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CHANGES TO RESIDENTIAL TENANCY LAW IN ONTARIO: RESIDENTIAL TENANCIES ACT, 2006

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The Government of Ontario has drafted and finalized new residential tenancy legislation for Ontario. The *Residential Tenancies Act, 2006* ("RTA") received Royal Assent June 22, 2006. The RTA is now law, but not yet in effect. When proclaimed into force on a date to be decided upon in the future, it will replace the *Tenant Protection Act, 1997* ("TPA") and become the governing legislation for care homes in the Province of Ontario.

What is a Care Home?

A care home is a residential complex occupied or intended to be occupied by persons for the purposes of receiving care services. It does not matter whether receiving these services is the primary purpose of the occupancy. Under the TPA and the RTA, care services are any health care, therapeutic or rehabilitative services, or those services that provide assistance with the activities of daily living.

What are the Special Requirements for a Care Home?

Under the current legislation, landlords of care homes have certain responsibilities to ensure that tenants are protected. These include ensuring that tenancy agreements are in writing, and that all tenants receive an information package prior to signing a tenancy agreement. This information package must include the following information:

1. List of the different types of accommodation provided and the alternative packages of care services and meals available as part of the total charge.
2. Charges for the different types of accommodation and for the alternative packages of care services and meals.
3. Minimum staffing levels and qualifications of staff.
4. Details of the emergency response system, if any, or a statement that there is no emergency response system.
5. List and fee schedule of the additional services and meals available from the landlord on a user pay basis.
6. Internal procedures, if any, for dealing with complaints, including a statement as to whether tenants have any right of appeal from an initial decision, or a statement that there is no internal procedure for dealing with complaints.

Under the RTA, landlords must also provide an information package which must include information prescribed by the regulations to the RTA. Although the regulations outlining the

required information in the package have not yet been drafted, we can assume that the requirements will be similar to the current obligations, set out above.

What is new about the RTA and Care Homes?

Under the RTA, the Landlord and Tenant Board (the "Board") will replace the Ontario Rental Housing Tribunal (the "ORHT"). The Board will have the power to make an order for an abatement of rent payable to a landlord of a care home where the requirements set out above are not complied with.

There are two other major changes in the RTA that provide new protections to tenants:

- i) a tenant can now require that the landlord stop the provision of care services and meals prior to the date a tenancy ends by giving the landlord ten (10) days notice, and will not be required to pay for same; and
- ii) a landlord cannot do anything to prevent a tenant of a care home from obtaining care services from another person of the tenant's choice outside the care home where those services are in addition to the services received at the care home.

Do the Leases or Information Packages in your Care Home Require Review?

It is not uncommon for staff at care homes to be unaware of their special obligations under the TPA and now the RTA. We can assist by reviewing your documents to ensure compliance with the TPA and to ready your care home for a smooth transition under the RTA.

Please contact Rebecca Hartley should you have any questions, wish to discuss the foregoing, or if your legal documents require a review and update.

ABOUT THE AUTHOR:

Rebecca Hartley is a lawyer practicing in our Real Estate Group. Rebecca's practice covers a wide range of real estate matters, including commercial, retail, industrial and residential issues.

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