Submission on the Standardized Lease Template

October 2017
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About the OFIFC

Founded in 1971, the Ontario Federation of Indigenous Friendship Centres (OFIFC) works to support, advocate for, and build the capacity of member Friendship Centres across Ontario.

Emerging from a nation-wide, grass-roots movement dating back to the 1950’s, Friendship Centres are community hubs where Indigenous people living in towns, cities, and urban centres can access culturally-based and culturally-appropriate programs and services every day. Today, Friendship Centres are dynamic hubs of economic and social convergence that create space for Indigenous communities to thrive. Friendship Centres are idea incubators for young Indigenous people attaining their education and employment goals, they are sites of cultural resurgence for Indigenous families who want to raise their children to be proud of who they are, and they are safe havens for Indigenous community members requiring supports.

In Ontario more than 84 per cent of Indigenous people live in urban communities. The OFIFC is the largest urban Indigenous service network in the province supporting this vibrant, diverse, and quickly-growing population through programs and initiatives that span justice, health, family support, long-term care, healing and wellness, employment and training, education, research, and more.

Friendship Centres receive their mandate from their communities, and they are inclusive of all Indigenous people – First Nation, Status/Non-Status, Métis, Inuit, and those who self-identify as Indigenous.

Learn more about the work the OFIFC does to support Friendship Centres at www.ofifc.org.
Map of Friendship Centres

1 Red Lake Indian Friendship Centre 2 Ne-Chee Friendship Centre (Kenora) 3 Dryden Native Friendship Centre 4 Nishnawbe-Gamik Friendship Centre (Sioux Lookout) 5 United Native Friendship Centre (Fort Frances) 6 Atikokan Native Friendship Centre 7 Thunder Bay Indigenous Friendship Centre 8 Thunderbird Friendship Centre (Geraldton) 9 Timmins Native Friendship Centre Satellite Office (Moosonee) 10 Kapuskasing Friendship Centre 11 Ininew Friendship Centre (Cochrane) 12 Timmins Native Friendship Centre 13 Indian Friendship Centre (Sault Ste. Marie) 14 N’Swakamok Native Friendship Centre (Sudbury) 15 North Bay Indigenous Friendship Centre 16 Odawa Native Friendship Centre (Ottawa) 17 Parry Sound Friendship Centre 18 Georgian Bay Native Friendship Centre (Midland) 19 M’Wikwedong Native Cultural Resource Centre (Owen Sound) 20 Barrie Native Friendship Centre 21 Nogojiwanong Friendship Centre (Peterborough) 22 Toronto Council Fire Native Cultural Centre 23 Peel Aboriginal Network (Mississauga) 24 Hamilton Regional Indian Centre 25 Niagara Regional Native Centre (Niagara-on-the-Lake) 26 Fort Erie Native Friendship Centre 27 N’Amerind Friendship Centre (London) 28 Sarnia-Lambton Native Friendship Centre 29 Can-Am Indian Friendship Centre of Windsor
Introduction

In the fall of 2017, the Ministry of Housing (MHO) engaged the OFIFC and other partners of the Indigenous Housing Strategy Engagement Table in consultations on potential amendments to the Residential Tenancies Act, 2006 (RTA). As part of our response, the OFIFC conveyed support for the MHO’s proposal to develop a standardised lease agreement, as Indigenous tenants face significant obstacles when accessing housing, recovering from poverty, homelessness, and/or violence. Indigenous people’s exclusion from and treatment within market rent housing is a human rights issue; illegal provisions in rental agreements compound and extend the barriers that Indigenous people face when accessing a continuum of housing options.

This submission is informed by the expertise of Friendship Centres offering direct supports to homeless and precariously housed Indigenous community members through the Homelessness Partnering Strategy and other programs, every day. And while our response focuses on market-rent tenancies, there are no doubt other structural and systemic barriers that need to be addressed in order to make a significant difference to Indigenous people’s exclusion from the rental housing market, such as a lack of affordable housing options, lease agreements in mainstream social housing, as well as housing application forms and processes.

Even in enacting highly technical regulatory change, the government can and should consider the implications and its responsibility towards reconciliation with Indigenous people contained in Ontario’s Journey Together Framework. These connections are not always obvious, but are revealed through meaningful dialogue and engagement with Indigenous communities and organisations over time.

Racism in Private Market Housing

Indigenous people are disproportionately impacted by racism in private market housing. While consistent data on urban Indigenous homelessness is lacking, 17 per cent of respondents to the Urban Aboriginal Task Force identified being impacted by racism in the rental housing market\(^1\). This figure likely increases with respect to rental units in small-scale rental buildings and single family dwellings\(^2\): the predominating type of


rental housing available in Northern markets\textsuperscript{3} where Indigenous homelessness is anywhere between 30-99%. Indigenous tenants are limited in terms of avenues which they can pursue in order to remediate these situations. The Landlord Tenant Board does not hear cases referring to prospective tenants and the Ontario Human Rights Tribunal is not being accessed by Indigenous citizens at a rate reflective of the discrimination that is known to occur\textsuperscript{4}.

Questions from the Online Consultation

General Comments
Friendship Centres report that community members entering into lease agreements do not always fully understand what they are signing, leaving them open to exploitation. This is more likely to occur if English is not their first language or the lease itself is overly complex. In developing a standardized lease template for the province, plain language should be employed as much as possible to mitigate the likelihood of exploitation or disagreement.

Furthermore, concerns raised in consultation with Friendship Centres regarding unlawful restrictions (see 5) have made it evident that the standardized lease agreement should also expressly forbid attachments or addendums stipulating additional, unlawful requirements.

1. **Mandatory information: Is anything missing? Is there anything we should clarify?**

**Address:** Friendship Centres have indicated that landlords can be unwilling to provide a mailing address or corporate mailing address. While landlords, especially small-scale landlords, may be concerned about their privacy and personal safety, tenants may require this information in order to escalate concerns (i.e. from superintendent to landlord) or serve notice of financial judgments delivered through small claims court in an expedient manner. While it might seem self-evident, the proposed section on mandatory information should clearly indicate that an address must be provided even if the landlord is a numbered company (i.e. 1147335


\textsuperscript{4} In 2015/16, nine percent (14/150) of Indigenous people who called the Ontario Human Rights Legal Support Centre (OHRLSC) office made inquiries in regards to housing. And in 2016/17, seven percent (20/309) of Indigenous people who called the office, made inquiries about housing. (Ontario Human Rights Commission, 2017. Email correspondance.)
ONTARIO INC), and that no field of the mandatory section can be altered or left blank.

**Statement on Human Rights**: For the standardized lease agreement to have any impact on protecting against anti-Indigenous racism and discrimination, it should include a statement on human rights in the mandatory section or as a preamble to the agreement. This would address the landlord’s and tenant’s responsibilities in upholding these rights in relationship to one another and with respect to other tenants. For example, this section would state that tenants have the right to equal treatment and to live free from discrimination.

2. **Additional information: Is anything missing? Is there anything we should clarify?**

**Rent Deposit**: The rent deposit should be clearly defined as to its use; that it cannot be applied to damages incurred and that it is to be applied to last months’ rent only. It should also outline that tenants are entitled to interest earned on their deposit.

**Landlord and Tenant Responsibilities**: This section should include a clause that allows additional lawful agreements to be revisited if a landlord’s or tenants situation changes. For example, if a tenant agrees to shovel snow in the winter, but is then injured at work and can no longer fulfill this responsibility, they should be accommodated within the parameters of the RTA and according to human rights legislation.

The maintenance and repair of equipment should also be clarified in this section. For example: a landlord is required to maintain, repair, or replace any equipment they provide, such as the fridge and stove, but is not required to provide maintenance on equipment provided by the tenant, such as a toaster. This will help clarify responsibilities and prevent conflict.

Landlord responsibilities also include responding to maintenance and repair requests in a timely manner. Acceptable and lawful timeframes concerning responding to tenant requests should be outlined in this section. Information on emergency situations where the landlord must access to the property without notice, should also be identified in this section with examples provided.

3. **Optional Terms**: What should we include in this section to clarify what landlords and tenants can and cannot legally include in a lease?

**Human Rights**: See 1.

4. **Rights, responsibilities and prohibited conditions**: What other rights and responsibilities should be included in this section?
Ending a Tenancy and Proper Notice: Friendship Centres have indicated that it is important to clearly establish what constitutes proper notice to end a tenancy when signing a lease agreement. Friendship Centres have also identified that certain circumstances, such as domestic violence or attending to urgent family matters in another community, may make it difficult if not impossible to provide proper notice. In September of 2016, the government made changes to the RTA so that persons fleeing violence or sexual abuse may confidentially provide 28 days notice as opposed to 60 days notice when breaking a lease. Rights and responsibilities concerning ending a tenancy and giving proper notice should be outlined in its own section of the lease agreement and include general information on ending a tenancy early for reasons of domestic violence and/or sexual abuse.

5. What other conditions have you seen in leases that are inconsistent with the RTA?

Restrictions on Pets: Friendship Centres report that the most common unlawful or unenforceable clause in leases is the prohibition of pets. Where pets are not explicitly prohibited, Friendship Centres report that landlords may require an separate “pet application” in addition to their rental application. This separate application may unlawfully screen out potential tenants with pets that the landlord views as a risk. As a result, community members give up their pets or withhold this information from the landlord until the lease is signed in order to secure housing. Both scenarios cause emotional distress and may lead to homelessness. Restricting pets should be explicitly prohibited in the standard lease agreement with the exception of grounds provided for in the RTA.

Restrictions on Guests: Friendship Centres report that another common unlawful clause in leases are restrictions on guests beyond what is enforceable by municipal licencing standards and fire-codes. Indigenous people are more likely to live in extended family circumstances, are more likely to experience hidden homelessness⁵, and place value on looking after one another during times of hardship by sharing accommodation, a culturally-relevant expression of traditional kinship structures.

Furthermore, informal fostering and adoptions occur more frequently in Indigenous households and may be either short-term or longer-term arrangements. Either way, Indigenous households may be reluctant to share this private information with the landlord due to any number of reasons including institutional racism and trauma. While landlords, like all citizens, have a “duty to report” if they believe a child’s safety

is in jeopardy, unlawful restrictions on guests can cause a great amount of stress and anxiety for Indigenous tenants and may impact health and well-being derived from traditional family structures and safety nets.

6. **What should we put in this section to discourage unenforceable conditions?**

   This section should include information about making applications to and decisions made at the Landlord Tenant Board, and information about where to access housing supports and mediation services.

**Conclusion**

The OFIFC remains in support of the move to a standardized lease agreement in Ontario as it has the potential to clarify the rights and responsibilities of tenants and landlords and decrease barriers that Indigenous people face when becoming market-rent tenants. A preamble or mandatory section on human rights is critical to address the needs of Indigenous tenants. Restrictions on pets and guests should be explicitly prohibited in this template and there should be more focus on how to end a tenancy and give proper notice at the outset of signing a lease for the protection of everyone involved. Lastly, traditional Indigenous family and kindship structures should be supported as much as possible in the standardized lease agreement as part of the government’s and broader private sectors’ responsibility towards reconciliation with Indigenous people.