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Law Amendments Committee  
Legislative Counsel Office

**VIA EMAIL**

Dear Members of the Law Amendments Committee,

**Re: Bill 110 - Residential Tenancies Act**

Bill 110 amends the previous Bill 119 dealing with the Residential Tenancies Act. Bill 119 was passed but has not been proclaimed, and the changes effected in that legislation have not been felt.

Our submissions relate to two provisions of Bill 110:

1. Section 2

This Section amends sections 10(6)(D-E) of Bill 119, in particular by adding s. 10(6)(D)(e) and (f) and s. 10(6)(E)(b) and (c).

We object to these amendments, and specifically the expansion of the summary process beyond vacant possession to include landlord's claims for rental arrears.

2. Section 1(b)

This Section restates and clarifies Bill 118, which provides a process for a tenant to seek consent of the landlord to a new tenancy of the mobile home space on behalf of a prospective new owner/occupant of the mobile home.

We support this amendment but suggest it does not go far enough.

**Background**

Bill 119 created a truncated, shortened process for landlords to obtain **vacant possession** of the residential premises (that process is not yet in effect as the Bill has not been proclaimed).

Bill 110 expands the scope of this process to include **rental arrears**.

**Truncated Process**

The process is truncated because it allows the Director to issue an order for vacant possession without a hearing based on a Notice to Quit issued by the Landlord, without providing the tenant

with a notice of hearing and opportunity to be heard. As such it will often be one-sided, where tenants are unaware or unable to avail themselves of their right to a hearing. The rationale for removing the requirement for a hearing, in order to expedite the process of removing tenants was justified by landlords on the basis that they required speedy access to their property and an opportunity to re-rent quickly. The same rationale does not apply to rental arrears.

### **Expansion of landlord's powers**

The landlords have argued that this Committee should go further than the current provision that provides for the Director to make an order for vacant possession and amend Bill 110 from the current provision, for the rent for the month in which the Notice to Quit is served, and to **expand** the rental arrears provisions contained in Bill 110 to include previous months rent (see s. 10(6)(D) (e) and (f) and s. 10(6)(E) (b) and (c)).

An Order for rental arrears has no place in this truncated process. While we opposed the truncated, shortened process for eviction contained in Bill 119, there is clearly no rationale to go further than an Order for vacant possession.

The shortcut provided to landlords in the form of shortened notice periods for rental arrears are unwarranted and unjust, because the same urgency does not exist, and it deprives the tenant of vital procedural protections.

Unpaid rent is often linked/intertwined with other issues like failure to repair or withdrawal of services as well as return of security deposit. There is no reason that rental arrears should not be dealt with as other monetary issues such as:

- Failure to return a security deposit
- Failure to make repairs
- Breach of minimum standards by-laws

These issues should be dealt with using the regular process including a notice of hearing, and opportunity to be heard as they are under Bill 119.

The asymmetrical and unbalanced eviction procedures which allow landlords to obtain orders without due process should not be extended to rental arrears.

Tenants do not have access to summary procedures when landlord's fail to comply with their obligations for instance for:

- Return of security deposit
- Failure to make repairs
- Breach of minimum standards by-laws

In light of the inclusion of rental arrears, there is a heightened concern that there will be unfairness both procedurally and substantively. To guard against this one-sided process, we recommend that the regulations passed as a result of Bills 110 and 119 require the landlords to include in the Notice to Quit on the same form an Application form for tenant's to contest the eviction and/or the rental arrears, and that there be no fee for such an Application.

More needs to be done to protect the rights of tenants in Nova Scotia, and to keep up with legislative reforms undertaken in other provinces. Rental abatement for breach of the duty to repair and maintain habitability, payment of rent and security deposits to the Director in trust, and stronger enforcement mechanisms for tenants who are locked out, or find themselves in premises that do not meet minimum standards by-laws are required. Attached is the brief filed by TALONS in respect of previous RTA amendments that address these concerns in more detail.

Yours Truly,

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