

# The Tenant



September 2005

**Federation of Metro Tenants' Associations  
- Fighting for Tenants' Rights since 1974 -**

## Can the Tribunal Really Change?

By Dan McIntyre

While we wait and wait for a new Act, tenants still must deal with the Ontario Rental Housing Tribunal. Is the Tribunal improving?

A hopeful sign is the appointment of a new Chair, Dr. Lilian Ma. She has an impressive resume and hopefully will make the Tribunal a kinder, gentler, and a fairer place. We have been promised a meeting with her, and that will happen soon.

Tenant advocates who work regularly at the Tribunal are giving us mixed messages about the Tribunal in 2005. There have been some decisions that seem to understand the tenant point of view better than in the past, and others which seem to be business as usual.

It would help greatly if the Tribunal would publish an Annual report for the public to see.

Recently, the Divisional Court severely chastised the Tribunal (*Manpel v. Greenwin*) for its hearing procedures and for allowing a landlord agent to interrupt frequently during a tenant's hearing.

In another case, a woman was fined \$50 for bringing forth a harassment case in which the Tribunal refused to hear the evidence or the case. The member simply decided he did not want to do his job, and he wanted to discourage this tenant leader from bringing forth any other actions notwithstanding the clear intent of the legislation.

A good Tribunal makes any law better; a bad Tribunal makes a law worse. Tenants already have a bad enough law.

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- **The Little Pigeon's Room**

- **Not Another Rent Increase!**

- **The FMTA Shows Its Pride!**

- **So Much For Free Market Myths**





## This Issue's Hotline Question

By Howard Tessler

**Q.** My balcony is constantly being used as a public washroom by local pigeons. It has become so disgusting that I find it almost impossible to use the balcony. I have asked the superintendent to do something about the pigeons, but he says it is my responsibility. Is he correct?

**A.** Your super's answer is based on the legal responsibility of the tenant for the cleanliness of the unit (see TPA section 29). The balcony is part of the unit and therefore the tenant is expected to keep it clean. However, the regulations of the Act (sec.46 (1)) requires that "a residential complex shall be kept reasonably free of rodents, vermin and insects." And sec. 46 (3) requires that "openings and holes in a building containing one or more rental units shall be screened or sealed to prevent the entry of rodents, vermin, insects and other pests."

The way to see the pigeon problem is similar to any "pest" problem. If you find mouse droppings in your apartment, then you are responsible for cleaning them up. However, the landlord is responsible for making sure that mice can not enter your apartment in the first place. So you can tell the super that the regulations require him to put up bird netting to prevent birds from defecating on your balcony.

***If you have any questions about renewing your lease or any other questions about your legal rights as a tenant, please feel free to call the Tenant Hotline at 416-921-9494 Mon.-Fri. 8:30am – 6:00pm or email us at [hotline@torontotenants.org](mailto:hotline@torontotenants.org)***

## Rent Guideline Set at 2.1% for 2006

By Dan McIntyre

Once again, we have to brace ourselves for rent increases in the neighbourhood of \$200 a year when our Government should be taking action to decrease rents.

The annual guideline is set by a formula in the Tenant Protection Act. It is based on the average increase in costs of expenses incurred in rental housing. The biggest factors are property tax, utilities, and maintenance. When you recall all of those Above Guideline Rent Increases for utilities in the past, this increase compounds on all the previous increases.

A small mercy is that the Government no longer adds a 2% bonus to the guideline. That bonus was added for 18 years and still sits in all our rents.

Of course, nothing says a landlord has to take an increase. A tenant group in London has referred to the guideline as the Provincial Increase Guideline (PIG).

And yes, landlords can still apply for more through Above Guideline Increases. Thousands of Toronto homes face those applications each year.

## Repairs & Maintenance: A Global Tenant Issue

By Timothy Maxwell

It was fascinating to read in the last issue of the **Global Tenant** that **the International Union of Tenants** has been meeting with Ministers of the **European Union**. They were meeting to discuss the matter of Europe's aging high rise apartment buildings. Here in Toronto, Canada, more than half of our 4,000 apartment buildings are 40 or more years old and in varying states of disrepair. Unfortunately, in our neck of the woods, there are no government Ministers, as yet, consulting with tenants about this emerging global issue of disrepair. Instead, the matter has been left to tenants and their municipal governments, with a handful of building inspectors, to cope with the crisis.



Since the introduction of the so-called "*Tenant Protection Act*" in 1998, Ontario tenants have continued to suffer increasing rents and decreasing quality of housing. The removal of rent controls also took away *Orders Prohibiting a Rent Increase* in cases of disrepair. Tenants are not able to challenge "*Above Guideline Increases*" on the grounds of poor maintenance and repair. Landlords have been applying for, and receiving, rent increases well above the annual guideline amount set by the government – regardless of the state of repair. As well, tenants continue to pay rent increases on top of rent increases for costs no longer borne. Legislative changes promised by Ontario Premier, Dalton McGuinty two years ago remain an unfulfilled promise.

Average rents in Toronto are the highest in Canada's major cities. Vacancy rates have risen in Toronto to 4.3%, but the ability of tenants to afford high rents has not improved. Virtually no new affordable rental housing has been built in more than ten years. Tenants who can afford the high-rent apartments are often able to come up with a down-payment, allowing them to become homeowners – with a mortgage payment that is lower than the rents they would have been paying. However, when interest rates finally begin to rise, then demand for rental housing will increase. So, landlords are keeping the rents high and sustaining vacant units at reduced costs. So much for free market myths.

In response to this situation, the Federation of Metro Tenants Associations in Toronto, Canada's oldest and largest tenant organization, has begun a campaign to address the need for repairs – repairs to our rented premises AND to the law. Since we cannot expect any *decrease* in rent, the best we can hope for and demand is to at least get our money's worth. The Federation began the "Fix it Now" campaign in May with a letter to the Ontario Minister of Housing. The Federation called on the Minister to pursue legislative and regulatory reforms, appoint a new Chairperson to the Rental Housing Tribunal that handles landlord and tenant matters, and to make a strong statement about the problem of disrepair.

A couple of weeks after receiving the Federation's call for action, the Minister replaced the Chair of the Tribunal. The Federation will gradually increase pressure on the government over the summer, building towards a more concerted effort in the fall. It may require something a little stronger than a few letters to politicians before we see the introduction of new legislation that will actually work for tenants and give them the legal tools to get repairs done.

## Congratulations Gail!

By Emmy Pantin

It is with heavy hearts that we say good bye to Gail Nyberg, our fearless hotline coordinator in September. Gail has been with the Federation of Metro Tenants' Associations for almost three years, and in that time she has organized the entire office, schmoozed countless politicians, and made life a little bit easier for us all. Gail moves on to become executive director of the Daily bread Food Bank. We wish her the best of luck!



*We'll Miss You, Gail!*

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### Check out the FMTA crew at Pride in June 2005!

*From left to right: Outreach Team Coordinator, Dan McIntyre; FMTA Board Chair, Vivienne Lopenen; Tenant Organizer, Gene Lara and Board Member, Alf Edwards.*

### Yes, I want to be part of the Tenants' Movement!

Please send me my membership card and information about the services that I receive a member.

<p><b>I will pay my membership dues by:</b></p> <p><input type="checkbox"/> Cheque or money order (made out to FMTA)      <input type="checkbox"/> Cash</p> <p><b>Please Print:</b>                  Name: _____                  Address: _____ Apt. #: _____                  City: _____ Postal Code: _____                  Telephone #: (h) _____ (w) _____                  Fax: _____ e-mail: _____</p> <p>Yes! I would like to donate \$ _____ to the FMTA!</p>	<p><b>I am joining as the following type of member:</b></p> <p><input type="checkbox"/> New Member      <input type="checkbox"/> Renewal</p> <hr/> <p><input type="checkbox"/> Individual: \$15/year  <input type="checkbox"/> Senior, student or unemployed: \$5/year  <input type="checkbox"/> Sustaining Member: \$50/year  <input type="checkbox"/> Homeowner (non-voting): \$25/year  <input type="checkbox"/> Organization (non-voting): \$25/year  <input type="checkbox"/> Tenants' Association: _____ units, \$10 per year per unit (minimum 3 units)</p>
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