

Both tenants, landlords exasperated by delays at Ontario's rental dispute resolution tribunal

Shane Dingman :: 5/18/2022



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It's rare when tenant activists and landlord groups sing from the same hymn book, but both sides are warning that ongoing chaos at the Landlord and Tenant Board (LTB), Ontario's rental dispute resolution tribunal, is causing some parties to abandon it altogether.

"There's a growing mistrust of relying on the system," said Douglas Kwan, director of advocacy and legal services at the Advocacy Centre for Tenants Ontario (ACTO), who is hearing more and more complaints from tenants that they were locked out of their apartments – illegally – in the middle of a landlord dispute.

“Keeping people from being illegally evicted is one of the primary reasons we have the LTB, and when the board isn’t operating properly, the whole system – of affordable housing and access to justice – fails.”

Landlords are furious too, with small-landlord advocacy groups sharing stories of individuals selling their second (or third or fourth) homes after unsuccessful attempts to use the LTB to resolve disputes.

Susan Beck had owned and rented out a house in Toronto’s east end for 10 years when she received the unwelcome news in 2020 that the foundation was crumbling and a major renovation was needed to fix it. Her tenant, a yoga instructor who was out of work due to pandemic restrictions, was already behind on the rent in October, 2020, when Ms. Beck sent her an N13 notice – a notice to evict due to renovation.

“Then she stopped paying rent altogether. ... We also filed for an expedited hearing because we didn’t want the house to fall down. [The LTB] denied us,” she said. A hearing was scheduled for February, 2021, but was cancelled and never rescheduled. Ultimately, after Ms. Beck listed the house for sale and her tenant moved out of her own accord in June, 2021 – leaving behind an unpaid rent bill of more than \$16,000. “We sold it in November: it was one of the lowest prices for a home sold in 2021. ... I breathed a sigh of relief that it isn’t my issue any more.”

Since 2018 the LTB has tracked how long the average wait for a hearing on a landlord application to collect late rent or evict for non-payment of rent. The goal is 25 days, but in 2020-2021 only 1 per cent of applications met that goal; the average was 131 days. The percentage of cases that see a hearing in less than 25 days has dropped precipitously from 35 per cent in 2018.

Somehow things have gotten more dysfunctional at the LTB despite far fewer applications for eviction coming to it in 2020-2021. Since 2011, there have been more than 70,000 applications of all types annually but in 2020-2021 there were only 48,422 applications.

In 2018-2019 there were 82,095 applications for adjudication; the vast majority (65,559) were brought by landlords seeking to evict a tenant. Almost 57 per cent of all applications were resolved by a hearing, most of the remainder was split between mediation and the applicant withdrawing the complaint. In 2021, 37,063 eviction applications were brought by landlords but 30 per cent of all applications were withdrawn, only 40 per cent got a hearing and another 14 per cent were resolved through mediation. In 2018-2019, 14,726 applications had to be carried over to the following year; in 2020-2021 there were 34,731 cases awaiting resolution by year-end.

The Progressive Conservative government promised in its pre-election budget to spend another \$4-million to fix the LTB’s backlogs, but Mr. Kwan said it’s not what you spend but how you spend it.

“We’ve never had more staff at the LTB,” he said, with the number of adjudicators rising from 66 to 80 over the life of the current government. However, half of the new adjudicators are part-timers, many don’t have expertise in landlord tenant law and a number have been cross-appointed to other tribunals. In 2018, there were 55 full-time adjudicators and 11 part timers at the LTB. Today, there are more total staff but only 39 are full-timers and 49 are part timers. The staffing reshuffle has helped Tribunals Ontario – the province’s umbrella organization that adjudicates for the LTB and other tribunals – to save money, with compensation for full- and part-time staff falling almost \$6-million from \$29-million in 2018 to \$23.6-million in 2021.

But the single largest cause for delays has been the move since late 2020 to conduct all the tribunal's hearings online instead of an in-person setting, Mr. Kwan said.

"It truly is an experiment that really has failed completely," Mr. Kwan said. Even with more adjudicators, there are now 28-per-cent fewer hearings according to ACTO's tracking. He describes many faults with the digital hearings – from technical problems that restrict access to persistent scheduling issues – and says multiple adjournments for a single file have become common. "Digital's not the answer for everything. ... Not for a tribunal that's the busiest in the province that relies on the adversarial system; not for a tribunal where the majority of tenants are impoverished or low-income," he said.

Some landlords, too, are thinking twice about investing in a system that is so difficult to navigate.

In the 20 years since her husband died, Sabiha Altaf has relied on four houses in Ottawa and one in Toronto she was renting out to provide her income. For the most part, it was without incident, but in 2021 she began to have issues with late payment from one of her tenants. At first she tried to resolve the issues personally, but said she faced verbal abuse. Then she hired a paralegal to seek an eviction at the LTB, which was delayed and adjourned for weeks on end. "It was just mental torture," Ms. Altaf said. "The [Rental Tenancies Act] is so grey even if you read it ... at 70 I don't comprehend stuff as well as some others do." Last August, she sold the property to a realtor who she believes is still tied up with the original tenant at the LTB.

"If I had known at that time when I was much younger, I would have thought 10 times about it," she said about becoming a landlord. Far from reinvesting the money from the sale, she's thinking about selling all her properties. "I had enough [money] to buy, but believe you me, I don't dare buy a new home."

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