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<b>ONTARIO RESIDENTIAL TENANCIES LAW</b> <b>Robert G. Doumani</b> <b>Release No. 3, April 2024</b>
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*Ontario Residential Tenancies Law*, 2nd Edition provides a comprehensive annotation of Ontario's major residential tenancy laws and has been completely revised to include the new *Residential Tenancies Act, 2006*. The text features updated commentary based on the new legislation, as well as new regulations under the new *Residential Tenancies Act, 2006*. The previous Act<sup>1</sup> has also been included for ease of reference. This invaluable resource also includes Rules of practice for the new Landlord and Tenant Board, relevant Landlord/Tenant Forms and Notices, the relevant regulations and form and notices, and summaries of leading reported and unreported decisions of courts and tribunals. This publication provides the busy practitioner with a ready reference to every aspect of the law of residential tenancies with the most comprehensive case law review of the process in Ontario.

This release features updates to the commentary and case law comprising the annotations to the *Residential Tenancies Act, 2006*.

## Highlights

- **§ C:12 Landlord and Tenant Board Interpretation Guidelines—Guideline 12, Eviction for Personal Use, Demolition, Repairs and Conversion** — In *Elkins v. Van Wissen* (2023), 2023 ONCA 789, 2023 CarswellOnt 18265, 168 O.R. (3d) 756, 56 R.P.R. (6th) 30 (Ont. C.A.), the vendor landlords served a notice to evict for purchaser's personal use. The tenants moved out and brought an L-5 application under section 57 challenging the *bona fides* of the notice to evict. The Board dismissed the tenants' application and the Divisional Court agreed. The Decision was overturned on appeal for the following reasons. The Board erred by not considering the *bona fides* both of the landlord and the purchaser at the time the notice was served. Additionally, the Board erred by not considering all of the evidence after the time the notice was served when it assessed *bona fides*. The Divisional Court also failed to address the purchaser's potential liability.
- **§ 3:14 Section 3—Conflicts—Human Rights Code** — In *Duncan Mills Labourers' Local 183 Co-Op v. Ford* (2023), 2023 ONSC 6532, 2023 CarswellOnt 17932 (Ont. Div. Ct.), the tenant repeatedly engaged in behaviour that threatened the safety of fellow co-op residents. The tenant's mother and tenant made submissions on his behalf but filed no materials. The tenant had a traumatic brain injury and had great difficulty finding treatment. The Court agreed but pointed out

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<sup>1</sup> *Tenant Protection Act, 1997*.

that it is not up to the Co-Op to continue to house him when he is refusing to pay rent, and more importantly, is engaging in behaviour that threatens the safety of other residents and staff. Appeal was dismissed for delay.

- **§ 45:2 Section 45—Decisions** — In *Telan v. Elm Place* (2023), 2023 ONSC 6999, 2023 CarswellOnt 19343 (Ont. Div. Ct.), the tenant's request to set aside an eviction order for non-payment of rent and her request for review were both denied at the Board level despite the fact that she had apparently paid sufficient funds to void the order, but she never presented evidence to demonstrate the same. The tenant argued that she was denied procedural fairness because she was not allowed to present a ledger that showed that she had paid more arrears than the Board mistakenly understood her to have paid. However, the Board had made the decision on the basis of the tenant's responses to the adjudicator's direct questions. The ledger was not filed with the Board but was part of the materials that she filed on appeal. The ledger also demonstrated that she had repaid less than the amount required to reinstate the tenancy. The Court did not interfere with the factual findings but directed the parties to consider it in the accounting arising from the termination of the lease.