

LAW REFORM COMMISSION OF BRITISH COLUMBIA

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Backgrounder

LRC 108—Report on the Commercial Tenancy Act

Date: December 1989

The *Commercial Tenancy Act* governs many aspects of the relationship between commercial tenants and their landlords. Of concern is the age of the Act, and some of the anachronisms contained within it. The Act is examined in its entirety discussing diverse issues such as creation of a tenancy and bankruptcy of the tenant. Relevant matters surrounding the Act are discussed in much detail.

The creation of a tenancy, including the formal requirements are discussed. The interaction between tenancy agreements and contract law are examined and compared with Ontario Law Reform Commission's proposals. An examination is made on how assignments should be handled if either a tenant or landlord ascribes their contractual rights to another party. Reforms are suggested for contexts involving claims for future rents when tenancy contracts are broken. Issues such as bankruptcy of the tenant, distress, overholding tenants, tenants for life, relief from forfeiture, and apportionment are analyzed in detail. The procedural issues laid out in the act are found to be insufficient, and the commission recommends that they be set aside with the *Rules of Court* being used in their stead.

The many suggestions to modify the legislation follow several themes. The *Commercial Tenancy Act* would continue to operate only in situations where the common law and the tenancy contract lead to improper results. The legislation would follow the tendency in the common law to emphasize the contractual elements of the tenancy agreement. Many of the proposed changes to the act would simply update the language used to modernize the statute. Accordingly, sections that are not currently useful are also excluded.

Included in the report is a copy of the *Commercial Tenancy Act*, selected provisions of related Acts, and proposed draft legislation.

Further Developments

The report's recommendations have not been implemented by legislation.