



Landlord's Self-Help Centre

A community legal clinic funded by Legal Aid Ontario

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August 31, 2007

Ontario Human Rights Commission
Policy and Education Branch
180 Dundas Street West, 7th Floor
Toronto, Ontario
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Re: Human Rights and Rental Housing in Ontario Consultation

Landlord's Self-Help Centre is a specialty community legal clinic funded by Legal Aid Ontario. We are mandated to provide information and support services for landlords and homeowners on a non-profit basis, educate members of the community in landlord and tenant relations and assist such persons in their dealings at various governmental levels.

Landlord's Self-Help Centre assists 10,000 Ontario landlords annually by providing information and advice related to issues that arise throughout the course of a tenancy. The majority of inquiries received by the Centre focus on non-payment of rent issues, however many relate to issues of tenant screening, tenancy relations, navigating through conflict and disputes, abandonment and applications to the Landlord and Tenant Board. In addition to providing summary advice services the Centre offers a membership program which currently consists of 685 members.

The landlords served by the Centre typically represent the secondary rental market which includes owners of rental units located in houses, duplexes, triplexes, converted houses, apartments over stores and second suites in owner occupied houses. This type of rental accommodation is estimated to represent 20% of rental housing stock in Toronto. It is also regarded as unstable housing stock because secondary rental units move in and out of rental status in response to personal circumstances and market conditions.

The clients served by the Centre do not possess infinite knowledge of the regulatory environment which governs their rental relationship. In fact, many have hurriedly become landlords to generate the income required to sustain property ownership without first gaining a clear and concise understanding of the legal obligations they have assumed.

The comments and suggestions we are providing are made on behalf of the small-scale landlord community served by the Centre. We've encouraged our client constituency and membership to participate in this consultation opportunity as we believe their comments would add another dimension to the discussion.

Raising Public Awareness

The Commission has asked “*What can be done to raise public awareness about human rights issues in rental housing and to more effectively combat discrimination in this area?*”

In July 2005, Landlord’s Self-Help Centre responded to the Commission’s “Human Rights and the Family in Ontario” consultation and suggested the Commission invest in a comprehensive educational program aimed at the secondary rental market.

We urge the Commission to develop a multi-faceted educational campaign aimed at all landlords with a particular focus on the small-scale landlord because:

- a) Small-scale landlords are typically unaware of the onerous regulatory environment which governs Ontario’s residential rental industry, as few take the time to fully research and learn about the legal commitment they make as a residential landlord; and
- b) The landlords who rent one or two units often do not benefit from the same networking and educational opportunities as their large-scale counterparts because they do not belong to a landlord association.

Landlord’s Self-Help Centre suggests an education campaign consisting of various media including print, electronic, posters, radio and television will have a dramatic impact on raising awareness of both landlords and tenants. The program could be supported by strategic partnerships to utilize existing infrastructures within organizations that are key to reaching targets such as community agencies, legal clinics, the Landlord and Tenant Board, Municipal Property Assessment Corporation, local governments and municipal services. Partners would promote and/or participate in educational programs as well as distribute materials.

We strongly recommend that OHRC support any education campaign through the establishment of a dedicated information hotline for both landlords and tenants. A telephone hotline service would enable landlords and tenants to acquire specific information and position the Commission to respond directly in housing related inquiries, and potentially defuse disputes and conflicts.

Discrimination in Rental Housing

▪ Tenant Screening

The process of screening prospective tenants is a fundamental business practice for any landlord, large or small and is founded on the standard business practice of risk management. All businesses undertake some form of risk management and in the renting business the use of a standard tenant screening process is a crucial function to stave off the potential for financial loss. The three key reasons landlords screen prospective tenants are:

- I. To determine whether a prospective tenant can live up to their responsibilities including the payment of rent on the due date, maintaining the rented premises in accordance with the tenancy agreement (responsible for ordinary cleanliness, damage, etc.) and able to reside in

an environment with others, landlord or other tenants, without interfering with their enjoyment of the premises;

2. Landlords have an obligation to other tenants occupying the rental property to ensure they are not at risk for the loss of their enjoyment, safety, lawful right or privilege of the rented premises and complex; and
3. Finally, small-scale landlords are targets for “professional tenants” whose aim is to secure rental accommodation fraudulently. Typically, small-scale landlords are not renowned for their comprehensive screening process and are frequently victimized by persuasive individuals who are able to convince a landlord to abandon their better judgment by foregoing their selection process and creating a tenancy agreement.

Landlords must have the ability to utilize specific “indicators” in the tenant selection process. Legitimate considerations when assessing a prospective tenant include: rental history provided by previous landlords; credit references and authorization to conduct a credit check; personal references; income information; security deposit equal to one rent period; and in some circumstances a guarantor.

These are reasonable and legitimate business practices because, with the exception of a rent deposit, a comprehensive tenant screening process is the only security Ontario landlords are afforded when renting a residential unit. A poor choice of tenant could reasonably send a small-scale landlord down the road to financial ruin with the loss of three months rent.

The landlord patiently waits for payment. A frustrated landlord initiates the legal process when the tenant defaults for a second consecutive month. The landlord faces a significant financial loss which is comprised of lost rent; a lengthy legal process that typically lasts from 8 to 12 weeks; and filing and enforcement fees which total just under \$500.

▪ **Interpretation of O. Reg. 290/98**

Regulation 290/98 under the Human Rights Code provides a framework for the use of acceptable business practices or tools a landlord may employ when selecting a tenant. Landlord’s Self-Help Centre believes that there is no need to change the current interpretation of O. Reg. 290/98 and no need to amend the regulation.

▪ **Failure to Accommodate Needs**

The client constituency served by Landlord’s Self-Help Centre, for the most part, represent the secondary rental market. This market consist of rental units located in houses, duplexes, triplexes, converted houses, apartments over stores and second suites in owner occupied houses. This type of rental accommodation is estimated to represent 20% of

rental housing stock in Toronto. Historically, the rental rates for these units are 15 to 20% lower than large rental complexes.

Owners of secondary rental market units are motivated to rent to earn the income to supplement the cost of ownership. In many instances they do not have the financial resources

to meet the requirements of the Ontario Human Rights Code with respect to the landlord's duty to accommodate.

The majority of small-scale landlords are not financially able to meet the costs related to the renovation or modification of a rental unit to accommodate a tenant with a developing disability. If a tenant develops a physical or mental disability which impacts other tenants through disruptive behaviour or disturbances, the landlord must address the situation.

Ontario landlords are duty bound under the *Residential Tenancies Act* to take action to ensure all tenants have reasonable enjoyment of the rented premises. If unable to resolve issues the landlord may have no choice other than seeking termination of the tenancy at the Landlord and Tenant Board, as the tenants who have been deprived from their reasonable use and enjoyment of the premises have a variety of options to enforce their rights.

The landlord's duty to accommodate requirement further contributes to the instability of housing stock in the secondary rental market. Currently, the market is considered volatile as units move in and out of rental status depending on market conditions and personal circumstances. Navigating the regulatory minefield is further compounded when a small-scale landlord is faced with the prospect of excessive renovation costs, legal costs and/or loss of rent it is not unreasonable to suggest that landlord would either sell the property or opt out of the residential rental business. The Commission must work toward balancing the rights of tenants and landlords.

In closing, Landlord's Self-Help Centre appreciates the opportunity to participate in the Human Rights in Rental Housing in Ontario consultation by representing the concerns of our small-scale landlord constituency.

Should the Commission move forward with a campaign to raise public awareness to human rights in housing issues, Landlord's Self-Help Centre is able to assist the Commission in reaching our small-scale landlord client community and membership.