



The Advocacy Centre

250.352.5777
fax: 250.352.5723

521 vernon st
nelson BC V1L 4E9

www.advocacycentre.org
advocacycentre@nelsoncares.ca

**Nelson CARES – The Advocacy Centre
Submission to the Residential Tenancy Task Force
July 5, 2018**

The Advocacy Centre is a program of Nelson CARES Society, a non-profit organization located in Nelson BC. The Advocacy Centre provides free legal advocacy to low income residents of the West Kootenays. As part of our work, we provide information to tenants about their rights and responsibilities and support them with problem solving, negotiating and exercising their legal rights.

We appreciate that the provincial government is taking an opportunity to review the rental housing system in BC. We have seen many excellent recommendations from organizations such as Access Pro Bono, Community Legal Assistance Society, the Tenants Resource and Advisory Centre and Together Against Poverty Society. Below are some of our thoughts for changes based on our experience working with tenants in our region.

Legislative Changes

Include provisions in the Residential Tenancy Act (RTA) for roommate arrangements

The following situations are currently not covered under the RTA:

1. A tenant shares the kitchen or bathroom with the property owner.
2. A “head tenant” rents out rooms to roommates; these roommates are not added to the tenancy agreement.

We recognize that these are unique situations and are not suggesting that all aspects of the RTA apply. However, we regularly meet with roommates who are evicted with little or no notice and who are denied access to their belongings. This is a particular hardship if those belongings include things like ID and medications. The police are generally reluctant to get involved. The only recourse is through the Civil Resolution Tribunal, which is not very responsive to urgent situations.

We would like to see limited provisions in the RTA to lessen the worst aspects of unexpected evictions in these circumstances. For example, legislative provisions giving roommates evicted by a homeowner/head tenant the right to access critical documents (like ID) and medication regardless of the way the tenancy arrangement comes to an end, with some mechanism for immediate enforcement.

Tie rent controls to the unit, not the tenant

We feel this would help to address two issues we see regularly in our work:

1. Rents increasing faster than incomes, leaving people struggling to find housing they can afford.
2. Landlords who issue evictions in bad faith in order to be able to raise the rent beyond what would be allowable if they maintained the same tenant.

The current disconnect between rental housing prices and incomes is untenable. According to Stats Can, in 2016 46.7% of renters in Nelson were paying more than 30% of their income on shelter costs. We see more and more people struggling to find housing they can afford, and the rents keep going up. While the issue of affordability must be addressed on many levels, including government investment in affordable housing, we do feel that tying the annual limit on rent increases to the unit rather than the tenant would help mitigate this situation. It would also reduce the financial incentive for bad faith evictions issued to get around the current rent controls.

Require landlords to provide a written warning to tenants before issuing a one month notice to end tenancy for cause

Fairness dictates that tenants who face eviction for cause should be given notice of the issue and a reasonable time to rectify the situation before being evicted. The best way to ensure this happens is to require landlords to provide a written warning before issuing a one month notice for cause. This requirement could include exceptions in the case of violence or clear criminal activity, perhaps similar to the provisions in section 56 of the RTA that allow landlords to apply to end a tenancy early in extenuating circumstances.

Add provisions to the Manufactured Home Park Tenancy Act to allow more time to move/sell manufactured homes following evictions

Evictions from manufactured home parks require that the tenant remove the home or sell it and assign the tenancy to a new owner. Both of these take time. Often the mobile home is the tenant's only asset. It would be helpful if there was a way that tenants could ask for more time if they need it following an eviction to move or sell their mobile home rather than abandon it or have it seized by the landlord.

Policy/Procedural Changes

Carry out more timely dispute resolution hearings

Landlords and tenants may have to wait months for hearings that are not related to evictions/orders of possession. Even eviction hearings are typically scheduled after the effective date of the eviction notice. Dispute resolution is the ultimate mechanism for landlords and tenants to exercise their legal rights if they cannot work things out on their own. However, this mechanism is not very effective if landlords and tenants have to wait too long for a hearing. For example, if a tenant whose landlord has not fixed their stove has to wait two months for a hearing to get a repair order, they may just give up and pay for the repair themselves.

Increase capacity of the RTB to provide “direct intervention”

Some situations are urgent and require immediate intervention, for example, if a tenant has been illegally evicted, is left homeless and cannot access their belongings. Police are not equipped or prepared to intervene. It would be helpful if the RTB expanded its capacity to intervene in urgent situations.

Require landlords to submit evidence first where a tenant is disputing an eviction notice

In most dispute resolution hearings, the onus is on the applicant to prove their case. The applicant has until 14 days before the hearing to serve any evidence. The respondent is given more time so they can respond to the applicant’s evidence (7 day before the hearing).

This does not make sense where a tenant applies to dispute an eviction notice. In this case, the onus is actually on the landlord to prove their case. Tenants frequently are not clear on why they are being evicted; the standard Notice to End Tenancy does not require landlords to provide much detail. The tenant is at a disadvantage in preparing their case if they do not know the case against them. In dispute resolution hearings where a tenant is disputing an eviction notice, the landlord should have until 14 days before the hearing to provide evidence, and the tenant should have more time to respond.

Other

Provide more supports for tenants with mental health issues to maintain their tenancies/deal with tenancy issues

Frequently we see tenants who are facing eviction primarily due to behaviours related to mental health issues or who cannot exercise their tenancy rights due to their mental health issues, so are vulnerable to abuses. Housing is central to everyone’s health and well being, and even more so for people with mental health issues. We would like to see more supports to enable people who have mental health issues to maintain their housing.



Amy Taylor
Manager, The Advocacy Centre