

## ***Airbnb and Covid-19***

As of April 3, 2020 the Ontario Government prohibited short-term rentals as part of its response to the Covid-19 pandemic. While the ban continues the fleet of would-be Airbnb units will remain empty and generating no income.

As the costs continue to mount, hosts will turn to other measures to ensure their investment properties are generating revenue. An obvious solution is to enter in short-term rentals with individuals who are in need of housing during the emergency period - this is the sole exception to the government's order. But doing so may not be straightforward.

## **Airbnb and the Residential Tenancies Act**

Readers of certain Ontario newspapers will have come across stories of nightmare tenants who abuse the law in order to stave off eviction for seemingly indefinite periods. While such scaremongering is wide of the mark and, frankly, fake news, it would be in hosts' best interest to continue avoiding the *Residential Tenancies Act's* umbrella. The *Act* limits rent increases and reasons for eviction and places a burden on landlords to maintain their units.

Short term rentals such as Airbnb do not come within the *Act* because they fall under the exemption for:

*living accommodation intended to be provided to the travelling or vacationing public or occupied for a seasonal or temporary period in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast vacation establishment or vacation home*

Typically these units are rented by vacationers who do not need or want to stay any longer than their booking. Renting to a different demographic may challenge the non-application of the *Act*.

## **Occupied for a temporary period**

The Landlord and Tenant Board [once decided](#) that a nine month rental which coincided with the academic year was occupied for a temporary period. The Board emphasised that the parties had a meeting of the minds that the unit would only be occupied for that period, and the guests actually moved out on the specified date. This is a rare decision. More often, there will be findings that a one month rental is not occupied for a temporary period. Among factors that the Board might consider are: the type of unit, the means of advertisement of the unit, the expectation of renewal, and whether or not there is a firm end date.

Agreeing to rent the unit to an individual who needs to isolate for a number of days is likely to be considered temporary occupancy. In contrast, easing the financial burden by renting the unit for a one month period to a person looking for a home is very likely to result in a tenancy.

## **What if I have a tenant?**

A good tenant will provide a steady source of income and will maintain your unit, but ending the tenancy may be difficult. When travel restrictions end it will be difficult to convince the Board to evict the tenant to resume the more lucrative short-term rental business.

*The lawyers at O'Connor Richardson P.C. have extensive experience with residential tenancies law. Before taking any steps to rent out your unit for long periods of time, please [contact us](#) for a free half-hour consultation.*