

# ***What a Long Strange Trip It's Been***

**Cannabis and Housing  
one year after legalization**

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# Legal information?



**Legal advice?**

# Overview

Will cover issue in 3 broad categories:

1. “Cannabis Law” in general



2. The Residential Tenancies Act



3. The Ontario Human Rights Code



# Cannabis Law

- Cannabis Act
- Cannabis Control Act
- Smoke Free Ontario Act, 2017



# ***Cannabis Act***



- Cannabis Act amended the Criminal Code and the Controlled Drugs and Substances Act
- Effect is to legalize recreational use and cultivation of cannabis by adults, and distribution and sale of recreational use of cannabis by adults, subject to provincial and federal regulation

# ***Cannabis Control Act***



- Places additional restrictions on cannabis sale, distribution and use in Ontario
- Also, the act prohibits a landlord from knowingly letting someone use their premises to sell cannabis if that person is not an authorized cannabis retailer

# ***Smoke-Free Ontario Act, 2017***



Places additional restrictions on sale, distribution and use of products related to smoking and vaping in Ontario, including smoking or vaping cannabis products



# ***Smoke-Free Ontario Act, 2017***



Cannot smoke or hold lighted cannabis in various places, including an enclosed public place, an enclosed work place, or an indoor common area in an apartment building

# ***Residential Tenancies Act***



- If a lease expires, if it is not renewed or terminated, it is deemed to have been renewed
- Can only terminate in accordance with the provisions of the Act
- Cannot demand that a tenant enter a revised lease at the end of the prior lease

# ***Residential Tenancies Act***



- Some provinces (eg – Nova Scotia and British Columbia) have implemented provisions that created transition rules regarding legalization of cannabis to address this issue
- But Ontario has not done so to date

# ***Residential Tenancies Act***



So on what basis can you terminate?

- committing illegal act or carrying on illegal trade
- wilfully or negligently causing undue damage
- substantial interference with reasonable enjoyment, or with a lawful right, privilege or interest of the landlord or another tenant

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# ***Human Rights Code***



- Protects individuals from discrimination based on certain grounds
- Consider whether people using rights based language are really exercising rights
- Just because recreational use has been legalized, does not mean people have a right to use cannabis



# ***Human Rights Code***



- Right not to be discriminated against because of need to use medical cannabis
- Recreational use not protected – with one possible qualification
- Substance addiction has been considered to be an addiction

# ***Human Rights Code***



Some ways that legalization may affect housing providers:

- Accommodating recreational users who claim to be addicted and can provide medical documentation in support
- If there is an increase in users, then may be more circumstances where residents with conditions making them sensitive to smoke are affected
- Situation where a resident uses cannabis without asserting a medical need, and only provides medical documentation after you serve a notice

# What to do?



Build a case:

- Policies are not pointless, but have a policy that is aimed at activity that will support a termination – not at preventing behaviour simply because you may not approve of the behavior
- Tie any LTB application not only to a breach of the policy – be prepared to provide evidence that the problem the policy is designed to address is actually impacted by the behaviour

# What to do?



- Be aware of people using rights based language simply because cannabis use is no longer a crime
- Also, be aware of need to consider whether the use is related to a disability in deciding how to proceed

***Thank you!***

 Iler Campbell LLP