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Government Bill

*1st Session, 64th General Assembly
Nova Scotia
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An Act to Amend Chapter 401 of the Revised Statutes, 1989, the Residential Tenancies Act

CHAPTER 36
ACTS OF 2021

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 5, 2021**

The Honourable Colton LeBlanc
Minister of Service Nova Scotia and Internal Services

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 401
of the Revised Statutes, 1989,
the Residential Tenancies Act**

Be it enacted by the Governor and Assembly as follows:

1 Subclause 2(h)(iv) of Chapter 401 of the Revised Statutes, 1989, the *Residential Tenancies Act*, as amended by Chapter 72 of the Acts of 2010, is further amended by striking out “hotel that is licensed under the *Hotel Regulations Act*” in the first and second lines and substituting “roofed accommodation registered under the *Tourist Accommodations Registration Act*, but only while it is being used as a short-term rental as defined in that Act”.

2 Subsection 9(1) of Chapter 401, as amended by Chapter 31 of the Acts of 1992, Chapter 40 of the Acts of 1993, Chapter 7 of the Acts of 1997 and Chapter 41 of the Acts of 2018, is further amended by striking out Statutory Condition 7 and substituting the following:

7. Notice of Entry - A landlord may enter the premises if the landlord has given the tenant notice of entry that

- (a) is in writing;
- (b) states the purpose of entry, which must be reasonable;
- (c) states the date and time of the entry, which must be between eight o'clock in the morning and eight o'clock in the evening, unless the tenant agrees to a different time;
- (d) is given by the landlord to the tenant at least twenty-four hours and not more than thirty days before the day of entry; and
- (e) is delivered
 - (i) using a method set out in subsection 15(2) of the Act, or
 - (ii) by text sent to a telephone number provided by the tenant for the landlord to provide notice of entry.

7A. Entry without Written Notice - A landlord shall not enter the premises without written notice unless

- (a) there is an emergency and the entry is necessary to protect life or property;
 - (b) the tenant gives consent at the time of entry;
 - (c) the tenant gives consent not more than thirty days before the entry;
- or
- (d) the tenant reasonably appears to have abandoned the residential premises.

3 (1) Section 10 of Chapter 401, as amended by Chapter 31 of the Acts of 1992, Chapter 40 of the Acts of 1993, Chapter 32 of the Acts of 1994, Chapter 7 of the Acts of 1997, Chapter 72 of the Acts of 2010, Chapter 70 of the Acts of 2011 and Chapter 41 of the Acts of 2018, is further amended by adding immediately after subsection (6B) the following subsection:

(6BA) Where the tenant makes an application to the Director under subsection 10(6A) and the Director decides not to set aside the notice to quit after holding a hearing in accordance with Section 17, the Director may order one or more of the following:

- (a) that the tenant vacate the residential premises;
- (b) that the tenant pay to the landlord all rent owing for the month in which the notice to quit was given and pay any rent in arrears for months previous to that month;
- (c) that the landlord retain the tenant's security deposit and interest to be applied against any rent found to be owing for the month in which notice to quit was given and for any rent found to be owing and in arrears for months previous to that month.

(2) Subsection 10(7B) of Chapter 401, as enacted by Chapter 72 of the Acts of 2010, is amended by

- (a) striking out “, 4 or 5” in the second line of clause (a) and substituting “or 4”;
- (b) adding “or subsection 9B(1)” immediately after “9(1)” in the second line of clause (a);
- (c) striking out “, 4 or 5” in the second line of clause (b) and substituting “or 4”;
- (d) striking out “or” in the third line of clause (b) and substituting a comma; and
- (e) adding “or subsection 9B(1)” immediately after “9(2)” in the last line of clause (b).

(3) Clause 10(8)(f) of Chapter 401 is amended by

- (a) adding “or” at the end of subclause (i); and
- (b) striking out subclause (ii).

4 Subsection 10A(3) of Chapter 401 is repealed and the following subsection substituted:

- (3) A tenant may change a year-to-year lease to a month-to-month lease
 - (a) by giving written notice to the landlord at least three months prior to the anniversary date of the lease; or
 - (b) where the tenant receives a notice of rent increase from the landlord, by giving written notice to the landlord at least three months prior to the effective date of the rent increase.

5 Clause 10A(4)(a) of Chapter 401, as enacted by Chapter 41 of the Acts of 2018, is amended by striking out “anniversary” in the second line.

6 (1) Section 10A of Chapter 401, as enacted by Chapter 40 of the Acts of 1993 and amended by Chapter 41 of the Acts of 2018, is further amended by adding immediately after subsection (4) the following subsections:

(4A) For the purpose of clause (4)(a), the date the change becomes effective is

(a) the anniversary date if the notice is given three months prior to the anniversary date; and

(b) the effective date of the rent increase if the notice is given three months prior to the effective date of a rent increase.

(4B) Where a tenant has exercised the tenant’s right under subsection (3) and changed to a month-to-month lease, the landlord shall not charge a rent amount that is more than the rent amount that would be payable by the tenant for the year-to-year lease.

(2) Subsection 10A(5) of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by striking out “licensed pursuant to the *Hotel Regulations Act*” in the third and fourth lines and substituting “registered under the *Tourist Accommodations Registration Act*, but only while the premises are being used as a short-term rental as defined in that Act”.

7 Chapter 401 is further amended by adding immediately after Section 10AA the following Sections:

10AB (1) Where the landlord and tenant mutually agree to terminate a tenancy for the purpose of demolition or making repairs or renovations to the residential premises, the agreement must be in writing and in the form required by the Director.

(2) Where the landlord and tenant do not mutually agree to terminate a tenancy under subsection (1), the landlord may make an application to the Director for an order under Section 17A directing the landlord to be given vacant possession of the residential premises on the date specified in the order, but not less than three months and not greater than twelve months from the date of the order.

(3) In an application under subsection (2), the landlord shall satisfy the Director that the landlord has all the necessary permits and approvals required by law and that the landlord in good faith requires possession of the residential premises for the purpose of

(a) demolition of the residential premises; or

(b) making repairs or renovations so extensive as to require a building permit and vacant possession of the residential premises.

(4) When making a decision on an application under subsection (2), the Director shall consider any vacant possession guidelines prescribed by regulation.

(5) A tenant whose tenancy is terminated by mutual agreement or by an order of the Director under this Section may, at any time before the date specified in the agreement or order, terminate the tenancy effective on a date earlier than the date

specified in the agreement or order but at least ten days after the tenant gives notice to the landlord to terminate the tenancy.

(6) For greater certainty, a landlord shall not terminate a tenancy for the purpose of demolition or making repairs or renovations to the residential premises except by mutual agreement or by an order of the Director under this Section.

10AC(1) In this Section, “residential complex” means a building in which one or more residential premises are located.

(2) A tenant whose tenancy is terminated by mutual agreement or by order of the Director under Section 10AB is entitled to compensation equal to the rent payable for

(a) the last three months, if the residential complex contains more than four residential premises; or

(b) the last month, if the residential complex contains four or fewer residential premises.

(3) Where a tenant continues to reside in the residential premises until the date specified in the agreement or order, the tenant is not required to pay rent to the landlord for the applicable compensation period set out in subsection (2).

(4) Where a tenant exercises the right to terminate a tenancy early under subsection 10AB(5), the landlord shall pay the tenant, on or before the effective date of the termination, any remaining compensation owing pursuant to subsection (2).

(5) Where the landlord provides other residential premises that are acceptable to the tenant, and the tenant agrees to enter into a lease with the same benefits and obligations as the current lease for those other residential premises, the tenant is not entitled to the compensation set out in subsection (2).

10AD Where a landlord fails to comply with the requirements of Section 10AB or 10AC, on application by the tenant under Section 13, the Director may make an order requiring the landlord to pay to the tenant the compensation required under subsection 10AC(2) and any one or more of the following:

(a) reasonable moving expenses incurred by the tenant, up to such maximum amount as may be prescribed by regulation;

(b) reasonable additional expenses incurred by the tenant, up to a maximum amount that is equal to one month’s rent payable under the lease; and

(c) all or a portion of the amount of increased rent that the tenant was obliged to pay under the tenant’s new lease for up to twelve months.

10AE Notwithstanding Section 10, where a tenant in a year-to-year tenancy receives notice of a rent increase under Section 11, the tenant may terminate the tenancy by giving the landlord notice to quit, in the form prescribed by regulation, at least three months before the effective date of the rent increase.

8 (1) Subsection 11(2) of Chapter 401, as enacted by Chapter 40 of the Acts of 1993 and amended by Chapter 72 of the Acts of 2010 and Chapter 70 of the Acts of 2011, is further amended by

(a) striking out “anniversary date” in the second line of clause (a) and substituting “effective date of the increase”;

(b) striking out “anniversary date” in the second line of clause (b) and substituting “effective date of the increase”;

(c) striking out “anniversary date” in the second line of clause (c) and substituting “effective date of the increase”;

(d) striking out the semicolon at the end of clause (c) and substituting a comma;

(e) striking out clause (d); and

(f) striking out “anniversary date” in the second last line and substituting “effective date of the increase”.

(2) Section 11 of Chapter 401, as enacted by Chapter 40 of the Acts of 1993 and amended by Chapter 72 of the Acts of 2010 and Chapter 70 of the Acts of 2011, is further amended by adding immediately after subsection (2A) the following subsection:

(2B) A landlord shall not give a notice of rent increase that provides for a different rent increase amount if the lease is renewed for a different type of term.

9 Subsection 11A(1) of Chapter 401 is repealed and the following subsection substituted:

(1) Where a landlord of a manufactured home space lease intends to increase the rent payable after the first twelve-month period, the landlord shall serve the tenant a notice in writing in the prescribed form and stating the amount and effective date of the increase seven months prior to the anniversary date, and in no case shall a landlord increase the rent to the tenant more than once in a twelve-month period or without proper written notice prior to the anniversary date in each subsequent year.

10 (1) Subsection 12(3) of Chapter 401 is amended by striking out “(6)” in the first line and substituting “12A(2)”.

(2) Subsections 12(5), (6), (7) and (15) of Chapter 401 are repealed.

(3) Subsection 12(16) of Chapter 401, as enacted by Chapter 40 of the Acts of 1993, is amended by adding “or Section 12A” immediately after “Section” in the second line.

11 Chapter 401 is further amended by adding immediately after Section 12 the following Sections:

12A (1) Subject to subsection (2), the security deposit, together with interest, must be returned to the tenant within ten days of the date of the termination of the lease.

(2) Where the landlord seeks to apply all or part of the security deposit and interest to outstanding rent or to expense incurred with respect to any damage for which the tenant is responsible and the tenant does not consent in writing, the landlord shall file a security deposit claim in the form prescribed by regulation with the Director within ten days of the date of the termination of the lease.

(3) A claim for damages from a security deposit must not include any costs associated with ordinary wear and tear of the residential premises.

(4) A claim filed with the Director pursuant to subsection (2) must also be sent to the tenant

(a) by registered mail, express post or courier to the tenant's new address, if known;

(b) electronically, if an electronic address for the tenant is indicated on the lease; or

(c) where the tenant's new address is not known and no electronic address for the tenant is indicated on the lease, by registered mail, express post or courier to the address for the next of kin, if indicated on the lease.

(5) Where the landlord does not file a security deposit claim form pursuant to subsections (2) and (4) within ten days of the date of the termination of the lease, the landlord is not permitted to make an application to the Director to retain the security deposit and shall return the security deposit to the tenant in accordance with subsection 12A(1).

12B (1) A tenant may make an application to the Director, in the form prescribed by regulation, under Section 13 to request the return of a security deposit.

(2) An application for the return of a security deposit under subsection (1) is limited to the issue of the disposition of the security deposit but may include a request for the costs of the application fee paid to the Director.

(3) Where the Director is unable to confirm that the landlord has filed a security deposit claim form under subsection 12A(2), the landlord has ten days from the date the tenant served the landlord with the tenant's application under subsection (1) to provide to the Director proof that

(a) the tenant consented in writing to the landlord retaining all or part of the security deposit; or

(b) the landlord filed a security deposit claim form with the Director within ten days of the termination of the lease.

(4) The landlord shall serve a copy of the documents provided to the Director under subsection (3) to the tenant by a method of service set out in subsection 13(2A).

(5) Where the Director is satisfied that the landlord filed a security deposit claim form with the Director as required by Section 12A or that the landlord has provided proof that the tenant consented in writing to the landlord retaining all or part of the security deposit, the Director may hold a hearing to determine the disposition of the security deposit.

(6) Where the landlord does not comply with subsection (3), or where the Director is not satisfied that the landlord filed the security deposit claim form with the Director as required or that the tenant consented in writing to the landlord retaining all or part of the security deposit, then, notwithstanding Sections 16 and 17, the Director may, without investigating and endeavouring to mediate a settlement and without holding a hearing, make an order requiring the landlord to

- (a) return the security deposit, together with interest, to the tenant; and
- (b) pay to the tenant the costs of an application fee paid to the Director, but no other costs associated with the application.

12 Subsection 13(2B) of Chapter 401, as enacted by Chapter 41 of the Acts of 2018, is amended by striking out “properly addressed and” in the last line.

13 Subsection 15(3) of Chapter 401, as enacted by Chapter 41 of the Acts of 2018, is amended by striking out “properly addressed and” in the last line.

14 Section 16 of Chapter 401, as enacted by Chapter 7 of the Acts of 1997 and amended by Chapter 41 of the Acts of 2018, is further amended by striking out subsection (2) and substituting the following subsections:

(2) Where a matter is settled by mediation, the Director shall make a written record of the settlement which is binding on the parties and not subject to appeal.

(2A) The written record of settlement prepared pursuant to subsection (2) must be signed by both parties, except, where both parties provide oral consent to the Director, the Director shall document the oral consent in the written record of settlement and sign it.

15 The heading immediately after Section 17F of Chapter 401 is amended by striking out “RESIDENTIAL TENANCIES BOARD” and substituting “DIRECTOR OF RESIDENTIAL TENANCIES”.

16 Subsection 26(1) of Chapter 401, as amended by Chapter 31 of the Acts of 1992, Chapter 40 of the Acts of 1993, Chapter 7 of the Acts of 1997, Chapter 10 of the Acts of 2002, Chapter 72 of the Acts of 2010, Chapter 70 of the Acts of 2011, Chapter 27 of the Acts of 2016 and Chapter 41 of the Acts of 2018, is further amended by adding immediately after clause (cq) the following clauses:

(cr) prescribing vacant possession guidelines to be considered by the Director in making a decision whether to grant an order giving a landlord vacant possession of residential premises to demolish, repair or renovate the residential premises for the purpose of subsection 10AB(4);

(cs) prescribing the maximum amount of moving expenses that may be awarded by the Director for the purpose of clause 10AD(a).

17 Section 2, subsection 3(1), Sections 4 and 5, subsection 6(1) and Sections 8 to 13 come into force on such day as the Governor in Council orders and declare by proclamation.
