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CANADIAN LAW OF LANDLORD AND TENANT

Williams & Rhodes

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Williams and Rhodes' *Canadian Law of Landlord and Tenant*, 6th Edition, is an in-depth examination of both commercial and residential tenancies law in every jurisdiction in Canada. It provides a consolidation of all statutory and regulatory developments, including rent control. Topics discussed in the publication include the creation of the landlord and tenant relationship, requisites of leases and agreements, various tenancies and leases, rent and recovery of rent, and termination of tenancies. The text also includes landlord and tenant legislation from all Canadian jurisdictions set out full together with concordance between provinces.

This release features updates to the case law and commentary in Chapters 6 (Rent), 10 (Repairs — Landlord's Duty), 12 (Determination of Tenancies), 14 (Renewals — Valuation of Buildings — Options to Purchase), 23 (Termination for Cause), 25 (Obtaining Possession), 28 (Mobile Home Parks and Land Lease Communities), and 29 (Offences).

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Highlights

New and significant case law discussed in this release includes the following:

CHAPTER 23—TERMINATION FOR CAUSE—§ 23:48. Saskatchewan—In *Holowka v. Good Spirit Housing Authority* 2025 CarswellSask 226, 2025 SKKB 77, the tenant appealed the order of the Office of Residential Tenancies (the "ORT") granting the landlord possession of the rental premises. The hearing officer found that the tenant had committed an assault on another tenant and concluded that the act of assault could not be remedied, undone or condoned. In granting the appeal, setting aside the ORT decision and remitting the matter back to the ORT for a new hearing, the King's Bench for Saskatchewan determined that the hearing officer did not properly and fully consider what would be "just and equitable in the circumstances" under s. 70(6) of The *Residential Tenancies Act*, 2006, SS 2006, c. R-22.0001 (the "Act") in making the order to vacate the rental premises. The hearing officer acknowledged the equitable circumstances in this particular case—the tenant's long tenure in the residential building, the character references secured from other tenants in the building, and the tenant's advanced age, disability and health issues. The hearing officer also noted that the incident was now well over a year old and that an eviction could cause extreme hardship, given the tenant's modest means in securing other appropriate, affordable housing and the fact that it was the middle of winter at the time of the hearing of the appeal. Nonetheless, the hearing officer effectively concluded that he did not need to consider the evidence of such equitable factors; the fact of the assault permitted a termination order. The court held that the hearing officer made an error of law in failing to exercise his statutory duty under s. 70(6) of the Act to fully and completely consider the impact of the possession order on the tenant given the equitable considerations in this case.

CHAPTER 29—OFFENCES—§ 29:9. Ontario—In *Java Investments v. 1000225661 Ontario Inc. et al.*, 2025 ONSC 1940, the landlord sought a declaration that the tenancy had been lawfully terminated; incidental relief to ensure that the tenant and its agent did not re-enter the leased premises; and an order setting aside the Notice of Immediate Closure (the "barring order") that had been issued by the City of Toronto against the landlord under ss. 13 and 18 of the *Cannabis Control Act*, 2017, S.O. 2017, c. 26 (the "CCA"). The landlord had been charged (and convicted) under s. 13(1) of the CCA for knowingly permitting the unlawful sale of cannabis from the leased premises without the necessary retail licence. The barring order had closed the leased premises to all, including the landlord, until final disposition of the charge. The landlord claimed that he understood that the tenant intended to use the leased premises to operate "an indigenous cannabis dispensary" and that the tenant had a legal right to do so as an Indigenous business operating on traditional Indigenous lands. The tenant had provided the landlord a "Certificate of Business Registration" by the Kenyen'keha:ha (Mohawk) nation and had advised the landlord that the tenant was operating within the territory governed by its constitution. Despite the City's barring order and the landlord's subsequent termination of the lease on notice to the tenant, the tenant removed and replaced the new locks that had been in put in place by the landlord on termination of the lease and continued to operate its cannabis business. The Ontario Superior Court of

Justice confirmed that notwithstanding the fact that the leased premises were located within an area that was subject to a land claim that could affect the jurisdiction of the Province of Ontario in the future, all provincial laws, including the CCA, applied to the parties concerning the leased premises. The court denied the tenant's request for relief from forfeiture under s. 20 of the *Commercial Tenancies Act*, R.S.O. 1990, c. L.7: the tenant had failed to provide either any caselaw to support its request or an explanation as to how the tenant could correct or cure its default or, should relief be granted, on what terms.