may change the terms of a tenancy agreement if:

(a) the tenancy agreement as it exists before the change reflects the requirements of the housing program;

(b) the housing program has changed or the rental unit is no longer part of the housing program; and

(c) the change is reasonable and reflects the changes to or discontinuation of the use of the rental unit for the housing program.

(2) If a change to a tenancy agreement made pursuant to subsection (1) results in an increase in rent, the landlord shall comply with the provisions of section 54**".**

Section 32 amended

8(1) Subsection 32(1) is repealed and the following substituted:

"(1) Subject to subsection (5), within seven business days after the day on which a landlord has actual knowledge or should reasonably have known that a tenant has vacated the premises, the landlord shall:

(a) pay to the tenant the security deposit and any accrued interest; or

(b) if the landlord intends to retain all or a portion of the security deposit and any accrued interest:

(i) pay to the tenant the portion of the security deposit that the landlord does not intend to retain and any accrued interest on that portion;

(ii) subject to subsections (2) and (3), serve notice on the tenant, in the approved form, of the landlord's intention to retain all or a portion of the security deposit and any accrued interest; and

(iii) continue to hold the security deposit, or the portion of the security deposit the landlord intends to retain, and any accrued interest in trust in accordance with section 28 for a period of 30 days from the day on which the tenancy ends.

"(1.1) In this section, **'forwarding address'** includes an address in electronic form**".**

(2) Clause 32(2)(a) is amended by striking out "ordinary mail**" and substituting "**personal service, registered or ordinary mail or in electronic form, as the case may be,**".**

(3) The following subsection is added after subsection 32(4):

"(5) If the tenancy ends by reason of the landlord giving a notice for a purpose set out in clause 60(7)(a) or (b), the landlord shall pay to the tenant the security deposit and any accrued interest without deduction**".**

Section 33 amended

9(1) Subsection 33(2) is amended by striking out "120 days**" and substituting "**two years**".**

(2) Subsection 33(5) is amended:

(a) in the portion preceding clause (a) by striking out "10 days, excluding Saturdays, Sundays and holidays,**" and substituting "**10 business days**"; and**

(b) in clause (b) in the portion preceding subclause (i) by striking out "a document**" and substituting "**if the amount claimed by the landlord has changed from the notice given to the tenant or the landlord was not required to give a notice pursuant to subclause 32(1)(b)(ii), a document**".**

Section 45 amended

10 Subsections 45(3) to (5) are repealed and the following substituted:

"(3) Subject to subsections (4) and (6), a landlord may enter a rental unit for the purpose of showing it to prospective tenants:

(a) if a tenant has given notice pursuant to section 56 of the tenant's intention to end the tenancy; or

(b) in the case of a fixed term tenancy agreement, within the two-month period preceding the date on which the agreement ends.

"(4) A landlord may only enter a rental unit pursuant to subsection (3) if:

(a) the landlord gives the tenant notice of the landlord's intent to enter and at least two hours have elapsed after the tenant received that notice; or

(b) the landlord gives the tenant notice in the prescribed manner.

"(5) Subject to subsection (6), a landlord may enter a rental unit for the purpose of showing the rental unit or the property on which it is located to a prospective purchaser if the landlord:

(a) provides the tenant with 24 hours' notice; or

(b) obtains the consent of the tenant.

"(6) A landlord may enter a rental unit pursuant to subsection (3) or (5) only between 8 a.m. and 8 p.m. on a day that is not a Sunday or a day of religious worship for the tenant**".**

Section 54 amended

11(1) Subsection 54(6) is repealed and the following substituted:

"(6) This section does not apply to rent increases on the basis of an increase in a tenant's income made by a landlord of a rental unit that is used for a housing program**".**

(2) Subsection 54(7) is repealed.

Section 58 amended

12(1) Subsection 58(1) is amended:

(a) by adding the following clause after clause (h):

"(h.1) the tenant or a person permitted on the residential property by the tenant has repeatedly violated the rules established by the landlord pursuant to section 22.1**"; and**

(b) in clause (l) by striking out "social housing program as defined in the regulations**" and substituting "**housing program**".**

(2) The following subsection is added after subsection 58(1):

"(1.1) If a tenant's breach of a municipal bylaw or failure to pay municipal charges results or may result in an assessment being added to the landlord's property taxes for the premises, the landlord may end the tenancy by giving notice to end the tenancy**".**

(3) Subsection 58(2) is repealed and the following substituted:

"(2) Before ending a tenancy pursuant to clauses (1)(a) to (n) or subsection (1.1), a landlord must give the tenant a reasonable period to remedy any of the circumstances mentioned in those provisions that are capable of being remedied**".**

(4) Subsection 58(6) is amended in the portion preceding clause (a) by striking out "If a tenant**" and substituting "**Subject to subsection (7), if a tenant**".**

(5) The following subsection is added after subsection 58(6):

"(7) If a landlord has made an application for an order pursuant to section 67 before the period mentioned in subsection (5) has elapsed, the tenant is not deemed to have accepted that the tenancy ends on the effective date of the notice**".**

Section 59 amended

13(1) Subsection 59(6) is amended in the portion preceding clause (a) by striking out "If a tenant**" and substituting "**Subject to subsection (7), if a tenant**".**

(2) The following subsection is added after subsection 59(6):

"(7) If a landlord has made an application for an order pursuant to section 67 before the period mentioned in subsection (5) has elapsed, the tenant is not deemed to have accepted that the tenancy ends on the effective date of the notice**".**

Section 60 amended

14(1) Clauses 60(1)(c) and (d) are repealed and the following substituted:

"(c) **'landlord'** means:

(i) for the purposes of subsection (4), an individual who:

(A) at the time of giving the notice, is entitled to possession of the rental unit; and

(B) holds not less than a one-half interest; and

(ii) for the purposes of subsection (5), a family corporation that:

(A) at the time of giving the notice, is entitled to possession of the rental unit; and

(B) holds not less than a one-half interest;

"(d) **'purchaser'** means a purchaser that has agreed to purchase at least a one-half interest in the rental unit**".**

(2) Subsection 60(2) is amended by striking out "(6) or (7)**" and substituting "**(6), (7) or (7.1)**".**

(3) Subsection 60(3) is amended:

(a) in the portion preceding clause (a) by striking out "A notice**" and substituting "**Subject to subsection (3.1), a notice**"; and**

(b) in clause (a) by striking out "one month**" and substituting "**two months**".**

(4) The following subsection is added after subsection 60(3):

"(3.1) A notice pursuant to this section to end the tenancy is effective on a date that is not earlier than one month after the date on which the tenant receives the notice, in the case of termination pursuant to subsection (6) or (7.1)**".**

(5) The following subsection is added after subsection 60(7):

"(7.1) A landlord may end a periodic tenancy respecting a rental unit if:

(a) the landlord intends to convert the rental unit for use in a housing program;

(b) the tenant in a rental unit is not eligible for continued participation in a housing program; or

(c) a tenant in a rental unit that is part of a housing program occupies a rental unit whose size or structural features exceed the requirements of the tenant and the tenant's family**".**

(6) Subsection 60(10) is amended in the portion preceding clause (a) by striking out "If a tenant**" and substituting "**Subject to subsection (11), if a tenant**".**

(7) The following subsection is added after subsection 60(10):

"(11) If a landlord has made an application for an order pursuant to section 67 before the period mentioned in subsection (9) has elapsed, the tenant is not deemed to have accepted that the tenancy ends on the effective date of the notice**".**

New section 60.1

15 The following section is added after section 60:

"Written agreement required

60.1(1) Unless a landlord and tenant agree otherwise in writing, the acceptance by the landlord of arrears or compensation for the use or occupation of the residential premises after the tenant has been given notice of termination does not operate as a waiver of the notice, a reinstatement of the tenancy or the creation of a new tenancy.

(2) The burden of proving a waiver of notice, a reinstatement of tenancy or the creation of a new tenancy is on the person making the claim**".**

Section 63 amended

16 Section 63 is amended:

(a) by adding the following clause after clause (c):

"(c.1) when given by a tenant, state the grounds for ending the tenancy if the grounds are that the landlord is in breach of a material term of the tenancy agreement**"; and**

(b) in clause (d) by adding "when given by a landlord,**" before "**state**".**

Section 66 amended

17 The following subsection is added after subsection 66(3):

"(4) On an application made pursuant to subsection (1), if the hearing officer determines that a landlord has locked a tenant out of a rental unit without justification, the hearing officer may award punitive damages against the landlord**".**

Section 67 amended

18(1) Subsection 67(3) is amended:

(a) in clause (b) by striking out ", the tenant has not disputed the notice and the time for disputing the notice has expired**"; and**

(b) in clause (c) by striking out "and the term of the tenancy agreement has expired**".**

(2) Subsection 67(4) is amended by striking out "clause (3)(a), (b), (d) or (e)**" and substituting "**subsection (3)**".**

Section 70 amended

19(1) Subclause 70(2)(a)(ii) is amended by striking out "date and place**" and substituting "**date, time, place and means**".**

(2) The following subsections are added after subsection 70(2):

"(2.1) The director may, from time to time, adjourn a hearing and give the parties notice of the adjournment.

"(2.2) A notice of an adjournment pursuant to subsection (2.1) must be served by personal service, by registered or ordinary mail or in electronic form.

"(2.3) The director may direct that a hearing be conducted by electronic means or by telephone**".**

(3) Subsection 70(3) is amended in the portion preceding clause (a) by striking out "date and place**" and substituting "**date, time, place and means**".**

(4) The following clause is added after clause 70(6)(e):

"(f) an order determining the validity of a notice of rent increase pursuant to sections 53.1 or 54**".**

New section 71.1

20 The following section is added after section 71:

"Time limit for application

71.1 An application for an order pursuant to this Act must be made within two years after the date of the act or omission giving rise to the claim**".**

Section 72 amended

21 Subsection 72(1) is repealed and the following substituted:

"(1) Subject to subsection (1.1), any person who is aggrieved by a decision or order of a hearing officer or the director, whether or not the decision or order is made without notice, may appeal the decision or order on a question of law or of jurisdiction to the Court of Queen's Bench within 30 days after the date on which the decision or order is signed and dated by a hearing officer.

"(1.1) The Court of Queen's Bench may extend the time for appeal for up to two years from the date on which the decision or order is signed and dated by a hearing officer if the proposed appellant can establish that the proposed appellant did not receive notice of the decision or order.

"(1.2) An appeal pursuant to subsection (1) must be made at the judicial centre nearest to the location of the rental unit with respect to which the decision or order was made.

"(1.3) Subject to the regulations, if a tenant is appealing from an order issuing a writ of possession pursuant to subsection 70(13) with respect to a failure to vacate a property in accordance with a notice served pursuant to subsection 57(1), the appellant shall deposit with the local registrar:

(a) the equivalent of one-half of one month's rent; or

(b) proof satisfactory to the local registrar that the tenant's rent is fully paid.

"(1.4) At the conclusion of an appeal, the Court of Queen's Bench shall direct the disposition of the money deposited pursuant to subsection (1.3)**".**

Section 73 amended

22(1) Subsection 73(3) is repealed and the following substituted:

"(3) A hearing officer may adjourn a hearing:

(a) from time to time and for any period that the hearing officer considers appropriate; and

(b) by any means, including by letter or in electronic form**".**

(2) The following subsections are added after subsection 73(4):

"(5) Notwithstanding subsection (4), a hearing officer may, on application made by an affected person, rehear an application when:

(a) an order has been made without hearing from the affected person; or

(b) the affected person can establish that he or she did not receive notice of the hearing.

"(6) If a hearing officer rehears an application pursuant to subsection (5), the hearing officer may rescind any order made with respect to the application before the rehearing**".**

Section 77 amended

23 Subsection 77(1) is repealed and the following substituted:

"(1) If no appeal has been made pursuant to section 72 and the time for appeal has expired, an order of the director or a hearing officer, whether or not the order was made without notice, may be filed in the Court of Queen's Bench by filing a copy of the order certified by the director or the hearing officer who made the order to be a true copy**".**

Section 81 amended

24 Section 81 is amended:

(a) in clause (h) by adding "or any part of this Act**" after "**this Act**";**

(b) by adding the following clause after clause (l):

"(l.1) prescribing the circumstances in which the requirements of subsection 72(1.3) do not apply**"; and**

(c) by repealing clause (n) and substituting the following:

"(n) for the purposes of section 82, prescribing means of service**".**

New sections 82 and 82.1

25 Section 82 is repealed and the following substituted:

"Service

82(1) In this section, a reference to the service of a notice or other document pursuant to this Act includes the giving of that notice or other document and a reference to the giving of a notice or other document pursuant to this Act includes the serving of that notice or other document.

(2) Unless otherwise specified in this Act, any notice or other document that is required to be served pursuant to this Act or in any proceeding or matter under the jurisdiction or control of the director must be served:

(a) in the case of service on a tenant other than a former tenant:

(i) by personal service on the tenant; or

(ii) by posting the notice or document on the front door of the tenant's rental unit and by serving the notice or document by registered mail, by ordinary mail or in electronic form;

(b) in the case of service on a former tenant:

(i) by personal service on the former tenant;

(ii) by registered mail; or

(iii) in electronic form;

(c) in the case of service on a landlord:

(i) by personal service on the landlord or the landlord's agent or the landlord's attorney mentioned in section 83;

(ii) by ordinary mail addressed to the address of the landlord provided pursuant to clause 19(1)(e); or

(iii) in electronic form; or

(d) by any other prescribed means.

(3) Unless otherwise specified in this Act or the regulations, notices required by this Act to be served must be in writing or, if provided in electronic form, must be:

(a) provided in the same or substantially the same form as the written notice or document required by this Act or the regulations;

(b) accessible by the other person; and

(c) capable of being retained by the other person so as to be usable for subsequent reference.

(4) A notice or document served by registered or ordinary mail is deemed to have been served on the third business day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of his or her own, the person did not receive the notice or document or received it at a later date.

(5) A notice or document that is given in electronic form is deemed to have been given on the business day following the date on which it was sent unless the person to whom it was sent establishes that, through no fault of his or her own, the person did not receive the notice or document or received it at a later date.

(6) Notwithstanding subsections (2) and (3), a hearing officer may make any order the hearing officer considers reasonable and in the interests of justice respecting service of notices for hearings pursuant to section 70.

(7) Notwithstanding subsection (2), a tenant may serve a notice intended for a landlord on the director if:

(a) the tenant satisfies the director that the tenant cannot reasonably locate the landlord or that the landlord did not provide an address pursuant to clause 19(1)(e); or

(b) the landlord is a non-resident landlord and does not have a valid attorney as required by section 83.

(8) A notice or other document required to be served on the director may be served:

(a) by leaving it at the Office of Residential Tenancies with any person appearing to have authority to accept the notice or document;

(b) by registered mail addressed to the address of the Office of Residential Tenancies;

(c) by fax to the Office of Residential Tenancies;

(d) in electronic form to the Office of Residential Tenancies; or

(e) by any other prescribed means.

"Order respecting service

82.1(1) Notwithstanding that service of a notice or other document does not comply with this Act, a hearing officer may order that the service is sufficient if, in the opinion of the hearing officer, the notice or other document came to the attention of the person to be served.

(2) Notwithstanding that a hearing officer has ordered that a person has been sufficiently served pursuant to subsection (1), that person may bring evidence to prove that the person was not served or was served on a later date.

(3) For the purposes of subsection (2), the person mentioned in that subsection may apply pursuant to section 70 for:

(a) an adjournment;

(b) an extension of time; or

(c) a rehearing of an application**".**

Coming into force

26 This Act comes into force on proclamation.