

LEGISLATIVE RETURN



SUBMITTED BY: Hon. John Streicker

1. On _____,

- asked the following question during the Oral Question Period at page(s) _____ of *Hansard*
- submitted the following written question – WQ No. _____
- gave notice of the following motion for the production of papers – MPP No. _____

RE: _____

OR

2. This legislative return relates to a matter outstanding from discussion related to: *Residential Landlord and Tenant Act and the Residential Tenancies Office*
the budget debate for Vote 51, Department of Community Services *the Residential Tenancies Office*
on June 6, 2017 at page(s) 805-806 of *Hansard*.

- 1) "...if a problem has been identified and we know that it is going to be replicated, because it's a multi-unit situation, why is the office not able to do that reach-out? What part of the legislation says that, when they identify a mistake, that they're unable to contact the landlord to say, this is a mistake and it needs to be changed?" (p. 805)
- 2) "How do we empower the Residential Tenancies Office? Is that going to be a change in legislation, a change in direction? How do we give them the ability to actually address situations that they see coming up or that might affect multiple people, or is it going to have to be on a complaint-by-complaint basis? If we have an apartment building with 30 units, is every tenant going to have to come in and say, 'I have concerns with my lease?'" (p.805)"
- 3) "Now that the office has been open for the last year and a half, are there statistics of people accessing it — how many landlords, how many tenants, what the situation is?" (p.806)

The response is as follows:

- In situations of an egregious nature, where it is in the public interest, under section 70 of the *Residential Landlord and Tenant Act (RLTA)* the director may hold a hearing without receiving a formal complaint if:
“(a) the director becomes aware of a possible contravention of or failure to comply with [the] Act , the regulations, an order made under [the Act or a tenancy agreement,..”
While the director may initiate this process, there needs to be sufficient grounds for opening a hearing and concrete evidence must be submitted by parties in order to proceed.
- It is not standard practice for the Residential Tenancies Office (RTO) to review/edit tenancy agreements being drafted by landlords, as it would constitute legal advice, and put the independence/neutrality of the RTO at issue. When tenants have concerns about a tenancy agreement, they are asked to contact the RTO directly. Any provisions deemed not to be in compliance with the RLTA would be found to be of no force and effect in the event a dispute resolution application was filed.
- The RTO does provide information/education as to what the requirements of the RLTA are, and encourage landlords to use the standard form lease available at the RTO and online, which is fully compliant with the RLTA.
- Under s.73(1)(c) of the Act “The director has the authority to determine any other matter related to a contravention of or failure to comply with this Act , the regulations, an order made under this Act or a tenancy agreement.” In order for the director to ‘become aware of a contravention or failure to comply’, evidence must be provided to support the claim. All the evidence must be taken into consideration and **this requires that relevant information is provided by all parties involved**. As this is an adjudicative body similar to the courts, allegations must be supported by evidence.
- Should a public interest hearing result in a decision that affects tenants **and/or** landlords, the director may (under s.90(3)(c) of the Act) decide that it is in the interest and safety of the public to release the results of the hearing.

- The role of the Residential Tenancies Office (RTO) is to provide information about the *Residential Landlord and Tenant Act* and to **provide a formal legal resolution of disputes, similar to a court**. In the past, the Territorial Court heard landlord/tenant disputes. Landlord /tenant disputes are now heard by the RTO director and deputy directors. Like the courts, the director/deputy directors are required to provide impartial decisions.
- If a landlord and tenant are unable to resolve a dispute that is governed by the *Residential Landlord and Tenant Act*, either party can make an application for dispute resolution to the RTO. Each party is given the opportunity to submit and present evidence supporting their position, however the burden is on the applicant to prove their case.
- The RTO advises landlords and tenants that it is in their best interest to resolve/ mediate/ mitigate disputes among themselves prior to bringing them forward for formal dispute resolution to the RTO. Parties are free to try to resolve their matters right up until a hearing.
- Applications for dispute resolution can be filed by both landlords and tenants. These applications undergo an initial review, however, not all result in a hearing due to lack of information, early resolution, or voluntary withdrawal by the applicant. The approved applications generate hearings and on average, result in multiple binding orders per case. Hearings are routinely conducted over the phone for reasons of safety and expediency.
- Once an order is made by the director/deputy director, the successful party can file the order in the Supreme Court. The RTO is not involved in the enforcement of the director's orders. The successful party is responsible for enforcement of orders through the courts.
- Since January 2016, the Residential Tenancies Office has received **8,539** inquiries concerning issues such as security deposits, tenancy agreements, payment of rent, ending a tenancy, and application of the Act including general principles, rights and obligations of parties.

Description	Data collected since Jan. 2016
All Inquiries by Landlords	4,398
All Inquiries by Tenants	4,141
Application for Dispute Resolution (Hearing) – Landlord	63
Application for Dispute Resolution (Hearing) – Tenant	55
Applications Resolved by Early/Alternative Dispute Resolution	7
Applications Withdrawn	11
Applications for Appeal of Decision	4

- In addition to telephone hearings the RTO adjudicates case files where many matters are resolved without an oral hearing while still resulting in binding decisions. Since January 2016, 125 cases, which in the past would have gone to the courts, have been adjudicated by the RTO.

12 June, 2017

 Date



 Signature