

**Residential  
Tenancies Branch**

**Annual Report  
2006**



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**MINISTER OF  
FINANCE**

Legislative Building  
Winnipeg, Manitoba, CANADA  
R3C 0V8

His Honour the Honourable John Harvard, P.C., O.M.  
Lieutenant Governor of Manitoba  
Room 235, Legislative Building  
Winnipeg, Manitoba  
R3C 0V8

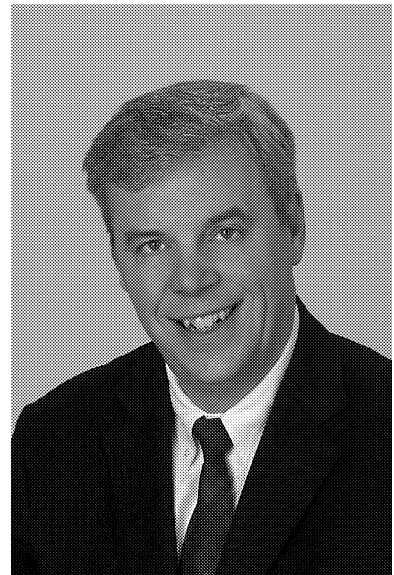
May It Please Your Honour:

I have the privilege of presenting for the information of your Honour, the Annual Report of the Residential Tenancies Branch on the administration of *The Residential Tenancies Act* for the year ending December 31, 2006.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Greg Selinger".

Honourable Greg Selinger  
Minister of Finance





**Finance**

Residential Tenancies Branch

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Honourable Greg Selinger  
Minister of Finance  
Room 103, Legislative Building  
Winnipeg, Manitoba  
R3C 0V8

Dear Sir:

I have the honour of submitting the Residential Tenancies Branch Annual Report on the administration of *The Residential Tenancies Act* for the year ending December 31, 2006.

Respectfully submitted,

Roger Barsy  
Director  
Residential Tenancies Branch

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## INTRODUCTION

The Residential Tenancies Branch administers *The Residential Tenancies Act*, *The Life Leases Act* and *The Condominium Act*.

The Residential Tenancies Branch:

- provides information to landlords, tenants and others on *The Residential Tenancies Act*, *The Life Leases Act* and *The Condominium Act*;
- investigates complaints of non-compliance with the legislation;
- mediates disputes between landlords and tenants;
- makes decisions on disputes between landlords and tenants about:
  - security deposits
  - repairs
  - terms and conditions of a tenancy agreement or life lease
  - the right to continue in occupancy
  - claims for compensation
  - privacy
  - non-payment of utilities
  - life lease entrance fees
- makes decisions on landlords' applications for rent increases above the guideline and tenants' objections to any rent increases
- investigates life lease rent increases (upon tenants' request).

*The Residential Tenancies Act* requires the Director of Residential Tenancies to submit a report on the administration of the *Act* to the Minister within six months of the end of each fiscal year. The reporting period for this report is the 2006 calendar year. The Branch operates three regional offices – Winnipeg, Brandon and Thompson. When the information is available, statistics on the activities of each of the Branch's offices are shown separately. Statistics for the 2005 calendar year are also provided when available, for purposes of comparison.

## **PARTS 1 – 8 OF *THE RESIDENTIAL TENANCIES ACT***

Parts 1 - 8 of *The Residential Tenancies Act* deal with all residential landlord and tenant matters, except rent regulation. Table 1 provides a statistical summary of the case activity of the Residential Tenancies Branch under Parts 1 – 8 of the legislation. The Branch opened 5,060 cases in the 2006 calendar year. An additional 1,159 active cases were carried over from the 2005 calendar year. A total of 5,459 cases were closed during 2006, leaving 760 cases active at year end.

The case count is reduced in 2006 as a greater number of these disputes are now being resolved informally by Client Services Officers and therefore do not result in a case file being opened. When a client comes to the Branch for assistance in resolving a dispute, they first meet with a Client Services Officer (CSO). The CSO listens to the client's concern, assesses the situation, and, when appropriate, takes steps to help the client resolve the dispute. This is often accomplished with information and by speaking with both parties. When necessary the CSO will take responsibility for the matter while they try to make contact with the other party and mediate a mutually satisfactory outcome. As a component of its re-engineering project, the Branch has increased its emphasis on this approach to dispute resolution, thereby achieving improved delivery of service. (See Table 2 – *Intakes Resolved*)

The Branch has performance standards for the time required to close a case. In early 2005, the Branch temporarily reset the standards and extended the time expected to complete a case. This was necessary to facilitate planning and implementation of the Branch's re-engineering project. The adjusted performance standards continued in 2006 as some staff members have been completely dedicated to the work of implementation and ongoing development of Phase 2 of the case management system. This reassignment results in increases to the workload of others. Also, some training and system testing is still ongoing.

In 2006, the Branch received 1,812 applications for orders of possession from landlords. An order of possession is a written order the Branch issues to enforce a notice of termination. The Branch always schedules a hearing to consider an application for an order of possession. The Branch also has performance targets for closing order of

possession cases. The interim target for issuing these decisions during the re-engineering process is within five working days of the hearing. In 2006, the average time for issuing decisions on order of possession applications was two working days. The Branch issued 604 decisions on applications for an order of possession. In 459 cases, the Branch granted the landlord an order of possession. In 27 other cases, the Branch identified a condition that the tenant had to meet to remain in tenancy. If the tenant failed to meet the condition, the order of possession is granted. For example: A conditional order of possession might require a tenant to pay a specific amount by a specified date, otherwise they must move out. The Branch denied 49 applications for an order of possession (Table 4). The remaining applications were either mediated by an officer of the Branch or settled by the parties before the hearing.

In total, in 2006, the Branch held 3,473 hearings to resolve disputes between landlords and tenants on claims for compensation, orders of possession and to determine questions under *The Residential Tenancies Act*.

The Branch is dedicated to fulfilling its mandate to assist landlords and tenants in resolving disputes while preserving their ongoing relationships with one another. While many disputes are resolved by informal mediation, a total of 2,220 were resolved by written, enforceable mediated agreements. Of those, 80% did not require any further involvement by the Branch and are assumed to have been honoured by the parties. If an agreement is not fulfilled the Branch issues a certified order based on the agreement.

In 2006, the Branch completed 761 repair cases and 140 cases relating to landlords' non-payment of utilities. If there is a dispute over a notice to terminate a tenancy, either a landlord or tenant can ask the Branch for assistance. In 2006, the Branch resolved 36 of these cases. The Branch also dealt with other cases where a landlord or a tenant did not meet their obligations under *The Residential Tenancies Act*. These cases include disputes over locks and doors, privacy, seizure of tenant's property, non-payment of rent, disturbance, withholding of services, unauthorized charges or fees, tenancy agreements, assignment and subletting, mobile home rentals, abandonment of personal property and entitlement to collect rent. In 2006, the Branch formally opened 106 and closed 113 of these cases.

**TABLE 1 – Cases Opened and Closed**  
**Parts 1 - 8 of The Residential Tenancies Act**

Case Types	Cases Opened January 1/05 – December 31/05	Cases Opened January 1/06 – December 31/06	Cases Closed January 1/05 – December 31/05	Cases Closed January 1/06 – December 31/06	Appeals to Commission
Abandoned Personal Property Disputes	44	15	45	18	0
• Determination	0	1	0	1	0
• Tenancy Agreement	18	10	25	13	0
• Landlord Obligation	36	18	76	20	0
• Tenant Obligation	90	7	210	7	0
• Mutual Obligation	5	4	6	5	0
• Assignment & Sublet	1	0	2	0	0
• Notice of Termination <sup>1</sup>	83	39	102	36	0
• Other	0	1	0	2	1
Distrain & Lockout Hearings	12	12	12	11	0
• Claim	1,335	1,331	1,301	1,595	181
• Order of Possession	1,749	1,812	1,743	1,854	171
• Determination	32	21	27	24	8
Repairs	907	793	952	761	17
Security Deposit or Less	798	717	723	831	54
Utilities	153	137	167	140	2
Enforcement	97	142	73	141	0
<b>TOTALS</b>	<b>5,360</b>	<b>5,060</b>	<b>5,464</b>	<b>5,459</b>	<b>434</b>

1. Changes in business processes have resulted in more cases being resolved informally. Those that do not result in a formal case file are reported as *Intakes* (See Table 2).

The figures for 2005 may vary slightly from the previous year's report. These variances are due to updates and revisions made to the data as files were processed and more complete information became available.



**TABLE 2 – Other Activities Opened and Closed**

Activity	Cases Opened January 1/05 – December 31/05	Cases Opened January 1/06 – December 31/06	Cases Closed January 1/05– December 31/05	Cases Closed January 1/06– December 31/06
Intakes Resolved <sup>1</sup>	4,490	5,243	4,490	5,243
Mediated Agreements	1,304	2,220	1,304	2,220
Mediated Agreements - Defaulted	355	441	344	444
Substitutional Service	270	380	268	382

1. A client's request for assistance that does not result in a formal case file being opened. Most are resolved informally at the first stage of contact.

The figures for 2005 may vary slightly from the previous year's report. These variances are due to updates and revisions made to the data as files were processed and more complete information became available.

## **PART 9 OF THE RESIDENTIAL TENANCIES ACT**

Part 9 of *The Residential Tenancies Act* deals with the regulation of rents for residential premises. Each year the government sets an annual rent increase guideline. The guideline for 2006 was 2.5%. To increase rent above the guideline, a landlord must apply to the Residential Tenancies Branch. In 2006, the Branch received 334 applications to increase rent above the guideline affecting 16,870 units (Table 3). During the 2006 calendar year, the Branch made decisions regarding applications for 307 buildings affecting 15,038 units.

The Branch has performance targets for issuing decisions on applications for rent increase above the guideline. The target during the re-engineering process is to issue a decision within 180 days or six months of the Branch receiving an application. While the Branch was not able to achieve its completion target for all of the applications received in 2006, it was able to issue orders for approximately 10.4% of the applications within 90 days of receipt and an additional 27% within 180 days. The delays in reviewing applications were because some rent regulation officers were participating in the Branch's reengineering project in addition to their rent regulation duties. This resulted in delays in issuing their decisions and also increased the workload for the remaining staff.

Tenants can object to any rent increase, whether at, above or below the guideline. In 2006, the Branch received objections to rent increases at or below the guideline from tenants of 159 units and reviewed the objections on 178 units, including some carried over from 2005.

In the calendar year 2006, the Branch opened compliance cases affecting 1,304 units. Compliance cases usually involve situations where a landlord increases rent: by more than the annual rent increase guideline without applying to the Branch; without giving tenants the required notice; or, more than once in a 12 month period. The Branch completed its review of 1,305 compliance cases by year-end.

Under *The Residential Tenancies Act*, a landlord who plans to rehabilitate a residential complex may apply to the Branch for an exemption from rent regulation. If the Branch approves a rehabilitation scheme, it can exempt a complex from rent regulation for

up to five years. The Branch issues final orders setting the exemption period once the landlord has completed the work required for the rehabilitation scheme. In 2006, the Branch received applications for 21 buildings affecting 550 units. The Branch completed 30 rehabilitation applications affecting 712 units before year-end. This included some open cases carried forward from 2005.

Before withdrawing or reducing a service, a landlord must apply to the Branch for an order setting the value of the proposed withdrawal or reduction. An example of a withdrawal of service is when the payment for cable service switches from the landlord of a building to each tenant. The landlord applies for an order fixing the value of the rent reduction for each tenant. In the 2006 calendar year, the Branch received 14 applications for withdrawal of service affecting 539 units. The Branch completed 21 applications affecting 501 units by year-end. This included some open cases carried forward from 2005.

The Branch received 15 applications for laundry increase affecting 636 units in the 2006 calendar year. During 2006, the Branch completed 11 applications for laundry increase affecting 456 units.

A tenant can ask a landlord to provide an item or service that is not usually included in the rent. If a landlord wants to provide the item or service and charge for it, they must apply to the Branch. In 2006, the Branch received 14 of these tenant requested improvement applications, affecting 21 units. The Branch issued orders on 16 applications for tenant requested improvements involving 36 rental units by year-end. This included some open cases carried forward from 2005.

Certain sections of Part 9 of *The Residential Tenancies Act* also apply to life lease complexes. Tenants living in non-profit complexes can ask the Branch to review rent increases proposed by the landlord. During 2006 the Branch received and processed two such requests.

**TABLE 3 – CASES OPENED AND CLOSED**  
**Part 9 of The Residential Tenancies Act**

Case Types	Cases Opened January 1, 2005 – December 31, 2005		Cases Opened January 1, 2006 – December 31, 2006		Cases Closed January 1, 2005 – December 31, 2005		Cases Closed January 1, 2006 – December 31, 2006		Appeals to Commission	
	Bldgs.	Units	Bldgs.	Units	Bldgs.	Units	Bldgs.	Units	Bldgs.	Units
Application for Laundry Increase	18	960	15	636	15	788	11	456	0	0
Application for Rehabilitation	24	779	21	550	23	472	30	712	4	4
Application for Rent Increase	303	16,886	334	16,870	324	18,244	307	15,038	89	195
Application for Service Withdrawal	11	256	14	539	7	227	21	501	2	3
Application for Tenant Request for Improvements	21	48	14	21	19	32	16	36	0	0
Compliance	405	1,227	467	1,304	343	1,058	480	1,305	13	16
Rent Status Reports	226	5,417	176	4,785	225	5,416	176	4,785	N/A	N/A
Tenant Objection to Guideline Increase or Less	100	107	143	159	110	119	165	178	0	0
<b>TOTALS</b>	<b>1,120</b>	<b>25,982</b>	<b>1,190</b>	<b>25,180</b>	<b>1,067</b>	<b>26,477</b>	<b>1,217</b>	<b>23,336</b>	<b>108</b>	<b>218</b>

**TABLE 4**

**ORDERS ISSUED BY TYPE**

	<b><u>January 1, 2005 – December 31, 2005</u></b>	<b><u>January 1, 2006 – December 31, 2006</u></b>
<b>Closing (1)</b>	<b>97</b>	<b>51</b>
<b>Mediated Agreement Default</b>	<b>309</b>	<b>430</b>
<b>Order of Possession</b>		
<b>Granted</b>	<b>656</b>	<b>459</b>
<b>Denied</b>	<b>69</b>	<b>49</b>
<b>Conditional (2)</b>	<b>38</b>	<b>27</b>
<b>Other (3)</b>	<b>57</b>	<b>69</b>
<b>Rent Redirect</b>	<b>210</b>	<b>301</b>
<b>Rent Regulation</b>	<b>17,958</b>	<b>14,671</b>
<b>Repairs</b>	<b>178</b>	<b>133</b>
<b>Security Deposit (4)</b>	<b>822</b>	<b>583</b>
<b>Utilities</b>	<b>147</b>	<b>120</b>
<b>Other</b>	<b><u>309</u></b>	<b><u>589</u></b>
<b>TOTAL</b>	<b><u>20,850</u></b>	<b><u>17,482</u></b>

- (1) A Closing order is issued to prevent a landlord from re-renting a vacant unit before completing certain repairs which are required under a separate order.
- (2) A Conditional Order of Possession is one that requires the tenant to meet certain conditions; and, if they do not, the Order of Possession is granted.
- (3) An application for Order of Possession often also includes a claim for compensation. If the tenant moves out before the hearing, the landlord withdraws the application and asks the Branch to consider only the claim.
- (4) Also includes orders on claims for amount in excess of the security deposit.

## **INFORMATION/EDUCATION ACTIVITIES**

### **Telephone Calls/Interviews**

The Branch has an Interactive Voice Response System. Callers to the Branch's Winnipeg office have the option to:

- speak to a Client Services Officer
- listen to recorded information segments about rent increases, security deposits, landlord and tenant responsibilities and repairs
- have fact sheet information automatically faxed to them
- calculate the interest payable on a security deposit
- listen to recorded information on the Branch's location and hours of business
- add their name to the mailing list for the Branch's newsletter.

In total, in 2006, the Branch handled 48,398 phone calls through its three regional offices. Client Services Officers in the Branch's Brandon and Thompson offices answer calls directly. In Winnipeg, Interactive Voice Response System (IVR) receives the calls first and distributes them according to the callers' specifications. Statistics show that 21,041 of the total callers received the information they needed without speaking to a Client Services Officer. Phone call statistics do not include calls received by Residential Tenancies Branch Officers on specific files. In addition to the requests for information by phone, approximately 3,868 people came to Branch offices to request information.

### **Speaking Engagements**

In 2006, staff of the Residential Tenancies Branch made 18 presentations for 225 tenants and held 5 sessions for 125 landlord participants. The Branch made 13 presentations for student groups involving 181 participants and 14 sessions for 633 service providers including the Northern Aboriginal Community Council, Manitoba Urban Native Housing Association, Manitoba Housing Authority, Employment and Income Assistance and the Healthy Start Program.

The Branch also had information booths at the Manitoba Bar Association's Law Day Open House, the University of Manitoba's Orientation and Training Week, Rotary International Career Symposium, and the Professional Property Managers Association's "Suite Living". Staff had the opportunity to speak with approximately 600 people at these displays.

## **Website**

The Residential Tenancies Branch's website @ [www.manitoba.ca/rtb](http://www.manitoba.ca/rtb) provides answers to several frequently asked questions. The information is available in English and French. Landlords and tenants can download the most commonly used residential tenancy forms. The website has an automated security deposit interest calculation feature. The website also includes the Branch's Policies & Procedures Guidebook and links to *The Residential Tenancies Act* and *The Life Leases Act*. The website had 99,941 visits (logons) from January 1, 2006 to December 31, 2006, a 30% increase over 2005 and an 88% increase over 2004.

In 2006, the Branch developed a new webpage to inform tenants about unclaimed monies. If a landlord owes a security deposit to a tenant whose whereabouts is unknown, the landlord must send the money to the Branch for safe-keeping. The Branch also holds rent overpayments that have been recovered on a tenant's behalf. The Branch holds these monies in trust for two years. After that time, the monies are transferred to the Security Deposit Compensation Fund (see page 15).

Using the new webpage, if a tenant believes they are entitled to money that the Branch may be holding, they can check online. The tenant can download and print an application for the refund of the money. Tenants who do not use the internet can still get the information by phone or in person.

## **Rent Status**

Anyone who is considering the purchase of a rental property can apply, with the consent of the rental property owner, to the Residential Tenancies Branch for a rent status report. A rent status report provides information on a property's rent history and can alert people to potential rent increase problems. The application and authorization forms can be downloaded from the Branch's website. In 2006, the Branch completed 176 applications for Rent Status Reports. These applications involved 4,785 rental units.

## **Orders System**

The Residential Tenancies' Orders System is also available online. The Orders System provides information on the orders the Branch issues, except for rent regulation orders. Clients can access the system by:

- paying an annual subscription fee of \$250.00 and receiving a password; or
- paying a fee to search on-line at Branch offices; there is a \$5.00 charge for each 30 minute search.

Users can search the system by landlord or tenant name or by the address of a residential complex. In 2006, there were 2,419 searches using the on-line Orders System.

## **Policies & Procedures Guidebook**

The Branch has a Policies & Procedures Guidebook, available in both English and French, to assist landlords, tenants and staff. As changes occur to legislation or policy, the guidebook is updated accordingly. The guidebook provides information on those areas not specifically dealt with in *The Residential Tenancies Act*. It also sets out the procedures for how the Branch handles most of the issues landlords and tenants refer to the Branch. The guidebook has 13 sections on topics like: security deposits, rent



regulation, mediation, hearings and repairs. The Branch offered copies of the guidebook to various landlord and tenant organizations, all major libraries in the province as well as to our universities and colleges. The guidebook is available on the Branch's website.

### **Branch Newsletter**

In 2006, the Branch produced one issue of its newsletter, "Open Doors." The newsletter provides information on changes to the legislation or Branch procedures and includes articles on topics of interest to landlords and tenants. Anyone interested in receiving the newsletter can add their name to the mailing list by calling the Branch or visiting the Branch's website. The Branch has approximately 1,800 people on its mailing list. Clients can choose to receive the newsletter by mail or e-mail. The newsletter is also available on the website.

**TABLE 5**

**INCOMING CALLS, INTERVIEWS AND HEARINGS**

	<b><u>January 1, 2005 – December 31, 2005</u></b>	<b><u>January 1, 2006 – December 31, 2006</u></b>
<b>Total Calls for Information <sub>1</sub></b>		
Winnipeg	50,850	42,055
Brandon	2,931	2,474
Thompson	<u>3,923</u>	<u>3,869</u>
<b>Total</b>	<b>57,704</b>	<b>48,398</b>
<b>Interviews <sub>2</sub></b>		
Winnipeg	3,919	3,439
Brandon	1,096	400
Thompson	<u>75</u>	<u>29</u>
<b>Total</b>	<b>5,090</b>	<b>3,868</b>
<b>Hearings</b>		
Winnipeg	1,555	1,412
Brandon	128	97
Thompson	<u>145</u>	<u>94</u>
<b>Total</b>	<b>1,828</b>	<b>1,603</b>

1. These figures reflect the number of calls received for information through the Branch information lines and do not include an additional 40,000 – 50,000 calls to Residential Tenancies Officers.
2. This statistic represents the number of interviews conducted where the client received information only. The total number of interviews conducted in 2005 has been amended to correct an error.

## SECURITY DEPOSIT COMPENSATION FUND

*The Residential Tenancies Act* requires landlords to send certain monies to the Branch.

For example:

- After a tenant moves out, if the landlord does not have a claim against the entire security deposit and interest the landlord must return the balance to the tenant. If the landlord does not know how to locate the tenant they must send the money to the Branch.
- When a landlord owes a tenant money for having overcharged the tenant rent, the landlord must return the overpayment to the tenant. If the landlord does not know how to locate the tenant they must send the money to the Branch.

The Branch holds these monies in safekeeping for two years. During that period tenants can ask the Branch for any money owed to them. After two years the Branch transfers the money to the Security Deposit Compensation Fund. This includes unclaimed security deposits, rent refunds and proceeds from the sale by landlords of abandoned personal property. During 2006, \$32,147.08 was transferred into the fund after the two year period. The purpose of the fund is to return security deposits to the tenants who are entitled to the money. Sometimes when the Branch orders a landlord to return a deposit to a tenant, the landlord does not comply with the order. The Branch will usually enforce the order by redirecting rent to recover the outstanding deposit. In some cases, redirecting rent is not possible, for example, if the landlord no longer owns rental property or owes money to several creditors. If the Branch does not believe it can recover the deposit within a reasonable period of time, it may pay the tenant from the fund. In 2006, \$3,612.20 was paid to 13 tenants. After the money is paid to a tenant, the Branch continues to try to recover the money from the landlord through rent redirects, garnishing orders and the Canada Customs and Revenue Agency set off program.

During this reporting period, the Branch recovered six security deposits from landlords totalling \$990.21. Some of the funds recovered may be for security deposits paid out during previous years.

Under Section 36(4) of *The Residential Tenancies Act*, when the balance in the Security Deposit Compensation Fund exceeds \$30,000, the Branch may use the excess funds towards the cost of providing educational programs for landlords, tenants and other clients. In 2006, the Branch spent \$9,674.13 for that purpose. This included the newsletter, landlord/tenant information displays and brochures, and the Branch's share of the 2006 "Protect Yourself" calendar. The balance in the fund at the end of 2006 was \$68,674.22.

**TABLE 6**

**SECURITY DEPOSIT COMPENSATION FUND ACCOUNTING SUMMARY**

Balance as of January 1, 2006	\$48,823.26
Monies transferred into Fund <sup>1</sup>	32,147.08
Less: Monies paid to tenants to satisfy security deposit orders	(3,612.20)
Monies recovered from landlords through enforcement <sup>2</sup>	<u>990.21</u>
	<u>78,348.35</u> <sup>3</sup>
Less: Expenditures for educational purposes <sup>4</sup>	(9,674.13)
Balance as of December 31, 2006	\$68,674.22

1. These funds were held by the Branch for two years from the date of receipts and include unclaimed security deposits, rent refunds and property sale proceeds.
2. The Branch recovered this money through rent redirects, garnishing orders and the Canada Revenue Agency's set-off program.
3. Section 36(4) of *The Residential Tenancies Act* states that when the balance in the Security Deposit Compensation Fund exceeds \$30,000, the excess may be used to contribute towards the cost of providing educational programs for landlords, tenants and the public.
4. Expenditures: newsletter, landlord/tenant information displays and brochures, the Branch's share of the 2006 "Protect Yourself" calendar.