

**2008**

**CHAPTER 34**

An Act to amend *The Residential Tenancies Act, 2006* and to make a consequential amendment to *The Saskatchewan Assistance Act*

(Assented to December 3, 2008)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Saskatchewan, enacts as follows:

**Short title**

**1** This Act may be cited as *The Residential Tenancies Amendment Act, 2008*.

**S.S. 2006, c.R-22.0001 amended**

**2** *The Residential Tenancies Act, 2006* is amended in the manner set forth in this Act.

**Section 22 amended**

**3** **Subsection 22(2) is amended by striking out “A tenancy agreement” and substituting “Subject to section 53.1, a tenancy agreement”.**

**New sections 32 to 34**

**4** **Sections 32 to 37 are repealed and the following substituted:**

**“Return of security deposit**

**32(1)** Within seven days, excluding Saturdays, Sundays and holidays, after the day on which a tenancy ends, the landlord shall:

- (a) pay to the tenant the security deposit and any accrued interest; or
- (b) if the landlord intends to retain all or a portion of the security deposit and any accrued interest:
  - (i) pay to the tenant the portion of the security deposit that the landlord does not intend to retain and any accrued interest on that portion;
  - (ii) subject to subsections (2) and (3), serve notice on the tenant, in the approved form, of the landlord’s intention to retain all or a portion of the security deposit and any accrued interest; and
  - (iii) continue to hold the security deposit, or the portion of the security deposit the landlord intends to retain, and any accrued interest in trust in accordance with section 28 for a period of 30 days from the day on which the tenancy ends.

(2) Notwithstanding section 82:

- (a) if the tenant or someone on behalf of the tenant has provided a forwarding address to the landlord on the end of the tenancy, the landlord shall serve the notice mentioned in subclause (1)(b)(ii) on the tenant by ordinary mail at that forwarding address; or

(b) if the tenant or someone on behalf of the tenant does not provide a forwarding address to the landlord on the end of the tenancy, the landlord is not required to serve the notice mentioned in subclause (1)(b)(ii) on the tenant.

(3) If the payment of a security deposit has been guaranteed pursuant to subsection 24(2):

(a) the notice mentioned in subclause (1)(b)(ii) must be served on the director;

(b) on being served with the notice pursuant to clause (a), the director shall forward the notice to the minister responsible for the administration of *The Saskatchewan Assistance Act*; and

(c) on receipt of the notice pursuant to clause (b), the minister responsible for the administration of *The Saskatchewan Assistance Act* shall provide the tenant, by ordinary mail, with a written notice of the tenant's rights pursuant to section 33.

(4) This section does not apply if, when a tenancy ends:

(a) the tenant agrees in writing that the landlord is entitled to retain all or a portion of the security deposit and any accrued interest; and

(b) the landlord has paid to the tenant the unclaimed portion of the security deposit and accrued interest, if any.

**“Application by tenant**

**33(1)** If a landlord fails to comply with the provisions of subsection 32(1) or if a tenant disputes the amount claimed by the landlord, the tenant may apply to the director for an order pursuant to section 70 determining the disposition of the security deposit, or portion of the security deposit, and any accrued interest.

(2) An application made pursuant to subsection (1) must be made within 120 days after the day on which the tenancy ends.

(3) On receipt of an application pursuant to subsection (1), the director shall serve:

(a) a written notice of the application and of the date and place of the hearing on:

(i) the landlord; and

(ii) if the minister responsible for the administration of *The Saskatchewan Assistance Act* has guaranteed the payment of all or a portion of the security deposit pursuant to subsection 24(2), that minister; and

(b) a written notice of the date and place of hearing on the tenant.

(4) A notice of application and hearing pursuant to subsection (3) must be served:

(a) on the landlord and tenant by ordinary mail; and

(b) if required, on the minister responsible for the administration of *The Saskatchewan Assistance Act* in the prescribed manner.

(5) Subject to subsection (6), within 10 days, excluding Saturdays, Sundays and holidays, after the receipt by the landlord of a notice from the director pursuant to subsection (3), the landlord shall file with the director:

- (a) if the notice is received:
  - (i) before the expiry of the 30-day period mentioned in subclause 32(1)(b)(iii), the security deposit, or the portion of the security deposit, and any accrued interest; or
  - (ii) on or after the expiry of the 30-day period mentioned in subclause 32(1)(b)(iii), an amount equal to the sum of the security deposit, or the portion of the security deposit, and any accrued interest calculated as at the end of the 30-day period; and
- (b) a document that:
  - (i) is in the approved form; and
  - (ii) outlines the basis on which the landlord claims to be entitled to the security deposit, or the portion of the security deposit, and accrued interest.

(6) On receipt of the document mentioned in clause (5)(b), the director shall promptly serve a copy of the document on the tenant by ordinary mail.

(7) Clause (5)(a) does not apply to the amount guaranteed by the minister responsible for the administration of *The Saskatchewan Assistance Act*, if that minister has guaranteed the payment of, but not paid to the landlord, that amount of the security deposit pursuant to subsection 24(2).

(8) Notwithstanding section 70, if the landlord fails to file with the director the security deposit or portion of the security deposit, accrued interest and document required by subsection (5) within the time provided in that subsection, the director may make an order, without notice to the landlord, directing that the landlord pay to the tenant the security deposit, or the portion of the security deposit, and any accrued interest.

(9) For the purposes of satisfying an order made pursuant to subsection (8), the director may direct one or more other tenants of the landlord to pay to the director an amount of rent, otherwise payable to the landlord, that equals the amount the landlord is required to pay pursuant to the order.

(10) The director shall provide or cause to be provided a copy of an order made pursuant to subsection (8) to:

- (a) the tenant;
- (b) the landlord; and
- (c) any other tenant required to pay an amount pursuant to subsection (9).

(11) A tenant is not required to pay to the director any fee respecting an application pursuant to this section.

**“Non-compliance by landlord**

34(1) If it is established to the satisfaction of a hearing officer that a landlord did not comply with clause 32(1)(b), the hearing officer, on being so satisfied, shall immediately order that:

- (a) the landlord pay to the tenant the security deposit, or the portion of the security deposit, and any accrued interest;
- (b) if the security deposit, or portion of the security deposit, and accrued interest have been paid to the director, the security deposit and accrued interest be paid to the tenant; or
- (c) if the minister responsible for the administration of *The Saskatchewan Assistance Act* has guaranteed payment of a security deposit, the landlord is not entitled to a payment pursuant to that Act.

(2) Notwithstanding section 70, the director may make an order pursuant to subsection (1) without giving the landlord an opportunity to be heard.

(3) A hearing officer is not required to make an order pursuant to subsection (1) if the hearing officer considering the matter is satisfied that:

- (a) exceptional circumstances prevented the landlord from complying with section 32 or 33; and
- (b) it would be grossly inequitable to order that the security deposit, or the portion of the security deposit, and accrued interest earned on the security deposit be paid to the tenant.

(4) If it is established to the satisfaction of a hearing officer that the landlord has failed to comply with section 32, or that a landlord has made a claim against a security deposit pursuant to clause 32(1)(b) in the absence of reasonable grounds on which to make a claim against the security deposit, a hearing officer may, in addition to any other order, make an order that the costs of the hearing, as determined in the prescribed manner, shall be paid by the landlord to the tenant.

(5) For the purposes of satisfying an order made pursuant to this section, the director may direct one or more other tenants of the landlord to pay to the director an amount of rent, otherwise payable to the landlord, that equals the amount the landlord is required to pay pursuant to the order.

(6) The director shall provide or cause to be provided a copy of an order made pursuant to subsection (5) to:

- (a) the tenant;
- (b) the landlord; and
- (c) any other tenant required to pay an amount pursuant to subsection (5)”.

**New section 53.1****5 The following section is added after section 53:****“Rent increases – fixed term tenancies**

**53.1(1)** A landlord under a fixed term tenancy must not increase the rent under that fixed term tenancy unless the amount of the increase and time when an increase is to come into effect have been agreed to between the landlord and the tenant at the time the fixed term tenancy is entered into.

(2) For the purposes of subsection (1), the amount of the increase may be expressed either as a dollar amount or as a percentage”.

**Section 54 amended****6(1) Subsection 54(1) is repealed and the following substituted:**

“(1) Subject to subsection (1.1), a landlord must give a tenant written notice of a rent increase for a periodic tenancy at least six months before the effective date of the increase.

“(1.1) A landlord shall not give a written notice of a rent increase pursuant to this section until at least six months have passed since the later of:

- (a) the date that the tenant is entitled to occupy the rental unit; and
- (b) the date of the last rent increase”.

**(2) The following subsection is added after subsection 54(5):**

“(6) This section does not apply to rent increases made by a non-profit corporation”.

**Section 59 amended****7 Subsections 59(5) and (6) are repealed and the following substituted:**

“(5) A tenant may dispute a notice pursuant to this section by giving written notice of that fact to the landlord within 15 days after the date the tenant receives the notice.

“(6) If a tenant who has received a notice pursuant to this section does not give written notice to the landlord in accordance with subsection (5), the tenant:

- (a) is deemed to have accepted that the tenancy ends on the effective date of the notice; and
- (b) must vacate the rental unit by that date”.

**Section 60 amended****8 Subsections 60(9) and (10) are repealed and the following substituted:**

“(9) A tenant may dispute a notice pursuant to this section by giving written notice of that fact to the landlord within 15 days after the date the tenant receives the notice.

“(10) If a tenant who has received a notice pursuant to this section does not give written notice to the landlord in accordance with subsection (9), the tenant:

- (a) is deemed to have accepted that the tenancy ends on the effective date of the notice; and
- (b) must vacate the rental unit by that date”.

**Section 68 amended**

**9 The following subsection is added after subsection 68(3):**

“(4) If an application for an order of possession pursuant to this section is denied, the hearing officer may:

- (a) make an order ending the tenancy as if the landlord had given notice to end the tenancy pursuant to section 58; and
- (b) make any other order that the hearing officer could make as if the notice mentioned in clause (a) were a notice to end the tenancy given pursuant to section 58”.

**Section 70 amended**

**10(1) The following clause is added after clause 70(6)(d):**

“(e) an order determining the disposition of a security deposit and any accrued interest pursuant to section 33”.

**(2) Clause 70(14)(b) is repealed and the following substituted:**

“(b) has failed to forward a security deposit and any accrued interest to the director pursuant to section 33”.

**(3) Subsection 70(15) is repealed.**

**Section 81 amended**

**11 The following clauses are added after clause 81(i):**

“(i.1) for the purposes of clause 33(4)(b), prescribing the manner in which notice must be served;

“(i.2) for the purposes of subsection 34(4), prescribing the manner in which costs are to be determined”.

**R.S.S. 1978, c.S-8, new section 13.1**

**12 Section 13.1 of *The Saskatchewan Assistance Act* is repealed and the following substituted:**

**“Security deposits**

**13.1(1)** This section applies to the entitlement of a landlord to receive a payment by the minister pursuant to subsection (2) or (3) in circumstances where the minister’s discretion to make a payment pursuant to this section is to be exercised.

(2) Subject to subsections (3) and (4) and the regulations, the minister may pay all or part of a security deposit on behalf of a person who is receiving or is eligible to receive assistance pursuant to a program designated in the regulations for the purposes of this section if the Director of Residential Tenancies or a hearing officer appointed pursuant to *The Residential Tenancies Act, 2006* makes an order pursuant to section 70 of that Act determining the disposition of a security deposit against a person.

(3) Subject to subsection (4), the minister may, without an order mentioned in subsection (2), pay all or any of a security deposit on behalf of a person described in subsection (2) if:

(a) the minister is satisfied that the person has signed a valid written agreement described in subsection 32(4) of *The Residential Tenancies Act, 2006*; or

(b) the person does not, pursuant to subsection 33(1) of *The Residential Tenancies Act, 2006*, dispute the amount claimed by the landlord.

(4) The minister is not liable to pay on behalf of any person pursuant to subsection (2) or (3) an amount that exceeds the maximum amount prescribed in the regulations.

(5) Except where circumstances prescribed in the regulations exist, the payment by the minister to the landlord pursuant to subsection (2) or (3) of the amount of the security deposit is deemed to be an overpayment to the person on whose behalf the payment is made”.

**Coming into force**

**13** This Act comes into force on proclamation.

