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Bill 192

An Act to amend the Commercial Tenancies Act

The Hon. S. Clark

Minister of Municipal Affairs and Housing

Government Bill

1st Reading June 17, 2020

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill amends the *Commercial Tenancies Act* to prohibit certain actions by landlords if the landlord is or would be eligible to receive assistance from the Canada Emergency Commercial Rent Assistance for small businesses program; however, the rules cease to apply if the landlord is approved to receive the assistance. Judges are prohibited from ordering a writ of possession that is effective during the non-enforcement period if the basis for ordering the writ is an arrears of rent. As well, the amendments prohibit landlords from exercising a right of re-entry and from seizing any goods or chattels as a distress for arrears of rent during the non-enforcement period. The non-enforcement period begins on the day subsection 2 (1) of the *Protecting Small Business Act, 2020* comes into force and ends on September 1, 2020 or on an earlier day to be named by proclamation of the Lieutenant Governor. If a landlord exercises a right of re-entry between May 1, 2020 and the start of the non-enforcement period, the landlord must restore possession of the premises to the tenant or, if unable to do so, must compensate the tenant for damages. Also, if a landlord seizes a tenant's goods between May 1, 2020 and the start of the non-enforcement period as a distress for arrears of rent, the landlord must return any unsold goods to the tenant.

An Act to amend the Commercial Tenancies Act

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1 (1) The definition of “landlord” in section 1 of the *Commercial Tenancies Act* is amended by striking out “Parts II and III” and substituting “Parts II, III and IV”.

(2) The definition of “landlord” in section 1 of the Act, as amended by subsection (1), is amended by striking out “Parts II, III and IV” and substituting “Parts II and III”.

2 (1) The Act is amended by adding the following Part:

PART IV**Non-enforcement period**

79 In this Part,

“non-enforcement period” means the period that begins on the day subsection 2 (1) of the *Protecting Small Business Act, 2020* comes into force and ends on the day this section is repealed.

Application

80 (1) Subject to subsection (2), this Part applies to a tenancy in respect of which the landlord satisfies either of the following criteria:

1. The landlord is eligible to receive assistance under the Canada Emergency Commercial Rent Assistance for small businesses program.
2. The landlord would be eligible to receive assistance under the Canada Emergency Commercial Rent Assistance for small businesses program if the landlord entered into a rent reduction agreement with the tenant containing a moratorium on eviction.

Same

(2) If a landlord described in subsection (1) is approved to receive assistance under the Canada Emergency Commercial Rent Assistance for small businesses program in respect of the tenancy, the following paragraphs apply:

1. Section 81 does not apply in respect of an action or application by the landlord for a writ of possession, if the action or application was commenced after the landlord was approved to receive the assistance.
2. Sections 82 and 83 do not apply in respect of an exercise of a right of re-entry by the landlord, if the right was exercised after the landlord was approved to receive the assistance.
3. Sections 84 and 85 do not apply in respect of a seizure of goods or chattels as a distress for arrears of rent by the landlord, if the seizure was done after the landlord was approved to receive the assistance.

Same

(3) This Part applies despite any other Part of this Act or any provision in an agreement or any common law rule.

Eviction orders for rent arrears not effective during the non-enforcement period

81 (1) Despite anything in this or any other Act, a judge shall not order a writ of possession that is effective during the non-enforcement period in respect of a tenancy described in section 80 if the basis for ordering the writ is an arrears of rent.

Same

(2) Subsection (1) applies in respect of an action or application that was commenced before, on or after the day subsection 2 (1) of the *Protecting Small Business Act, 2020* comes into force.

No re-entry during the non-enforcement period

82 No landlord shall exercise a right of re-entry during the non-enforcement period.

Restore possession and compensate for re-entry before the non-enforcement period

83 (1) If a landlord exercised a right of re-entry during the period that begins on May 1, 2020 and ends immediately before the day subsection 2 (1) of the *Protecting Small Business Act, 2020* comes into force, the landlord shall, as soon as reasonably possible,

- (a) restore possession of the premises to the tenant unless the tenant declines to accept possession; or
- (b) if the landlord is unable to restore possession of the premises to the tenant for any reason other than the tenant declining to accept possession, compensate the tenant for all damages sustained by the tenant by reason of the inability to restore possession.

Tenancy deemed reinstated

(2) If a landlord restores possession of a premises to a tenant under subsection (1), the tenancy is deemed to be reinstated on the same terms and conditions unless the landlord and the tenant agree otherwise.

No distress during the non-enforcement period

84 No landlord shall, during the non-enforcement period, seize any goods or chattels as a distress for arrears of rent.

Return goods seized before the non-enforcement period

85 If, during the period that begins on May 1, 2020 and ends immediately before the day subsection 2 (1) of the *Protecting Small Business Act, 2020* comes into force, a landlord seized any goods or chattels as a distress for arrears of rent, the landlord shall, as soon as reasonably possible, return to the tenant all of the seized goods and chattels that are unsold as of the day subsection 2 (1) of the *Protecting Small Business Act, 2020* comes into force.

Liability for re-entry and seizure of goods

86 (1) A landlord who contravenes section 82 or 84 or who fails to comply with clause 83 (1) (a) or section 85 is liable to the person aggrieved for any damages sustained by the person aggrieved as a result of the contravention or non-compliance.

Same

(2) For greater certainty, subsection (1) applies in addition to any other remedy available by law to the person aggrieved.

(2) Part IV of the Act, as enacted by subsection (1), is repealed.

Commencement

3 (1) Subject to subsection (2), this Act comes into force on the day it receives Royal Assent.

(2) Subsections 1 (2) and 2 (2) come into force on September 1, 2020, or on an earlier day to be named by proclamation of the Lieutenant Governor.

Short title

4 The short title of this Act is the *Protecting Small Business Act, 2020*.