

Feedback on Proposed Changes to Help Protect Tenants from Bad Faith Evictions

Submission to Ontario's Regulatory Registry

May 21, 2023

Ontario's Regulatory Registry
residential.tenancies@ontario.ca

Dear members of the Ontario Regulatory Registry,

Re: Feedback on Proposed Changes to Help Protect Tenants from Bad Faith Evictions

I am writing on behalf of the Canadian Centre for Housing Rights (CCHR) to provide feedback on the proposed changes to the *Residential Tenancies Act (RTA)* to help protect tenants from bad faith renovation evictions.

CCHR is Canada's leading non-profit organization working to advance the right to adequate housing. For over 35 years, we have worked tirelessly at the intersection of human rights and housing, providing free services to renters facing evictions and human rights violations to remain housed, providing education and training about housing rights across Canada, and advancing rights-based housing policy through research, policy advocacy, and law reform.

Ontario is in the midst of an affordable housing crisis. Skyrocketing rents, due partly to the negative effects of insufficient rent regulation, have meant that those searching for housing cannot find homes with affordable rents. At the same time, Ontario has seen a rise in renovation evictions, since 2015.¹ It is vital that tenants are protected from bad faith renovation evictions because in the current housing market, households who are evicted as a result of such evictions are at risk of experiencing precarious housing and homelessness. While it is encouraging that the province is proposing changes to the RTA to strengthen protections for tenants from bad faith renovation evictions, it is also necessary to tackle the issue of ineffective rent regulation in the long term. Currently, rent regulation measures allow landlords to raise the rent by any amount in a new tenancy. Unless this is addressed, landlords will continue to have an incentive to find different ways to wrongfully displace tenants so that they can raise the rent for a new tenant. Such absence of rent regulation in Ontario's RTA will continue to undermine housing affordability across the province and jeopardize renters' ability to live in secure rental homes.

Strengths of the proposed amendments to the RTA in Bill 97

We are encouraged that the government is aiming to protect tenants from evictions where a landlord falsely claims that they intend to do renovations which require vacant possession of a rental unit. We support the principle of requiring that landlords provide independent, objective evidence to support their claims.

We are also encouraged that the government is aiming to preserve tenants' right to return to their homes when renovations are finished. Currently, evicted tenants have a right of first refusal, but it can be difficult for them to exercise it in practice. Landlords are incentivized to illegally deny the right of first refusal as a way of raising rents for new tenants. This is a significant gap in the legislation. The proposed changes would help fill that gap by requiring landlords to notify tenants in writing of the estimated date by which rental units are expected to

¹ Advocacy Centre for Tenants Ontario, *We Can't Wait: Preserving Our Affordable Housing in Ontario*. Advocacy Centre for Tenants Ontario, 2019, https://www.acto.ca/production/wp-content/uploads/2019/11/FINAL_Report_WeCantWait_Nov2019.pdf

be ready for occupancy following repairs or renovations, and of any changes or delays, and providing a grace period for tenants to move back.

However, these amendments can be significantly strengthened through the following recommendations:

1. Independent, objective evidence should be required in own use evictions as well as renovations evictions.

Protecting tenants from wrongful eviction where a landlord falsely claims to be planning major renovations is an important goal. However, this is not the most common form of wrongful eviction in Ontario. The most common tactic that some landlords use to wrongfully evict tenants is to falsely claim that they require the unit for their own use or the use of a family member.

As it stands, the RTA only requires landlords to provide their own declaration to support a claim that they intend to move into a unit. Declarations are not independent or objective evidence, and have not been effective in deterring landlords from filing landlord's own use applications in bad faith. This loophole in the legislation must be addressed and Bill 97 provides the government with the opportunity to do so.

In effect, we urge the government to apply the same principle it is using to address renovation evictions to own use evictions: landlords should be required to provide specific, objective, independent evidence to confirm their intention to move into a rental unit.

2. Tenancies should not end during renovations.

While the proposed requirements that landlords notify evicted tenants of the status of renovations would be a step forward, they will not be sufficient to protect tenants from landlords who refuse to honour the right of first refusal. As long as rent for new tenancies remains unregulated, landlords will be incentivized to circumvent the law.

To ensure that tenants are properly protected, the RTA should be amended to provide that tenancies do not end during renovations. While carrying out renovations, landlords should not be relieved of their obligations to house their tenants. Where the renovations require vacant possession, landlords should be required to temporarily provide alternate housing.

There is broad support for a requirement that landlords house tenants during renovations. The City of Toronto has requested that the government implement such a requirement,² and noted that some British Columbia jurisdictions have already implemented it.³ In consultations with CCHR, tenants and other stakeholders have consistently identified this as a key requirement. Renovations should be carried out to improve the livability of tenants' homes, and to maintain and improve landlords' assets – not to replace tenants or illegally increase rents.

² City of Toronto, *Renoviction Policy - Creating a Framework to Protect Affordable and Mid-range Rental Homes and Deter Renovictions*, July 2022, para. 5(b), <https://secure.toronto.ca/council/agenda-item.do?item=2022.PH35.18>

³ *Ibid.*, Attachment 3 – Jurisdictional Scan.

3. Municipalities should determine whether repairs or renovations require vacant possession.

The proposed changes would stipulate that a landlord must provide a report from a “qualified professional” stating that the proposed renovations will require vacant possession. A report from a professional hired by the landlord would not constitute independent or objective evidence.

We recommend that municipalities carry out the assessment as part of their building permit process. Municipalities have the expertise and are a neutral body, as opposed to contractors or other private actors hired by landlords who stand to benefit financially from stating that the unit should be vacant to proceed with their work.

In consultations with CCHR, tenants and stakeholders have consistently expressed that renovation evictions should only be permitted where a building permit has been issued by the municipal government which specifies that vacant possession is needed to do the work.

4. The government should regulate rents in new tenancies to keep them at affordable levels.

The increase in instances of tenant displacement due to renovation evictions is driven by the absence of rent regulation on vacant units, which greatly incentivizes landlords not to honour tenants' right of first refusal. Allowing rents for new tenancies in Ontario to remain unregulated will continue to incentivize landlords not to let tenants move back into their renovated units, in favour of charging unregulated rent increases to new tenants. In addition to depriving tenants of their homes, this practice also contributes to skyrocketing rental rates and the loss of Ontario's affordable housing stock.

While it is important and valuable to strengthen protections for tenants against bad faith renovation evictions, it is also imperative that the government regulate the rents charged in new tenancies, to disincentivize landlords from not honouring tenants' right of first refusal and to preserve tenants' security of tenure and housing affordability.

It is important to consider the urgency of addressing bad faith evictions in Ontario through strengthening provisions in Bill 97. Eviction of renters is a threat to their security of tenure and Canada's ability to implement the right to adequate housing for all. Faced with skyrocketing rents in communities across Ontario, households who are evicted in bad faith experience housing precarity and are at risk of homelessness because they cannot find an affordable place to live. The proposed changes in this Bill would be a positive step in addressing some of the symptoms and outcomes of bad faith renovation evictions. However, to ensure that the changes are effective, we urge our government to also require independent, objective evidence in own use evictions, while also ensuring that tenancies are maintained during renovations, and that renovation evictions can only be carried out after an independent assessment by the municipality.

Further, a long-term solution to Ontario's rising rents and growing housing instability for tenants can only be achieved through implementing rent regulation on vacant units. This will address

the affordable rental housing crisis in the province and address the underlying incentive for many bad faith evictions and denials of the right of first refusal.

We would be happy to provide further input and discuss our recommendations.

Sincerely,



Dale Whitmore
Director of Law Reform
Canadian Centre for Housing Rights (CCHR)