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Communication
Intergovernmental Relations
Sub-Committee – April 8, 2024
Item No. 6

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TO: Intergovernmental Relations Subcommittee

FROM: Fahim Khan, Public Policy & Research Specialist, Economic Development
CC: Maria Papadopoulos, Program Manager, Strategic Economic Initiatives
CC: Michael Genova, Chief, Communications and Economic Development
CC: Raphael Costa, Director, Economic Development

RE: Information on the Landlord Tenant Tribunal

HIGHLIGHTS:

- The Landlord-Tenant Board (LTB) is Ontario's busiest tribunal. Since 2019, the backlog of LTB applications has grown to over 53,000. The average wait time for an order on an arrear eviction is currently 342 days. The average wait time for tenant applications from filing to order is 427 days.
- The move to digital hearings in multiple simultaneous province-wide hearing blocks has many negative impacts including reduced access to mediation and fewer pre-hearing settlements, reduced access to tenant duty counsel services at LTB hearings, and diminished Legal Clinic resources for low-income tenants. Regional in-person hearings may be re-established to address the current backlog to facilitate mediation and early settlements.

BACKGROUND

Landlord-Tenant Board is Ontario's busiest tribunal. Since 2019, the backlog of LTB applications has grown to over 53,000. The average wait time for an order on an arrear eviction is currently 342 days. The average wait time for tenant applications from filing to order is 427 days.

The backlog of LTB applications has grown from 14,000 over the last few years. The average wait time for an order on an arrear eviction used to be about 32 days while for tenant applications – from filing to order – was 70 days. LTB now has 128 adjudicators (70 full-time and 58 part-time) compared to 53 adjudicators (44 full-time and 9 part-time) six years ago. When a member of the public tries to call the LTB seeking assistance, they now wait more than three times as long on hold as compared to the average wait time reported in 2018-19 despite LTB now answering only half the number of calls.

The move to digital hearings in multiple simultaneous province-wide hearing blocks has many negative impacts including reduced access to mediation and fewer pre-hearing settlements, reduced access to tenant duty counsel services at LTB hearings, and diminished legal clinic resources for low-income tenants.

The pandemic resulted in a freeze in evictions, but the large increase in the backlog cannot be attributed to COVID-19 alone. Rather, there was a 40 percent drop in the number of new applications in 2020-21, and the numbers have not returned to pre-pandemic levels yet.

The decision to move predominantly to video/telephone hearings is another reason for the growing backlog of cases. Tribunals Ontario closed 44 regional LTB hearing locations where

landlords and tenants were previously able to obtain assistance from LTB staff, eliminating many errors that now lead to delays. The electronic hearing model struggles to manage a high-volume tribunal that involves many parties with no legal representation and limited digital literacy.

The room for mediation is limited in the electronic hearing format, particularly when one party (generally the tenant) is on the phone and the other (generally the landlord) is participating via Zoom. When hearings were conducted locally and in person, up to 30 percent of matters would settle on the hearing day without the need for adjudication. All parties used to benefit from the in-person presence of local legal clinic lawyers, acting as tenant duty counsel. Approximately 60 percent of all applications are arrears evictions. In the past, clinic duty counsels in attendance at local hearing centres could assist unrepresented tenants to avoid eviction by negotiating re-payment plans for outstanding arrears.

As documented by the Ombudsman, the hearing process is often chaotic. Parties lose audio connection mid-hearing. The parties and adjudicators have difficulty sharing documents and evidence online. Parties participating by telephone struggle to effectively participate. Both the Ontario Bar Association and the Canadian Bar Association have separately cautioned about the potential negative impact of imposing an almost-mandatory digital format for people living in poverty or facing other challenges to electronic participation. Over 90 percent of tenants are not represented by counsel. The current LTB system of scheduling simultaneous blocks of provincewide, electronic hearings means that legal clinic lawyers spend an enormous amount of time sitting in on virtual block hearings with multiple applications, attempting to identify and connect online and by telephone with tenants who need immediate legal assistance at their LTB hearing. This has reduced the capacity of legal clinics to provide tenant households with in-depth representation at hearings before the LTB.