



Advocacy Centre
for Tenants Ontario

Tenant Duty
Counsel Program

Landlord and Tenant Board (LTB) – Challenges and Solutions

January 17, 2024

BACKGROUND

Background: Landlord and Tenant Board (LTB)

- ▶ ACTO offers the Tenant Duty Counsel (TDC) Program to ensure Ontario's tenants have access to legal advice on the day of their hearing.
- ▶ Busiest tribunal in Ontario typically receives 80,000 applications for hearings per year prior to the pandemic.
- ▶ 44 former regional sites across the province providing service.
- ▶ Incl. 8 Regional Offices (London, Hamilton, Mississauga, Ottawa, Toronto North, Toronto South, Toronto East, Sudbury) provided full LTB services.



Before Digital: Landlord and Tenant Board (LTB)

- ▷ All locations offered mediation
- ▷ All hearings scheduled both tenant and landlord cases
- ▷ All locations heard only disputes within the region/municipality
- ▷ All locations had regional adjudicators familiar with the community
- ▷ All locations offered tenant duty counsel services (“TDC”)
- ▷ Some locations offered eviction prevention services on site.



Before Digital: Landlord and Tenant Board (LTB)

- ▷ Regional Centres offered counter staff support to walk-ins.
- ▷ Visual markers assisted participants
- ▷ Low Barrier Access
- ▷ Hallway conversations would result in more resolutions/eviction prevention
- ▷ Seeing homelessness prevention services, mediation, tenant duty counsel services in-person increased trust and likelihood that participants would utilize these services.



Ontario Disability Support Program (ODSP)

Programme ontarien de soutien aux personnes handicapées (POSPH)

Ellen Fairclough Building (aka ODSP office), LTB Regional Office, 119 King Street W., 6th Floor. LTB held hearings three times per week providing full services for Hamilton.

Key Dates

- ▶ January 2020 - Ombudsman launched investigation on delays at the LTB (landlord applications waited 7 weeks and tenant applications were 8 weeks for hearing)
- ▶ March 2020 to August 1/20 – LTB heard only urgent or serious cases
- ▶ September 2020 – announcement of Digital First strategy
- ▶ November 2020 – Digital First strategy made permanent without consultation
- ▶ Fall 2020 – local/regional scheduling ends in favour of provincial scheduling and applications begin to be heard separately
- ▶ October 2022 – First In-Person LTB hearing held in Ontario
- ▶ May 2023 – Ombudsman released [report](#) (97 pages, 61 recommendations) citing tenants waiting up to two years and landlords 6-9 months for a hearing

What are the current challenges at the LTB?

1. Access
to Justice

2. Delays

3.
Operational
Services

Unequal Access to Justice

- ▶ Digital Divide has been a challenge for people living in rural and remote areas, whose first language is neither French or English, individuals with disabilities, literacy, and numeracy challenges.
- ▶ The CRTC's broadband target of 50 Mbps download, 10 Mbps upload, and unlimited data.
- ▶ [In 2019](#), only 30.5% of rural households and 16.1% of First Nations households in Ontario could meet the CRTC broadband target;
- ▶ [2022 Deloitte Study](#) : 39% of households earning less than \$40,000 per year ([median income](#) of Ontario's renters is \$58,800) met CRTC minimum.
- ▶ The [Ontario Bar Association](#) and non profits serving Ontarians including the [United Way](#) have expressed concerns



Unequal Access to Justice

55.6% of tenants participate in their hearing by phone

74% of landlords participate by video in their hearing

98% of tenants appearing before the LTB are unrepresented

Unequal Access to Justice



- ▶ “A significant number of tenants, in contrast to landlords, do not have access to video technology and must participate in hearings by phone,” while the landlord and the adjudicators are in a video hearing room. Some tenants lack access to phones, rendering their participation in virtual hearings impossible without accommodation. (para.198 of Ombudsman’s report)
- ▶ Virtual hearings are “chaotic,” with participants struggling and sometimes failing to join their hearing, or “losing audio connection part way through.” Adjudicators reported being unable to find and share documents on screen during a hearing. (para. 215-220 of the Ombudsman’s report)
- ▶ Loss of regional familiarity, less aware of bad actors that frequent the Board – provincial scheduling model

Delays Due to Other Factors Beyond the Pandemic

Application	2022-2023	2021-2022	2020-2021	2019-2020	2018-2019	2017-2018
Applications Received	73,208*	61,586**	48,422**	88,874	82,095	80,791
Applications Resolved***	52,986	61,868	35,983	72,064	79,476	78,744
Active Cases at Year-End****	53,057	32,800	34,731	22,803	14,725	12,944

Delays Due to Other Factors Beyond the Pandemic

- ▷ Delays attributed to three factors:
 1. Digital hearings have led to delays (p. 217, Ombudsman)
 2. Scheduling hearings provincially (p. 214, Ombudsman)
 3. Scheduling by hearing type
- ▷ In March/23, landlord applications took an average of 6 to 9 months to be heard and tenant applications up to 2 years. (para. 6 Ombudsman's Report)
- ▷ 9,323 tenant applications unresolved with 2 going back to 2017, 13 to 2018, and 78 from 2019. (para. 146 Ombudsman's Report)



Operational Service Concerns

- ▶ Documents uploaded to new Online Portal go missing or are not available at the hearing
- ▶ Moderators assigned to a select few hearing blocks - some adjudicators are left alone to manage the waiting area and adjudicate hearings
- ▶ Fewer Mediators - assigned only for the busiest hearing blocks
- ▶ Urgent matters are addressed more slowly due to the closure of the regional centres - immediate access to documents or a decision requesting a stay of an eviction takes longer (days instead of hours)
- ▶ Call Centre wait times **doubled** from 18 minutes to 37 minutes from 2020 to 2023 while calls **dropped by 39%** from 202,000 to 123,000
- ▶ LTB documents such as the Notice of Hearing are confusing with key information not easily identified.
- ▶ Dedicated IT support line only established after Ombudsman's Report

Ombudsman's Report (May 4/23)

- ▶ The new case management program cannot identify urgent cases or alert staff of urgent cases. In some instances, it closed files before an order was issued. (para. 106, 230)
- ▶ Poor training - only half of the 72 adjudicators knew how to adjudicate all types of applications. (para. 100)
- ▶ LTB prioritized landlord applications over tenant applications because they were less time intensive. “It is unconscionable to permit tenant applications to lie dormant for up to six years.” (para. 148)
- ▶ Tenant applications were scheduled with unreasonable allotment of time - often leads to the matters returned to the queue for rescheduling. (para. 149)
- ▶ Government chose not to renew the terms of experienced adjudicators and delayed in appointing new ones (para. 78)

Ombudsman's Report (May 4/23)

- ▶ The conduct of the LTB, Tribunals Ontario and Ministry of the Attorney General was unreasonable pursuant to s. 21(1)(b) of the Ombudsman's Act.
- ▶ “Despite the dozens of specific recommendations I have already made, addressed at improving efficiencies ... at virtually every stage, I believe that more is required...Over the past few years, the Board has proven itself unequipped for the task of reducing its extraordinary backlog of applications...Board is fundamentally failing in its role of providing swift justice to those seeking resolution of residential landlord and tenant issues.” (para. 306)
- ▶ Ministry of the Attorney General, Tribunals Ontario, and LTB should report back in six months time and at six month intervals thereafter until the Ombudsman is satisfied that adequate steps have been taken to address recommendations.

The Dysfunction at the LTB has Exacerbated the Housing Crisis

- ▷ Role of LTB to remind parties of their rights and hold them to their responsibilities.
- ▷ In 2019, [58% of tenants](#) who received notices for eviction did not attend their eviction hearings – eviction orders were issued in their absence
- ▷ Upstream intervention is key. 97.4% Tenants and 20.05% Landlords appear unrepresented at the LTB (Tenant Access to Justice Project, 2018)
- ▷ [In Canada](#), more than 235,000 people experience homelessness in any given year, and 25,000 to 35,000 people may be experiencing homelessness on any given night.
- ▷ In [Hamilton](#), 37% of renters spend more than 30% of their household income on rent and 14% spend more than 50%. 10% (compared to 8% across the province)of units in need of major repairs.

The Dysfunction at the LTB has Exacerbated the Housing Crisis

- ▶ Asking rents in 2023 have increased across Ontario from 10% to 35% compared to 2022 and 24.9% of Ontario's renters are in core housing need.
- ▶ When a tenant is evicted from an affordable unit, it is an affordable unit lost forever because of vacancy decontrol.
- ▶ Delays create larger arrears making tenants ineligible for accessing rent banks and other programs for support. Also increases debts for housing providers.
- ▶ Many tenants are not appearing for their hearings, especially tenants in the North.
- ▶ Increase in all notices of eviction because of rapidly escalating rental prices, vacancy decontrol, and the impact of financialized housing. When tenants assert their rights, delays invite more harassment from landlords

What steps has the LTB
taken to address these
challenges?

Measures Taken to address the Challenges

- ▶ Tribunals Ontario Portal launched (December 8, 2021) for parties to submit their documents
- ▶ Mobile access terminals that offer internet, audio/visual equipment, additional IT supports and a revised website to explain how participants can request in-person hearings and log onto online hearings
- ▶ Phone pilot: participants can receive a flip phone to participate in hearings
- ▶ \$4.5 million funding increase over three years to LTB (April 1, 2022)
- ▶ \$1.4 million to hire 35 additional operational staff (November 2022)
- ▶ \$6.5 million funding announcement to hire 40 additional adjudicators and five office staff (April 5, 2023)

Measures Will Have Minimal Impact

- ▷ Funding for more adjudicators is from the Province's [contingency funds](#) and likely temporary.
- ▷ Concurrent provincial scheduling continues disadvantaging mid size and smaller municipalities
- ▷ Applications involving the same address still not scheduled together
- ▷ Resolving disputes before the hearing still challenging without hallway conversations, homelessness prevention programs ready and available for tenants on the day of the hearing, and fewer mediators, moderators and TDC available to assist parties
- ▷ Very few in-person hearings granted –Vice Chair required to approve
- ▷ Parties are still not participating using the same format (phone vs. video)
- ▷ Dedicated LTB regional centres remain closed to the public.

Measures Will Have Minimal Impact

- ▷ More adjudicators will have a marginal impact compared to changing the scheduling and hearing format for parties.
 - In 2010/11 - 46 Full time adjudicators plus 10 part time members scheduled hearings as quickly as five weeks to 26 weeks with decisions issued in three weeks with 80,000 applications for hearing that year.
 - In November 4, 2022: 36 full time members (including Vice Chairs) and 45 part time members (including Vice Chairs) and delays were 7 to 8 months on average for a hearing.
 - In [Fall 2023](#) : 61 full-time and 54 part time
 - Backlog has grown from 34,731 in 2021 to 53,057 on March 2023.
 - “Over the past few years, the Board has proven itself unequipped for the task of reducing its extraordinary backlog of applications.”

What Policy Proposals Can Stakeholders Offer to Improve LTB Operations?

Solutions

Tribunals Ontario should bring back in-person hearings as a viable option to promote effective access to justice

Immediately Move forward with Ombudsman's recommendations and improve operations

Reopen Regional Offices to provide counter staff services

The LTB can create a navigator program to connect with parties prior to their hearing to determine eligibility for remote hearing or if other options are more suitable

Tribunals Ontario should collect data and proactively seek feedback from users about their experience, which should guide any future developments

LTB Should Return to a Regional Scheduling Model

Solutions: Effective Access to Justice

- ▷ Remove digital barriers to access
- ▷ Provide parties with clear choice for remote and in-person hearings
- ▷ Offer minimum number of in-person hearings to increase pre-hearing resolutions (i.e. hallway conversations) to reduce backlog and prevent unnecessary evictions
- ▷ [Ontario Human Rights Commission](#) , [Health Care Professionals](#), [United Way](#), and [landlord and tenant advocates](#) support a return to in-person hearings
- ▷ [Courts](#) and [Tribunals](#) have returned to In-Person hearings by default or hybrid format

Solution: Adopt Ombudsman's Recommendations and Improve Operations

- ▶ Immediately implement all 61 recommendations
- ▶ Improve website navigation
- ▶ Review and revise forms to ensure they are written in plain language
- ▶ Ensure documents on the portal are easily accessible for users and representatives
- ▶ Continue mailing correspondence for parties as an alternative to logging on to the portal
- ▶ Improved back office processes to ensure relevant documents are included in the portal promptly

Solution: Reopening Regional Offices

- ▶ LTB staff are knowledgeable in the law and Board policies and procedures unlike Service Ontario staff
- ▶ In-person supports can improve referrals to appropriate services (i.e. Rent bank, TDC)
- ▶ Minimize delays as documents can be reviewed for minor errors when they are filed
- ▶ Provide immediate support to parties for emergency matters
- ▶ Can more easily provide parties and TDC with relevant documents on the day of the hearing

Solution: LTB Navigator Program

- ▶ Contacting parties before the hearing
 - Assist with pre-hearing outreach: assess remote hearing suitability
 - Inform tenants of TDC and other community supports (e.g. Interpreters, homelessness prevention programs)
 - Offer mediation services prior to hearing

Solution: People-Centred Approach to Guide Future Development

- ▶ Innovation must be led through collaboration
- ▶ Regular user surveys such as the one offered by the [Social Security Tribunal](#)
- ▶ Gather data about barriers to entry and applications filed at the Board and their outcomes
- ▶ Post findings publicly to enhance accountability and transparency
- ▶ Annual Review of all processes to ensure LTB is providing fair and accessible services.

Solution : Bring Back Regional Scheduling

- ▷ Improved access to housing and homelessness supports
- ▷ Better service to rural and smaller communities
- ▷ All applications should be heard together
- ▷ No more concurrent hearings
- ▷ Predetermined sittings of the LTB
- ▷ Adjudicators would be familiar with local housing situation and parties

of days from Filing to a Hearing in 2018

Hamilton – **29.2** days from filing
Ottawa – **29.6** days from filing
Thunder Bay - **55.4** days from filing
Belleville - **46.6** days from filing
Sarnia - **58.3** days from filing
Toronto addresses North of Eglinton - **38.7** days from filing
Toronto addresses South of Eglinton - **80** days from filing

Thanks!

Any questions?

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*All info was taken from ACTO LTB Handout