

HAMILTON COMMUNITY LEGAL BRIEFS

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An Information update from Hamilton's Community Legal Clinics

Speak Out On Affordable Housing

*Bob Wood, Community Development Coordinator
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Have you got something to say about affordable housing?

Minister of Housing, Jim Watson, wants to hear your views.

He'll be in Hamilton Thursday September 10th from 6:30 - 9:30 p.m. at the Ukrainian Catholic Church of the Resurrection, 821 Upper Wentworth as part of a province wide consultation visiting twelve cities.

What will the Minister hear?

"The government needs to establish a housing strategy to reduce and eventually eliminate the number of Ontarians living in unaffordable housing situations," says Jeff Wingard, Senior Planner at Hamilton's Social Planning and Research Council.

Such a strategy would address the affordability and availability of affordable housing and put in place

supports, programs and protections to help all Ontarians equitably access and maintain adequate affordable housing. Firm targets and timelines are a must too, notes Wingard.

About one in five Hamilton residents pay more than half of their income on rent. Waiting lists for subsidized housing are long.

Veteran housing activist Bill Mederios hopes people will come out and tell their stories.

"I want the Minister to know that creating and maintaining stable, equitable accessible and adequate affordable housing is just good social policy."

If you can't make the meeting you can also make input on line at www.ontario.ca/housingstrategy.

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Tenant Duty Counsel Dispels Landlord and Tenant Law Myths

Reprinted from the Newsletter of the Advocacy Centre for Tenants Ontario (ACTO)

Hundreds if not thousands of tenants every year come into the Tenant Duty Counsel office with serious misinformation about their rights and responsibilities. There seem to be lots of "landlord/tenant myths" floating around out there, which affect the quality of tenants' lives and their sense of options and choices about their housing.

Here are some of the most common myths and the realities:

Tenants **can be evicted** and locked out by the Court Enforcement Office **at any time of year**.

The rent deposit **can only be used** for the last month that the tenant lives in the rental unit. It will not be applied against rent owing when the tenant falls short of making the rent payment.

The landlord **cannot** legally make the tenant pay rent through **post-dated cheques**. If the landlord does this, the tenant can take the post-dated cheques back.

Tenants **are allowed to have pets**, no matter what was agreed to at the beginning of the tenancy (either in the lease or orally).

Tenants **have the right to have repairs made** by the landlord even if they agreed to rent a substandard rental unit "as is".

Anything that is in the tenancy agreement, either written or oral, which is not included in the *RTA* (e.g. no guests, no roommates, curfew restrictions, damage deposits) is **illegal** and cannot be enforced by the landlord.

Tenants who withhold rent run a serious risk of being **evicted for non-payment of rent**. Even if there is disrepair in their unit or the tenant has spent money to fix problems with the rental unit, the Landlord and Tenant Board may not agree that the withholding was justified. In that case, the Board will issue a standard order giving the tenant eleven days to pay **all the arrears**. If the Board agrees that the withholding was justified, it can deduct what the landlord should pay from what the tenant owes. But the tenant may still have just a short time to make up any shortfall. It is safer to pay the rent and apply to the Board (on Form T6) for a refund or for advance permission to fix problems, although the application fee of \$45.00 can be a barrier for some tenants.



ODSP Practice for Persons with Addictions

*Dianne Wintermute, Staff Lawyer
ARCH Disability Law Centre*

A recent decision by the Divisional Court in the on-going case of *Director v. Werbeski and Tranchemontagne* has had a positive impact on how applications for Ontario Disability Support Program (ODSP) benefits for persons with addictions will be assessed.

In the past, people whose only medical condition was an addiction were excluded from receiving ODSP under the law. However, as was reported in the May 2009 edition of *ARCH Alert*, in the recent *Werbeski/Tranchemontagne* decision, the Court said that not only are addictions disabilities, but also to deny people ODSP benefits because their sole condition is an addiction is discriminatory, and contrary to the *Ontario Human Rights Code*.

The Government has sought leave to appeal this decision to the Ontario Court of Appeal.

However, unless leave is granted and the decision of the lower court is overturned, people who may not have previously qualified for ODSP benefits because their only medical condition was an addiction may now qualify for benefits.

If you have already applied for ODSP benefits and have appealed a denial of

those benefits to the Social Benefits Tribunal (SBT), you may want to make sure that you have provided enough evidence to both the SBT and the Disability Adjudication Unit (DAU) to show that the addiction is a substantial one that has lasted more than one year and has a substantial impact on your ability to take care of yourself or function in the community or function in the workforce. If you have not applied for ODSP benefits in the past because you were told that you could not, then you may want to apply for benefits now.

Unfortunately, it is not clear what will happen to people who applied and whose appeal was denied because in the past, addictions were not considered to be a disability. ARCH is working with other community legal clinics to determine what will happen in those kinds of cases.

All cases that involve addictions and that are scheduled to be heard by the SBT are being adjourned to give the Disability Adjudication Unit an opportunity to develop criteria by which to adjudicate addictions cases. The plan is to have the criteria in place by fall 2009, and then the cases will be scheduled to be heard. The DAU is sending letters to people who have applied, advising them of the postponement of their appeal. However, the letters may be confusing. ARCH urges you to contact your local community legal clinic for assistance with these cases.

Coalition Calls for Changes to By-Law

*Bob Wood, Community Development Coordinator
- McQuesten Legal and Community Services*

Coalition of Residential Care Facilities Tenants has asked the Board of Health to make further changes to the by-law that regulates the 97 facilities in Hamilton.

The coalition is run by and for people who live in the city's residential care facilities (formerly known as second level lodging homes). Members of the coalition have spent more than a fifteen years advocating for facility residents, particularly with regard to the issue of sustaining and improving living conditions and people's quality of life at home and in the community.

An earlier draft of the new by-law that came out in February had weak enforcement measures; was missing a confidential complaint process; and didn't mention the need for secure storage for tenant's belongings.

According to committee Chair Lance Dingman the latest draft amending by-law shows significant progress in dealing with these concerns.

- It addresses tenants' security concerns by ensuring secure storage space for each individual tenant.
- There is clear direction outlined on how to make a complaint.

- Proactive inspections will be taking place.

Community consultation has resulted in improvements. But there is still much more that can be done.

Dingman noted that that this new draft requires that a bedroom is provided with a door.

"Not only should tenants have a door, we believe, every tenant should be entitled to a door **that will lock.**"

Doesn't seem like a lot to ask for, does it?

It is anticipated that the new amended bylaw will be back to council in the next couple of months.

Find out more about the Coalition at www.rcftenants.ca

Human Rights: Discrimination is Against the Law

In 2008, Ontario's Human Rights system changed dramatically. How is the new system working? Bring your questions on:

Thursday September 24th 4 - 6:00 p.m.
at the Art Gallery of Hamilton.

Special Guest Speakers: **Sharmaine Hall** and **Lesley Brook** from the Human Rights Legal Support Centre

To be followed by the Annual General Meetings of Hamilton's three community legal clinics.

