

# ACCESS TO JUSTICE: THE CASE FOR ONTARIO TENANTS

FINAL REPORT OF THE TENANT DUTY COUNSEL REVIEW



Advocacy Centre for Tenants Ontario

Prepared by Emily Paradis, PhD

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<b>ACKNOWLEDGEMENTS</b>	<b>7</b>
<b>EXECUTIVE SUMMARY</b>	<b>10</b>
1. Introduction to the Tenant Duty Counsel Program Review	10
2. Key survey findings	11
3. Key findings from observations, interviews and focus groups	11
a. Access to justice	11
b. Tenants’ needs and satisfaction	14
c. Promising practices	15
d. Other factors that may affect TDC effectiveness and tenants’ access to justice	16
4. Recommendations	17
a. Recommendations for the Tenant Duty Counsel Program	17
b. Recommendations for Tenant Duty Counsel and clinics that offer TDC services	18
c. Recommendations for the Landlord and Tenant Board	20
d. Recommendations for Legal Aid Ontario	22
e. Recommendations for local and regional governments	22
<b>INTRODUCTION</b>	<b>24</b>
1. Purpose of TDCP Review	24
2. TDC program - history and previous evaluations	24
3. Questions	25
4. Methodology	26
a. Survey	26
b. Observations, key informant interviews & focus groups	27
5. Introduction to participating TDCP sites	27
a. Belleville	28
b. Hamilton	28
c. London	29
d. Ottawa	29
e. Thunder Bay	30
f. Toronto	30
g. York Region	31
<b>SURVEY FINDINGS</b>	<b>32</b>
1. Intake & Tenant Information	32
a. Surveys Completed	32
b. Tenant Demographics	32
c. Vulnerability	33

d. Households & rental units	34
e. Income & rent	35
<b>2. TDC Services</b>	<b>36</b>
a. Previous legal services and access to TDC	36
b. TDC services	37
<b>3. Case Information</b>	<b>38</b>
a. Case information	38
b. LTB Process	38
<b>4. Outcomes &amp; TDC impacts</b>	<b>38</b>
a. Cases involving arrears	39
b. Cases involving amounts claimed by landlord	40
c. Cases involving eviction	40
d. Cases involving tenant applications	42
e. Cases involving adjournment	42
f. Tenant satisfaction with outcome	42
<b>5. Tenant expectations &amp; satisfaction</b>	<b>43</b>
a. Tenant expectations	43
b. Satisfaction	44
<b>6. Limitations of the survey data</b>	<b>45</b>
<b>7. Key learnings from the survey</b>	<b>45</b>
a. The survey confirms tenants' disadvantage	45
b. Tenants who access TDC are extremely vulnerable	46
c. Though most cases are landlord applications, most tenants have other concerns	46
d. All methods of informing tenants about TDC services are necessary	46
e. TDC makes a positive difference, and tenants are satisfied with its services	47

## **FOCUS GROUP & INTERVIEW FINDINGS** **48**

<b>1. TDCP services and tenants' access to justice</b>	<b>48</b>
a. Different understandings of "justice"	48
b. Facilitating the LTB process	49
c. TDC services & tenants' access to justice	50
i. Summary advice	51
ii. Brief services and document preparation	52
iii. Referral	53
iv. Representation	54
v. Tenant applications	56
d. Vulnerable tenants and access to justice	57
i. Tenants who never make it to the LTB	57
ii. Tenants with disabilities	59
iii. Other forms of vulnerability and marginalization: "The desperation sector"	60
e. Impact of TDC services	63
<b>2. Tenants' needs and satisfaction</b>	<b>65</b>
a. Tenants' legal needs	66
i. Information and education	66
ii. Legal advice	66
iii. Accommodation in the LTB process	66

iv. Low-barrier housing law assistance	67
b. Non-legal needs	68
i. Practical assistance and emotional support	68
ii. Financial assistance	68
iii. Help with finding housing	69
iv. Help with maintaining housing	69
v. TDCs and clinics meeting non-legal needs	70
c. Tenant expectations and satisfaction	70
d. Tenant recommendations for TDCP	71
i. Increase awareness of and access to TDC	71
ii. Increase services and representation	72
iii. Improve “customer service”	72
iv. Improve space	72
<b>3. Promising practices</b>	<b>72</b>
a. Intake & preparation	73
b. Tenant awareness of and access to TDC	73
c. Practice skills in tenant services	74
i. Dealing with strong emotions	74
ii. Focusing	75
iii. Providing clear information	75
iv. Presenting realistic options	76
v. Orienting tenants to the LTB	76
vi. Supporting mediation	76
vii. Making referrals	76
viii. Providing advocacy before cases come to the LTB	77
ix. Follow-up	77
d. Staffing, partnerships, and TDC models	77
i. Bringing more “bodies” to TDC	77
ii. Tenant applications	79
iii. Clinic-based and specialist TDC: Comparing models	79
e. Working with LTB & landlords	80
f. Data collection & reporting	81
<b>4. Other factors that may affect TDC effectiveness and tenants’ access to justice</b>	<b>82</b>
a. Structural & systemic	82
i. Inadequate housing, incomes and services	82
ii. Loss of social housing subsidy	82
iii. Non-legal services providing legal advice	84
b. Resources	84
i. Staff	84
ii. Space	85
iii. Technology	86
c. Factors at the LTB	87
i. Scheduling	87
ii. Side agreements & consent orders	88
iii. Unclear notices and orders	88
iv. Inconsistent knowledge among members and mediators	89
v. Procedural issues	89

## **DILEMMAS, DEBATES & RECOMMENDATIONS**

**91**

<b>1. Dilemmas &amp; debates</b>	<b>91</b>
a. Does TDC duplicate, enhance, extend, or increase legal clinics’ housing services?	91

b. Should TDC represent more?	92
c. Should TDC services be more widely promoted?	93
d. Is it appropriate to include students and volunteers in TDC services?	93
e. Should social services be part of the TDC program?	93
<b>2. Recommendations</b>	<b>94</b>
a. For the Tenant Duty Counsel Program	95
i. Increase training & professional development	95
ii. Develop & disseminate tools	95
iii. Provide more staff, for a more active TDC role	96
iv. Promote flexible use of TDC funds	97
v. Enhance online TDC-clinic communication	97
vi. Extend data collection & reporting	97
vii. Advocate for a diversion program	98
b. For Tenant Duty Counsel and clinics that offer TDC services	98
i. Increase staffing	98
ii. Provide training & coordination	99
iii. Explore partnerships & service extensions	99
iv. Increase tenant awareness of and access to TDC	99
v. Take an active role & provide representation	100
vi. Foster a collegial relationship with LTB staff, members and mediators	101
vii. Explore options for supporting tenant applications	101
viii. Recommendations for Toronto TDC and clinics	102
c. For the Landlord and Tenant Board	103
i. Improve coordination and collaboration with TDCP	103
ii. Establish a consistent knowledge base among mediators and adjudicators	103
iii. Improve communications	103
iv. Review L1 blocks and docket sizes	104
v. Formalize “navigator” role	104
vi. Improve accessibility & accommodation	104
vii. Create a diversion program	105
viii. Establish, publicize and enforce regulations about side agreements	105
ix. Follow up on no-shows	106
x. Ensure equitable access to services for francophone tenants and tenants in the North	106
xi. Track and document case outcomes	106
d. For Legal Aid Ontario	106
i. Provide adequate resources for TDCP	106
ii. Participate in the development and implementation of a diversion program	106
iii. Improve data collection & reporting	107
e. For local and regional governments	107
i. Extend & enhance TDC program	107
ii. Ensure availability of a housing stabilization fund for tenants	107
iii. Establish a review process for loss of housing subsidy	108
iv. Educate and regulate landlords	109
<b>REFERENCES</b>	<b>110</b>
<b>APPENDIX A: TENANT SURVEY</b>	<b>111</b>
<b>APPENDIX B: INTERVIEW &amp; FOCUS GROUP GUIDES</b>	<b>144</b>
1. TDC Focus Group / Interview Guide	144

2. Community Focus Group Guide	148
3. LTB Member & Mediator Interview Guide	150

## APPENDIX C: DATA TABLES 152

1. Intake data	152
a. Surveys Completed	152
b. Tenant Demographics	152
c. Vulnerability	152
d. Households	153
e. Rental Unit	154
f. Rent	155
g. Income	155
h. Rent to income ratio	156
i. Subsidy	155
j. Arrears	156
k. Debt	156
2. Case Information	157
a. Case information	157
b. LTB Process	157
c. Cases involving arrears	158
d. Cases involving amounts claimed by landlord	158
e. Cases involving eviction	159
f. Cases involving tenant applications	160
g. Cases involving adjournment	161
3. TDC Services	161
a. Previous TDC services	161
b. Awareness of and access to TDC	162
c. TDC services today	162
4. Tenant Satisfaction	163
a. Tenant expectations	163
b. Satisfaction	164

## APPENDIX D: GLOSSARY OF ACRONYMS, FORMS, AND TERMS 166

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Belleville:

- ❖ Hastings County Social Services
- ❖ Housing Resource Centre

- ❖ Community Trust

Hamilton:

- ❖ Hamilton Campaign for Adequate Welfare and Disability Benefits
- ❖ Social Planning and Research Council
- ❖ Good Shepherd: Staying Home program, Family Shelter, Women's Services
- ❖ City of Hamilton - Ontario Works
- ❖ Housing Help Centre
- ❖ City of Hamilton - Mental Health Street Outreach
- ❖ Wesley Centre

London:

- ❖ Homes for Women
- ❖ Mission Services: Rotholme Family Shelter, Men's Mission, and Streetscape program
- ❖ Women's Community Place
- ❖ Salvation Army Centre of Hope Housing Stability Bank
- ❖ Atlohsa
- ❖ London Intercommunity Health Centre

Ottawa:

- ❖ Shepherds of Good Hope
- ❖ Tungasuvvingat Inuit
- ❖ Housing Help
- ❖ Action Logement
- ❖ ACORN

Thunder Bay:

- ❖ Ontario Native Women's Association
- ❖ Thunder Bay Housing
- ❖ Faye Peterson House

Toronto:

- ❖ Immigrant & Refugee Housing Committee
- ❖ St. Jamestown Residents Association
- ❖ South Etobicoke Legal Services
- ❖ Native Women's Resource Centre
- ❖ Fred Victor Shelter
- ❖ Dixon Hall
- ❖ City of Toronto Social Housing Unit
- ❖ St. David's Village - housing provider for seniors
- ❖ Young Parents No Fixed Address network
- ❖ Ecuhome
- ❖ Salvation Army Florence Booth House
- ❖ Scarborough Shelter



- ❖ Woodgreen Community Services
- ❖ COTA
- ❖ Federation of Metro Tenants Associations
- ❖ Kensington-Bellwoods Community Legal Services
- ❖ Willowdale Community Legal Services
- ❖ Mississauga Community Legal Services
- ❖ Scarborough Community Legal Services
- ❖ North Peel and Dufferin Community Legal Services

#### York Region

- ❖ Canadian Mental Health Association Housing First program
- ❖ Porter Place shelter
- ❖ Blue Door shelter
- ❖ Salvation Army rent bank program

## EXECUTIVE SUMMARY

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### 1. Introduction to the Tenant Duty Counsel Program Review

The Tenant Duty Counsel Program (TDCP) provides summary advice and limited representation to tenants at the Landlord and Tenant Board (LTB) at 44 sites across Ontario. The primary focus of the program is to serve tenants facing eviction who have a hearing scheduled on the day they receive services. While the program is coordinated by the Advocacy Centre for Tenants Ontario (ACTO), each TDCP site operates differently depending on a number of factors, including the volume of clientele, characteristics of the local rental market, and whether the Tenant Duty Counsel (TDC) is based at a legal clinic. The aim at each TDCP site is to provide the best possible services to promote procedural and substantive justice for tenants, while serving as many eligible clients as possible. TDCP sites across Ontario have developed unique approaches to striking this challenging balance.

The purpose of the Tenant Duty Counsel Program Review was to provide quantitative and qualitative evidence on the effectiveness of the services offered by the Tenant Duty Counsel Program; to share promising practices among TDCP sites; and to make recommendations for changes that may enhance TDCP services and tenants' access to justice.

This review builds upon the findings and methods of previous studies, while aiming to generate more comprehensive evidence about the effectiveness of the TDC Program as a whole, and examine promising practices in local sites more closely. It is framed by four key questions:

1. In what ways do TDCP services (including summary advice, brief services, and representation) affect tenants' access to procedural and / or substantive justice? Which services appear to improve access to procedural and / or substantive justice, for which tenants, and under which circumstances?
2. How well do TDCP services meet the expressed needs of TDCP clients? Does client satisfaction with TDCP services vary by client demographics, the circumstances of their cases, the services provided, or other variables? In what ways can services be improved to better meet the needs of a greater number of clients, or specific subgroups of clients?
3. What are promising practices at TDCP sites participating in this review? In what ways do these practices reflect sites' specificities such as client population, region, connection with legal clinic, local rental market, LTB process, and other variables? How might promising practices be adapted for use in other sites?
4. What other factors relating to the TDC program and the Landlord-Tenant Board (administrative, procedural, resource allocation, space, etc.) affect TDC services and tenants' access to justice, and what are the effects of these factors? What

recommended changes, if any, to these factors could enhance TDC services and tenants' access to justice?

The review employed a mixed-methods approach. It drew on quantitative data from a survey of 212 tenants at four high-volume TDC sites: Toronto North, Toronto South, Ottawa and Hamilton. It also drew on qualitative data from the four survey sites and four smaller sites—Belleville, London, Thunder Bay, and York Region—including observations at the LTB, and interviews or focus groups with TDCs, clinics, community service providers, municipal services, tenant organizations, and LTB adjudicators and mediators at these sites.

## 2. Key survey findings

A number of key findings emerged from the survey. First, the survey reflects the expected high rates of tenant households that are low-income, racialized, and lone parent families, while newcomers and speakers of non-official languages are under-represented because the survey took place in English and French.

Secondly, the survey found astonishing rates of vulnerability among respondents: three-quarters of tenants were living in poverty, two out of three had histories of homelessness, half had faced discrimination in housing, and more than one-third identified that they or a person in their household had a disability.

Third, the survey reflects LTB statistics showing that the vast majority of cases are landlord applications. But when asked, the majority of tenants said that they had other kinds of problems with their housing situation, including infestation, maintenance and repair issues, illegal charges and landlord harassment. This finding suggests that tenant applications are severely under-represented at the LTB.

Fourth, the survey found that tenants had learned about TDC services from many different sources, from signage to LTB staff to direct approaches by TDC and students. This finding suggests the value of maintaining all methods currently in use to inform tenants about TDC services. At the same time, the absence of one or two key sources through which most tenants receive information about TDC raises the concern that some tenants may be missing out on this information altogether.

And finally, TDC intervention appears to contribute to an improved outcome in the majority of cases, though success was difficult to statistically measure because of the many factors at play. TDC service meets or exceeds tenants' expectations, and they are overwhelmingly satisfied with it.

## 3. Key findings from observations, interviews and focus groups

The focus groups, interviews and site visits lend nuance and complexity to the survey findings, contributing to a fuller picture of TDC services, and providing responses to the four questions framing the TDCP Review.

### a. Access to justice

In considering the influence of TDCP services on tenants' access to justice, it is important to first note that key informants raised different understandings of the meaning of "justice" as it applies to tenants at the Landlord and Tenant Board. The daily work of TDC in promoting tenants' access to justice operates within the constraints of the current legislation and LTB procedures, which may at times be at odds with broader conceptions of social justice and housing rights.

The LTB is characterized by major imbalances in power, resources, legitimacy, social capital, and risks between landlords and tenants, and it is seen by many tenants as a frightening, intimidating and disempowering environment. TDC services help to mitigate tenants' disadvantage at the LTB, ensure substantive equality for them, and diminish their sense of disempowerment.

LTB members and mediators reported that the TDC program facilitates the daily work of the LTB in a number of ways: by informing tenants about the law and about LTB process; by making tenants aware of their rights and obligations; by providing information that helps tenants more realistically assess their situation and case, and make better-informed decisions; and by helping tenants stay calm and focus on the most important issues in their case.

In considering how specific TDC services influence tenants' access to justice, it becomes apparent that the categories typically used to describe various TDC services—summary advice, brief services, document preparation, referral, and representation—are quite blurry and difficult to distinguish in practice. Though the service categories are not always distinct, interviews and observations did suggest that each contributes in different ways to tenants' access to justice.

TDC advice equips tenants with knowledge of the law; prepares them for an unfamiliar and intimidating process; informs tenants of their options and rights; helps them to distinguish between their expectations about fairness and justice, and the actual merits of their case; and assists them to improve the terms of even unfavorable outcomes. While all informants agreed that summary advice works well for tenants who are capable of self-representation, most also raised the concern that not all tenants are able to apply TDC advice in a hearing or mediation on their own.

Document preparation and other brief services are a very important adjunct to summary advice. Much TDC advice blurs into this area. Informants across all sites reported that helping tenants to calculate and propose repayment plans in arrears cases is a particularly important aspect of TDC work. Tenants are rarely aware that they can propose a payment plan other than the deadline identified on their notice.

TDC refers tenants to a range of services that can assist them in addressing the financial and other issues underlying their housing problems, such as the rent bank, moving assistance, mental health services, and income support programs. TDC also commonly refers tenants to legal clinics for further assistance on their case; in most sites, clinic legal workers are providing TDC services and can facilitate referrals to their own clinic, or even determine whether to take on a case themselves. In Toronto, though, TDCs and clinics report gaps in communication and services that may hamper referrals to clinics.

The survey suggests that representation is very rare in high-volume sites; in smaller sites, there is wide variation in representation rates, with representation much more common in some locations than in others. TDCs, community organizations, and many members and mediators agree that it would be beneficial for TDC to represent more often. There is inconsistency, though, in determining how to allocate TDCs' limited time. Need for accommodation is certainly a factor in the decision, but it is often superseded by the simple question of whether TDC has the time. Considering the demographic profile of tenants revealed by the survey—deep poverty, high rate of disability, and the majority with past experiences of homelessness—most tenants using TDC services could be understood to require accommodation of some kind, including active TDC support and representation. But increasing representation could have the unintended effect of decreasing the number of tenants who can be served.

Tenant applications are an important component of access to justice for tenants, but LTB statistics show that this mechanism is rarely accessed by tenants. Many informants suggest that the LTB accords more importance and attention to landlord issues than tenant issues. Reasons that tenants don't bring applications for repairs and rights violations include lack of awareness of rights, lack of understanding of these as legal issues, fear of reprisals, cost of the filing fee, complicated paperwork, and intimidation about engaging in a legal process. Unfortunately, tenant applications tend to fall through the cracks in access to legal services. Because of their complexity and the need to prepare submissions and gather evidence, they are a poor fit for time-limited TDC services. But they also don't fit within the mandate of most legal clinics, which tend to focus on eviction prevention.

The survey revealed an astonishing depth of vulnerability among tenants accessing TDC services. Considering this demographic profile, it is important to consider the ways in which TDC influences access to justice for the most vulnerable and marginalized tenants.

Many tenants—in some sites, 50 percent or more on any given day—never appear for their LTB date. Many in that number are among the most vulnerable, are not aware of their rights, and may simply leave when their landlords tell them to, without any kind of due process. Some who receive an LTB notice may misinterpret it, believing they have already been evicted. Some tenants may become so overwhelmed that they simply ignore notices until it's too late. Community workers pointed to the need for outreach legal information, education, and advice through shelters and other community programs in order to reach tenants who might otherwise not have access to TDC.

The survey and interviews confirm that a much larger proportion of tenants have disabilities than are provided with representation or identified by TDC as requiring accommodation in services. The survey and interviews also reveal multiple dimensions of disadvantage and marginalization among tenants: poverty, receipt of social assistance, discrimination, lone parenting, child welfare involvement, legacies of colonization and racism, and homelessness are just some factors other than disability that intersect with tenants' risk of housing problems and eviction. Many informants pointed out that TDC services alone can't improve access to justice for this group: a

change is needed in how the LTB approaches eviction in the case of tenants with disabilities and other vulnerabilities.

In spite of the complex challenges facing most tenants who access it, the survey and interviews demonstrated that TDC has a good success rate. The survey showed that TDC intervention contributed to improved outcomes in 57 percent of cases overall, and there was an even higher success rate in specific case types: 60 percent success rate in arrears cases, at least 65 percent in eviction cases, and 71 percent success in extending tenants' repayment time.

The survey showed few statistically significant relationships between the type of service TDC provided and positive case outcomes; there were also few differences in TDC impacts between groups of tenants. Where differences do exist, they confirm that TDC services are particularly effective for vulnerable tenants. For example, tenants who had experienced visible homelessness were significantly more likely to have an improved outcome.

There was general recognition that TDC is of different benefit for different case types. TDC services were seen by informants as most beneficial in cases involving arrears, referrals, adjournments, evictions based on persistent late payment, requesting reviews and set-asides, procedural issues, and determining whether the RTA applies to a case. On the other hand, TDC services are seen to be of less direct benefit in N5s, N6s, N7s, and L2s for behaviour. These types of cases are generally too complex for TDC's scope of practice, but TDC is still able to contribute to a positive outcome through an adjournment request and referral to a legal clinic. As noted above, tenant applications are one area that falls between the cracks: neither TDC nor clinics are typically able to provide the level of assistance tenants require to be successful.

## b. Tenants' needs and satisfaction

Interviews, focus groups, and observation demonstrated that tenants who come before the LTB have wide-ranging legal and non-legal needs. These needs, and tenants' expectations of TDC services, influence tenants' satisfaction with the service and their recommendations for improvements.

Tenants' legal needs include information and education, legal advice, and accommodation in the LTB process. In addition, the high rate of tenants served off-docket in Toronto sites suggests that tenants require access to low-barrier, drop-in, specialized housing law assistance. Any review of the high rate of not-on-docket cases served in Toronto must take this need into account.

Tenants' non-legal needs include the need for practical assistance at the LTB such as printing and photocopying; financial assistance to pay arrears; help with finding appropriate housing after eviction; and assistance with maintaining housing and meeting conditions on LTB orders. Though meeting these non-legal needs is not directly within TDC's mandate, TDC programs often end up providing these services, or assisting tenants to access them.

The survey shows that satisfaction with TDC services is high among tenants. Interviews confirmed that most tenants appear satisfied with the services TDC provides. At the same time, satisfaction questions typically provide a limited perspective on the extent to which a service is successful. Expectations, and the extent to which services meet them, can provide more robust information for planning services. The vast majority of tenants participating in the survey said TDC services had met or exceeded their expectations. TDC services also aim to influence tenants' expectations. TDCs empower tenants with knowledge of their rights so that they can make better-informed, less desperate decisions.

Tenants' recommendations for TDC fell into four main categories:

- ❖ Increase awareness of and access to TDC;
- ❖ Increase services and representation;
- ❖ Improve "customer service"; and
- ❖ Improve space.

### c. Promising practices

A number of promising practices were identified through the review, ranging from approaches to administration and promotion of the TDC program, to micro-practices and tools in tenant services, to partnerships and data collection.

Promising practices in the area of intake and preparation include:

- ❖ In Belleville, clinic intake staff match clinic intakes with matters on the LTB docket. This enables clinic legal workers who will be attending TDC to make advance contact with tenants where appropriate.
- ❖ In Thunder Bay, a member of the clinic's administrative staff attends TDC to conduct intake, freeing TDC to provide more in-depth legal advice.

Promising practices to increase tenants' awareness of and access to TDC include:

- ❖ In the Southwest region, adjudicators begin each sitting by allowing TDC and the mediator to introduce themselves and sign tenants up in the hearing room.
- ❖ In Belleville, volunteers approach every tenant to inform them of the availability of TDC services.
- ❖ In Toronto, London, and Ottawa TDC is available onsite at LTB outside hearing hours.
- ❖ In York Region, the TDC / Eviction Prevention team conducts outreach at shelters and other agencies.

Promising practices in staffing, partnerships, and TDC models include:

- ❖ In York Region, the legal clinic's Eviction Prevention Program, funded by the Region, has added a social worker and a second legal worker to the TDC team.
- ❖ In Belleville, the clinic sends a large team—including volunteers, students, and two legal workers—to every sitting of the LTB.
- ❖ In London, a community agency sends an outreach mental health worker to every sitting of the LTB. TDC often serves tenants in tandem with the outreach



worker, providing legal advice and then referring to the outreach worker for social services.

- ❖ In Ottawa, a specialist TDC coordinates rotating LTB attendance by local legal clinics, so that an extra legal worker is on-site daily.
- ❖ In Toronto, student volunteers are on-site at the LTB during the academic year, to assist with promoting the service to tenants, finding tenants when it is their turn to see TDC, and monitoring events in the hearing rooms.
- ❖ In Thunder Bay, the Lakehead student legal clinic provides intensive, long-term support to tenant applications, from intake through to the hearing or mediation.
- ❖ In Ottawa, a professor and students from the University of Ottawa law school worked with an anti-poverty group to bring LTB applications from tenants in buildings that had been allowed to deteriorate severely while the conglomerate that owned them tried to avoid legal sanction by transferring ownership between companies.

In addition, the review identified a number of micro-practices TDCs employ in working with tenants. These “customer service” skills and practices are effective in dealing with strong emotions, focusing, providing clear information, presenting realistic options, orienting tenants to the LTB, supporting mediation, making referrals, providing advocacy to resolve cases before they reach the LTB, and following up with tenants after their TDC service.

Finally, many raised the importance of maintaining positive working relationships with LTB members and mediators, as well as with landlords. Such relationships can promote improved outcomes for tenants.

#### d. Other factors that may affect TDC effectiveness and tenants’ access to justice

While the review aimed to identify impacts, promising practices, and areas for improvement within the TDC program, these can’t be discussed in isolation from other factors.

For most tenants, coming before the LTB is the product of multiple, intersecting inequities, injustices, and experiences of discrimination and marginalization. Structural and systemic factors that affect tenants’ access to justice include inadequate housing, incomes, and services; loss of social housing subsidy; and non-legal services providing legal advice.

Resource constraints were a problem commonly mentioned by informants. They noted that Legal Aid Ontario funding for the TDC program does not provide sufficient TDC staff to meet the needs of all tenants in high-volume sites. The problem is particularly urgent at Toronto North and Toronto South, where just two or three TDCs serve sites at which the combined annual docket size is larger than all sites outside Toronto combined. In many sites, TDC also lacks adequate space to provide confidential services to tenants. Finally, informants pointed to the need for consistency across sites in access to technology.



Given the importance of the LTB environment in the provision of TDC services, it is not surprising that a number of factors relating to the LTB were seen to influence the effectiveness of TDC services. These include the following:

- ❖ unmanageable docket sizes, particularly on L1 days, which affect procedural and substantive justice for tenants;
- ❖ landlords placing undue pressure on vulnerable tenants to enter into agreements that are not in their best interests;
- ❖ unclear notices and orders from the LTB, which tenants may misinterpret;
- ❖ inconsistent knowledge among members and mediators; and
- ❖ procedural issues, including barriers to tenant applications.

## 4. Recommendations

The report's recommendations emerge directly from the review's findings, and are framed in response to the issues that informants identified as most important. They are addressed to specific entities that are directly connected with tenant duty counsel services: the TDC Program; the clinics and individuals who provide TDC services; the Landlord and Tenant Board; Legal Aid Ontario; and the municipal / regional level of government.

### a. Recommendations for the Tenant Duty Counsel Program

- ✓ **Increase training & professional development:** TDCs require access to more training on procedural matters; in "customer service" skills such as providing information clearly, helping people focus, and dealing with distress; and in cultural competency in working with people facing homelessness, and in Inuit cultural awareness. Finally, training opportunities should be provided remotely or on-site to clinics, as not all clinic staff who attend TDC are included in the annual ACTO training.
- ✓ **Develop & disseminate tools:** The TDC Program should develop and maintain an online bank of standardized forms, tools, and manuals, such as an intake form, an intake manual, a repayment agreement form, a standardized form for TDC to provide to the tenant that summarizes their advice, and a referral form with a case summary for sharing between TDC and clinics. This review identified some excellent examples from local sites that could be standardized and circulated for local use and adaptation.
- ✓ **Provide more staff, for a more active TDC role:** Across the board, informants recommended more representation and a more active TDC role. At the same time, it is also necessary to maintain, or ideally increase, the rate of tenants served. The only way to meet these two goals is to increase staffing. The high rate of disabilities, history of homelessness, and deep vulnerability among tenants as demonstrated by the survey underscores the need for more

resources to meet tenants' needs. Ideally, there should be a TDC team of at least two people attending the LTB. At smaller sites and off-site locations, clinics may accomplish this by engaging students and volunteers, and dedicating additional clinic staff to TDC. At larger sites, an infusion of resources is necessary to bring TDC staffing to adequate levels. The TDC Program should advocate with LAO and municipalities to fund or co-fund extensions to TDC services.

- ✓ **Promote flexible use of TDC funds:** Informants at some sites expressed a need for more flexibility in the use of TDC funding, for example to cover replacement staff when clinic legal workers attend TDC, or to acquire technology such as printers, cell phones, and laptops with necessary software. The service contract for provision of TDC offers a great deal of flexibility in the use of funds; however, it appears that knowledge of these options is inconsistent across sites. The TDC Program should share examples of creative use of funds, and support TDC sites to make best use of surpluses.
- ✓ **Enhance online TDC-clinic communication:** Informants identified a need to simplify online information transfer between TDC and clinics. Mechanisms could include a specific module for secure transfer of case information between TDC and clinics, and an online TDC filing system that can facilitate locating records of tenants' previous TDC services and clinic referrals.
- ✓ **Extend data collection & reporting:** The TDC Program should develop and implement a standardized data collection tool to be used at all TDC sites, that gathers disaggregated data on disability, racial identity, Indigenous status, immigration status, income, lone parent status, and other factors that affect tenants' access to adequate housing. In addition, the TDC Program should provide input to the LTB on the development and implementation of a system for tracking case outcomes. Such information could also be gathered and analyzed on a smaller scale by the TDC Program itself on an ongoing basis or during an annual "snapshot" period.
- ✓ **Advocate for a diversion program:** The depth of vulnerability among tenants revealed in this review suggests that a diversion program similar to that found in criminal courts should be implemented at the LTB, in order to address tenancy problems and prevent evictions. The development and implementation of such a program falls within the mandate of the LTB and LAO; however, the TDC Program has a vital role to play in advocating for and providing information to this process.

#### b. Recommendations for Tenant Duty Counsel and clinics that offer TDC services

- ✓ **Increase staffing:** As discussed above, clinics should strive to provide a minimum of two staff when attending TDC. Administrative staff, students, and

volunteers can assist with non-legal functions, in order to free TDC to provide legal advice to more tenants, play a more active role, and increase representation.

- ✓ **Provide training & coordination:** Clinics should conduct student and volunteer training for assisting at TDC, and provide professional development opportunities and internal mechanisms such as a TDC manual and TDC team meetings, to ensure consistency in skills and knowledge among all clinic legal workers who attend TDC.
- ✓ **Explore partnerships & service extensions:** Considering the very high rate of tenants with disabilities, mental health problems, and histories of homelessness, TDC sites should explore options for the availability of social work services on-site at the LTB, either through the addition of a social worker to the TDC team, or via partnerships. TDC sites should also aim to improve tenant access to other relevant services, including the rent bank, and housing help services; and should provide outreach legal information and education on tenant matters in community settings such as shelters.
- ✓ **Increase tenant awareness of and access to TDC:** The review identified a general need to increase tenants' awareness of and access to TDC, including through displaying prominent signage; using clear language such as "free legal advice and assistance" instead of "duty counsel"; signing tenants up for TDC in the hearing room; and widely disseminating information about the TDC program, including in small communities. TDC can increase tenant access to service by starting intake at least one hour before hearings begin and continue through the day until hearings end; remaining available for follow-up questions from tenants during their hearing or mediation, or after their matter is concluded; and in on-site locations, offering TDC services at the LTB or clinic outside hearing hours.
- ✓ **Take an active role & provide representation:** Tenant outcomes improve when TDCs take an active role, including writing down and rehearsing arguments, making direct contact with referrals, accompanying in mediation, intervening when required, providing information to the Board, making adjournment requests on behalf of tenants, and representing where it is ethically and practically appropriate to do so. A visible TDC presence in the hearing room is important for procedural justice. As noted above, students, volunteers, and administrative staff can take on some non-legal functions, freeing TDC to provide more active support to a larger number of tenants.
- ✓ **Foster a collegial relationship with LTB staff, members and mediators:** Many informants described a positive working relationship between TDC and LTB staff, members and mediators, but in some locations this could be improved by clarifying and negotiating roles and procedures; ensuring TDC activities do not infringe on the role of mediators; maintaining an open exchange of information

with the member to facilitate smooth running of the docket; and organizing “bench and bar” functions at which LTB members, mediators, and clinic staff can have contact outside the LTB.

- ✓ **Explore options for supporting tenant applications:** Tenants require more support in order to have equitable access to tenant applications. Legal clinics have a role to play in reviewing options to address this need. With LAO and other stakeholders, clinics could prototype interventions in this area.
- ✓ **Recommendations for Toronto TDC and clinics:** With just two sites serving more than half the province’s total LTB cases, Toronto is a unique case requiring a distinct model. Review findings show a need for improvement in service coordination between clinics and TDC in order to best meet the needs of vulnerable tenants. In order to address this, Toronto TDC and clinics should create a mechanism for shared service planning and communication between clinic housing programs and TDCP, and examine whether changes are required in clinic and TDC services to better meet the needs of the increasing proportion of tenants who are not on docket served by TDC at Toronto North and South locations. In addition, TDC referrals would be improved by clinics’ adoption of uniform eligibility criteria and intake procedures in housing matters. Toronto TDC and clinics should also explore the possibility of implementing Ottawa’s model of clinics rotating through TDC attendance. Finally, Toronto TDC should continue its partnership with student clinics, while increasing training, coordination and supervision.

### c. Recommendations for the Landlord and Tenant Board

- ✓ **Improve coordination and collaboration with TDCP:** The LTB should recognize and engage the TDC program as a central stakeholder in service planning, coordination, and scheduling. In addition, the above recommendations directed to TDC sites for open communication, consultation, and shared activities apply equally to the staff, administrators, members, and mediators of the LTB.
- ✓ **Establish a consistent knowledge base among mediators and adjudicators:** LTB training and professional development should aim to equip all members and mediators with a consistent knowledge base in areas including the role and mandate of TDC; tenants’ right to access legal advice; issues affecting tenants, such as poverty, discrimination, and gender-based violence; and skills in serving diverse populations including Indigenous communities and persons with disabilities. Likewise, such training should promote consistency among mediators and adjudicators in interpretation of the RTA and in the application of rules of procedure.
- ✓ **Improve communications:** Every effort should be made to ensure the clarity of language and design of all written communications with tenants, so that they accurately convey the tenant’s legal situation; provide prominent and detailed

information about the availability of TDC and clinic services; and include clear information about the LTB process. Telephone, in-person and online communications should consistently inform tenants of TDC and clinic services, and provide timely in-person response.

- ✓ **Review L1 blocks and docket sizes:** Large docket sizes and L1 blocks should be reviewed in partnership with the TDC Program in order to ensure that tenants have equitable access to services and due process regardless of the type of application in their case.
- ✓ **Formalize “navigator” role:** The review demonstrated that at many sites, commissionaires play a “navigator” role that improves the smooth function of the process and tenants’ access to information. This navigator role is vital and should be formalized, with consideration of whether it should be assigned to the commissionaire or another staff member.
- ✓ **Improve accessibility & accommodation:** The LTB should locate off-site hearings at barrier-free locations that are easily accessible by public transit and close to main arteries; offer closed hearings for tenants with mental health concerns such as anxiety; and improve tenant security in cases of harassment and intimidation, including separate waiting areas for landlords and tenants.
- ✓ **Create a diversion program:** In collaboration with the TDC program, community services, tenant organizations, private and public sector landlords, and other stakeholders, the LTB should initiate and lead a process to design and implement a diversion program, similar to that in the criminal justice system, whose aim would be to prevent evictions into homelessness by connecting tenants and landlords with necessary supports.
- ✓ **Establish, publicize and enforce regulations about side agreements:** Tenants at the LTB should be informed in writing and verbally that they are encouraged to seek TDC advice before entering into an agreement with the landlord; and members must ensure that tenants have received legal advice before entering into consent orders. In addition, the LTB should establish, publicize and enforce regulations regarding landlord representatives’ conduct at LTB.
- ✓ **Follow up on no-shows:** Service providers confirmed that the most vulnerable tenants often do not attend their LTB hearings. The LTB should implement the Gosling inquiry’s recommendation to follow up on tenants who don’t appear for their hearing.
- ✓ **Ensure equitable access to services for francophone tenants and tenants in the North:** TDCs require access to the case file and a mechanism for private consultation with tenants during telephone hearings in French and for tenants in the North. All documents pertaining to the case should be provided in advance of a telephone hearing. In addition, the LTB should expedite

translation of orders for French hearings, particularly for reviews and other cases where a time delay could be prejudicial.

- ✓ **Track and document case outcomes:** As discussed above, the LTB, in consultation with the TDC Program and other stakeholders, should develop and implement a system for tracking case outcomes, produce regular reports on this data, and make these available to the public.

#### d. Recommendations for Legal Aid Ontario

- ✓ **Provide adequate resources for TDCP:** LAO must provide adequate resources to the Tenant Duty Counsel Program for an equitable level of service across the province, including in Toronto and the North.
- ✓ **Participate in the development and implementation of a diversion program:** As discussed above, LAO should support and collaborate with LTB, TDCP, and other partners to design and implement a diversion program for tenants with mental health concerns, histories of homelessness, and other vulnerabilities.
- ✓ **Improve data collection & reporting:** LAO should partner in and fund the development and implementation of a system to track case outcomes at the LTB, and should mandate and fund services to collect and report disaggregated data on income, racial identity, Indigenous status, immigration status, disability, lone parent status, and other factors that affect tenants' access to adequate housing.

#### e. Recommendations for local and regional governments

- ✓ **Extend & enhance TDC program:** Municipalities, regions and DSSABs should partner with their local TDC programs and other stakeholders in the development and delivery of eviction prevention programs at the LTB.
- ✓ **Ensure availability of a housing stabilization fund for tenants:** Tenants across the province require equitable access to financial support for preventing eviction and stabilizing housing. Municipalities and regions should ensure that housing stabilization funds are available to tenants who are employed and those in receipt of social assistance; provide simple and transparent eligibility criteria, application process, and appeal mechanism; and allow flexible use of funds, including to meet the terms of an arrears repayment agreement or an LTB order, and to cover amounts owing on utilities, first and last months' rent, and moving costs.
- ✓ **Establish a review process for loss of housing subsidy:** Arrears cases arising from loss of social housing subsidy should be subject to municipal review before being brought to the LTB. Municipalities should work with local legal clinics,

social housing providers, tenant organizations and other stakeholders to implement a review process for subsidy loss and ensure tenants receive advice and representation in this process. Municipalities, regions and DSSABs must also improve internal communication between their social housing division and their social assistance programs, to ensure that social housing arrears arising from internal administrative errors do not result in LTB applications.

- ✓ **Educate and regulate landlords:** Municipalities should establish a consistent, proactive program of landlord education and regulation, including timely inspection of complaints from tenants, proactive rental housing audits, and effective enforcement of maintenance and repair orders. Municipalities should also educate landlords and tenants about their rights and responsibilities, and the resources available to them.



# INTRODUCTION

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## 1. Purpose of TDCP Review

The Tenant Duty Counsel Program (TDCP) provides summary advice and limited representation to tenants at the Landlord and Tenant Board (LTB) at 44 sites across Ontario. The primary focus of the program is to serve tenants facing eviction who have a hearing scheduled on the day they receive services. While the program is coordinated by the Advocacy Centre for Tenants Ontario (ACTO), each TDCP site operates differently depending on a number of factors, including the volume of clientele, characteristics of the local rental market, and whether the Tenant Duty Counsel (TDC) is based at a legal clinic. The aim at each TDCP site is to provide the best possible services to promote procedural and substantive justice for tenants, while serving as many eligible clients as possible. TDCP sites across Ontario have developed unique approaches to striking this challenging balance.

The purpose of the Tenant Duty Counsel Program Review was to provide quantitative and qualitative evidence on the effectiveness of the services offered by the Tenant Duty Counsel Program; to share promising practices among TDCP sites; and to make recommendations for changes that may enhance TDCP services and tenants' access to justice.

## 2. TDC program - History and Previous Evaluations

There have been three previous studies of the Tenant Duty Counsel Program since ACTO was established in 2001.

The first study, the *Outcome Evaluation Project* (Tenant Duty Counsel Program, 2004), compared two models for offering TDC services: the Summary Advice Model in Mississauga, and the Advocacy Model in Barrie. It employed quantitative analysis of intake and outcome data from the two sites, along with observation of hearings, interviews with TDCs, and surveys with tenants and adjudicators, to compare differences in tenant outcomes with full representation to those with brief services in cases of eviction for arrears (L1s). It found that the two models were generally comparable, with the Summary Advice Model somewhat more advantageous in cases that went to mediation, while the Advocacy Model yielded a somewhat higher success rate in hearings. However, differences in the two rental markets and in the volume of cases at each site made reliable comparison difficult.

The second study, the *Toronto East Representation Pilot Project* (Filice, 2006), reports on the results of a pilot project at the Toronto East TDC site. As with the Outcome Evaluation Project, this project compared a summary advice model to a full representation model. First, the study collected baseline statistics on tenant outcomes while the summary advice model was in use; then, a full representation model was piloted at the same site in order to compare its effectiveness. The results showed that the representation model was a partial success. While it improved tenant



outcomes in hearings, its impact on mediation outcomes, tenant learning, and client satisfaction was similar to that of the summary advice model.

Finally, the third study (Campbell Research Associates, 2006) was commissioned by Legal Aid Ontario to evaluate three relatively new programs: ACTO, the Income Security Advocacy Centre (ISAC), and the TDCP. The purpose of the evaluation was to assess the extent to which the TDCP was fulfilling its mandate: to assist unrepresented tenants at the Ontario Rental Housing Tribunal, provide housing expertise to clinics, reduce clinic workloads, and prevent evictions and homelessness. The evaluation also sought to compare the costs and benefits of the three different administration models for TDCP: engaging a per diem Tenant Duty Counsel only during LTB sittings; assigning clinic legal workers to offer Tenant Duty Counsel services; or hiring a specialist Tenant Duty Counsel as clinic staff. This study employed surveys, interviews, and focus groups with various stakeholders including TDCs, legal clinic staff, members of ACTO's Board of Directors, and the TDCP Provincial Coordinator at ACTO. It did not collect or analyze data about TDCP cases or outcomes, and it did not collect feedback on the program from tenants.

The current review is the first to be conducted in more than ten years, and it is the first since the Ontario Rental Housing Tribunal was replaced by the Landlord and Tenant Board, and the Tenant Protection Act was replaced by the Ontario Residential Tenancies Act (RTA).

### 3. Questions

This review builds upon the findings and methods of previous studies, while aiming to generate more comprehensive evidence about the effectiveness of the TDC Program as a whole, and examine promising practices in local sites more closely. It is framed by four key questions:

1. In what ways do TDCP services (including summary advice, brief services, and representation) affect tenants' access to procedural and / or substantive justice? Which services appear to improve access to procedural and / or substantive justice, for which tenants, and under which circumstances?
2. How well do TDCP services meet the expressed needs of TDCP clients? Does client satisfaction with TDCP services vary by client demographics, the circumstances of their cases, the services provided, or other variables? In what ways can services be improved to better meet the needs of a greater number of clients, or specific subgroups of clients?
3. What are promising practices at TDCP sites participating in this review? In what ways do these practices reflect sites' specificities such as client population, region, connection with legal clinic, local rental market, LTB process, and other variables? How might promising practices be adapted for use in other sites?
4. What other factors relating to the TDC program and the Landlord-Tenant Board (administrative, procedural, resource allocation, space, etc.) affect TDC services and tenants' access to justice, and what are the effects of these

factors? What recommended changes, if any, to these factors could enhance TDC services and tenants' access to justice?

## 4. Methodology

The review employed a mixed-methods approach. It drew on quantitative data from a survey of tenants at four high-volume TDC sites, as well as qualitative data from the four survey sites and four others, including observations at the LTB, and conversations with TDCs, clinics, community service providers, municipal services, tenant organizations, and LTB adjudicators and mediators at these sites.

This review is distinct from previous evaluations in its breadth of scope. Unlike the Filice and TDCP reports, it examines eight sites. Unlike the Campbell review, it systematically examines tenant outcomes using correlations and tests of significance to generate robust evidence about the program's impacts. And for the first time, distinct and promising practices are showcased.

### a. Survey

Between February and April 2016, a team of research assistants conducted a survey with tenants who accessed TDC services at the Toronto North, Toronto South, Ottawa and Hamilton LTB locations. In Toronto and Ottawa, the survey was conducted over a period of ten weeks, while in Hamilton it was conducted for six weeks.

The survey gathered information from three sources: the TDC intake notes, an interview with the tenant, and the mediated agreement or order issued by the LTB. The survey collected information about the tenant (such as housing situation, household composition, income, racial identity, and disabilities); the case; the services provided by TDC; the case outcome and impacts of TDC interventions; and tenants' satisfaction with TDC services (see Appendix A for the complete survey instrument).

Tenants were invited to participate in the survey if they:

- ❖ received services from TDC on the day of the survey;
- ❖ were on the docket on the day on which they received TDC services (or booked for a hearing within a week);
- ❖ were 18 years of age or over, and competent to provide informed consent; AND
- ❖ were able to comprehend the consent process and participate in the verbal interview in English or French (Ottawa only), or with the assistance of an interpreter provided by the tenant.

Tenants were not eligible to participate in the survey if they did not meet these eligibility criteria, or if, in the opinion of TDC or the on-site researcher, participation might be emotionally harmful to the tenant, or might pose legal or other kinds of risks.

Eligible tenants were recruited from the TDC waiting area or during intake. Those who agreed to participate were asked to sign a release form allowing the researcher to review the TDC intake form and case notes, and to obtain the order issued for their

case by the LTB. The researcher then followed up with the tenant when their matter had concluded for the day, to conduct a brief exit interview. Tenants who completed the interview were offered a \$15 gift card for Tim Horton's. Some tenants were no longer available to participate in the interview once their matter had ended; in those cases, the researcher completed as much of the survey as possible using the TDC intake notes and the LTB order.

A total of 212 surveys were completed; 147 of these included a complete interview with the tenant, while in 65 cases the tenant was no longer available at the time of the interview.

## b. Observations, key informant interviews & focus groups

The survey findings were complemented with qualitative data gathered from the four survey sites and four other TDC sites: Belleville, London, Thunder Bay and York Region.

The lead researcher conducted site visits to the Landlord and Tenant Board and legal clinic in each site, as well as to other services in some locations. Information was gathered through observation, as well as through key informant interviews and focus groups with Tenant Duty Counsels, legal clinic staff, community service providers, municipal programs, tenant organizations, and members and mediators of the LTB (see Appendix B for interview and focus group guides).

Verbatim notes were taken during all interviews and focus groups, and these were analyzed thematically with reference to the questions guiding the review.

## 5. Introduction to participating TDCP sites

The TDCP sites participating in this review represent the geographic and social diversity of the TDC program: urban and rural, southern and northern, from all regions of the province, providing services in both English and French, and serving annual dockets ranging in size from under 1000 cases to more than 30,000.

The table below summarizes information about each site, including statistics from fiscal year 2014.

Site	Cases on docket 2014 <sup>i</sup>	Total clients served 2014 <sup>i</sup>	Hearing days 2014 <sup>i</sup>	Region <sup>ii</sup>	Specialist TDC or clinic legal workers	LTB location
Survey sites						
Toronto S.	32,267	3747	246	Toronto	Specialist	Permanent
Toronto N.	22,600	2968	246	Toronto	Specialist	Permanent
Ottawa	5003	1428	175	East	Both	Permanent
Hamilton	4398	1009	102	South	Clinic	Permanent
Qualitative sites						
Belleville	950	376	48	Durham	Clinic	Hotel

London	4369	1506	169	Southwest	Specialist	Permanent
Thunder Bay	725	128	32	North	Clinic	Banquet hall
York Region	1539	485	73	Central	Clinic	Legion hall

<sup>i</sup> Source: TDCP Stats Report: Workload & Clients Served by Location, 2014 calendar year. Custom analysis provided by Camelia Beyan.

<sup>ii</sup> Source: Southern Ontario Map of O.R.H.T locations.

### a. Belleville

TDC services in Belleville and the surrounding region are provided by the Community Advocacy and Legal Centre (CALC). The LTB sits for a two-day period every two weeks in a meeting room of a Belleville hotel and conference centre. CALC send a large team to the LTB, including legal and administrative staff from the clinic, students, and volunteers. TDC services are provided in a meeting room across the hall from the LTB hearings. Volunteers and students approach every tenant to offer TDC services; they may also gather some preliminary intake information, and verify whether the tenant has an open file at the legal clinic.

In focus groups, community service providers explained that the small city of Belleville and its surrounding rural communities are characterized by fairly high rents, low wages, and few full-time full-year jobs. The economic insecurity of many residents is reflected in Hastings County’s poor rating in a recent food security study. There are a number of services offered to low-income residents by the Region and community-based organizations, including a Housing Resource Centre, the Region’s Housing and Homelessness Fund, and a Community Trust. Services see many working-age men without high school diplomas, as well as young single people and young families who face discrimination in the housing market. They also report high rates of addictions and mental health issues in the local population.

Much of the rental stock is houses, many of which are in rural areas without access to public transportation of any kind. Apartments tend to be very expensive; tenants instead often share houses with roommates. There are no homeless shelters in the region; when residents lose their housing they must go to larger urban centres to access shelter services.

### b. Hamilton

Hamilton Community Legal Clinic (HCLC) provides TDC services on-site at the Hamilton LTB two days per week during the Board’s sittings. TDC duties rotate among nine clinic legal workers, each of whom attends TDC about once per month. TDC operates in an office across from the LTB’s customer service area, but quite far from the main hearing room. The commissioner directs tenants to the TDC office, where they can add their name to a sign-up sheet posted on the door. A lone legal worker attends most TDC shifts, although a second legal worker may attend to represent a client as part of HCLC’s very active housing casework program.

In focus groups, informants noted that Hamilton’s rental market, which has long offered relatively affordable if deteriorating rental housing to lower-income tenants,

is now facing rapid gentrification, skyrocketing rents, and speculation by landlords and developers. Lower-income tenants living in upscaling neighbourhoods are being displaced by “renovictions” in which developers purchase rental properties for redevelopment and drive tenants out with deliberate neglect. One informant, for example, said the building where he lived had changed owners three times in six months.

### c. London

Neighbourhood Legal Services of London-Middlesex (NLS) employs a specialist TDC who attends on-site at the London LTB two or three days per week during scheduled hearing blocks, and provides drop-in summary advice and legal assistance to tenants at the clinic on other days of the week. NLS has recently re-established its housing program; a legal worker for that program also sometimes provides support to TDC at the LTB on days when dockets are large.

In London, as in the whole Southwest Region, the TDC and the mediator introduce themselves in the hearing room and sign tenants up at the beginning of each block. One office at the LTB is dedicated to TDC; when a second legal worker is on-site they must find other quiet spaces in which to meet with tenants. A mental health outreach worker from a local agency also attends all LTB hearing blocks, providing support and case management services to tenants with mental health issues and those at risk of homelessness.

Community service providers described London as having no apartments affordable to single people. Low-income tenants instead tend to live in rooming houses, apartments shared with roommates, and subdivided houses. Even the rent for a room exceeds the social assistance rental allowance for a single adult.

### d. Ottawa

In Ottawa, a full-time specialist TDC based at Community Legal Services Ottawa Centre (CLSOC) provides services on-site at the LTB, and coordinates scheduling for the city’s four English-language legal clinics to attend TDC daily on a rotating basis. The French-language clinic provides TDC services during monthly bilingual LTB hearing blocks. There is a single small office for TDC at the Ottawa LTB; clinic legal workers and students attending TDC must meet with tenants in the hallway, waiting areas, or mediation rooms when they are available.

Focus group participants said there is a diverse array of rental housing in Ottawa, from purpose-built high-rise and low-rise apartment buildings providing both social and private market rental, to duplexes and triplexes, subdivided houses, rooming houses, and basements. As a large urban centre it is home to many communities facing disadvantage in the housing market, including immigrants and refugees, francophone tenants, and the largest Inuit population in the south. Among the sources of assistance for low-income tenants is a \$250 per month housing allowance for social assistance recipients, paid by the municipality directly to the landlord. In addition to the five community legal clinics, there are two community-based organizations that

provide legal advice and support to tenants before the LTB.

#### e. Thunder Bay

When the LTB meets in Thunder Bay for a two-day stretch every three weeks, TDC is provided by legal staff from Kinna-Aweya Legal Clinic. The LTB meets in a banquet hall in a neighbourhood not easily accessible by transit. TDC provides services from a table at the back of the hearing room, stepping out into the hallway if privacy is required. TDC duties are shared among the clinic's housing case law team. A clinic support staff also attends to conduct intake; other clinic legal workers who are on-site to represent clients may also assist TDC when required.

Kinna-Aweya is unique among the sites reviewed because it is both a community legal clinic funded by LAO and an Aboriginal community agency with Indigenous governance. Thunder Bay is the northernmost site reviewed; the LTB conducts telephone hearings in communities further north, and Kinna-Aweya provides TDC by telephone. As the largest urban centre in its region, Thunder Bay is home to a diverse rental sector, a strong network of community organizations, and a large urban Indigenous community, including many households who migrate into the city from remote First Nations.

#### f. Toronto

In Toronto, a team of specialist TDCs employed by ACTO serve the city's four LTB sites on a rotating basis. The city's thirteen neighbourhood-based legal clinics do not participate in offering TDC services, but most have housing programs that receive referrals from TDC. Through a partnership with the two university legal clinics, students attend TDC during the academic year to inform tenants about the service and assist with intake and other tasks.

The two Toronto sites participating in the review, Toronto North and Toronto South, together account for more than half the annual LTB docket in the province, with a total of almost 55,000 cases on docket in 2014. Located in office buildings close to the city's subway, both sites are extremely busy, often with multiple hearing rooms and mediation rooms operating at once. Office facilities for TDC are inadequate at both sites, with only a single office to accommodate the daily team of two or three TDCs; this limited space must sometimes also accommodate clinic legal workers who are attending to represent tenants.

Toronto's rental market and its network of community services are the largest and most complex in the province. While the city has added about 700,000 households since 1991—about 100,000 of these low-income renters—affordable rental housing development has been at a standstill during the same period (Suttor, 2014). As a result, low-income tenants face high rates of overcrowding, deteriorating and unsafe housing conditions, unaffordability, and hidden homelessness (Paradis, Wilson & Logan, 2014). Toronto is Canada's primary destination for immigrants and refugees, and racialized newcomers are strongly over-represented in the city's poor-quality rental buildings.

### g. York Region

The Community Legal Clinic of York Region (CLCYR) provides TDC services in this urban, suburban and rural region that extends from the northern edge of Toronto to Lake Simcoe. The LTB conducts its hearings for York Region twice per week in the small city of Richmond Hill, in a legion hall located in a residential area that is poorly served by public transit. CLCYR sends two legal workers to attend TDC, along with a social worker whose position is funded by the Region.

Largely a prosperous suburban area with little purpose-built rental stock, York Region has a very low vacancy rate and increasing homelessness: informants report that one of its shelters turns away 5000 people per year. Rents are high, ranging from between \$600 and \$800 for a room to \$2700 for large apartments and townhouses in central locations. Focus group participants explained that lower-income households typically rent unregulated units in owner-occupied houses that have been informally subdivided. These arrangements can lead to particular tenancy problems, such as invasion of tenants' privacy by landlords, inadequate provision of basic services such as heat, and termination of tenancy based on the landlord's intention to make personal use of the unit.



# SURVEY FINDINGS

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The survey provides a snapshot of tenant demographics, types of cases, TDC services provided, and tenant satisfaction for Toronto North, Toronto South, Ottawa and Hamilton. With its large number of respondents, the survey can be used to identify trends in these high-volume sites, and to examine correlations between variables (for example, between services provided and tenant satisfaction). Survey results are presented below, organized by topic. Tables included in this section highlight findings of particular interest; data tables presenting the complete survey results can be found in Appendix C.

## 1. Intake & Tenant Information

### a. Surveys Completed

As noted above, a total of 212 surveys were completed with tenants accessing TDC services (82 at Toronto South, 53 at Toronto North, 53 in Ottawa, and 24 in Hamilton). Of these, 65 were release-only (no tenant interview) and 147 included a complete tenant interview.

Comparisons of key variables for the completed tenant interviews (N = 147) and the total sample (N = 212) show no important differences between these two groups. Trends for the total sample are likely to be similar to those for the completed interviews. Because most survey questions were posed during the tenant interview, results reported below are for the 147 surveys for which a tenant interview was completed.

	Completed survey N	Release only N	Total sample N
Toronto South	54	28	82
Toronto North	36	17	53
Ottawa	38	15	53
Hamilton	19	5	24
TOTAL	147	65	212

### b. Tenant Demographics

As shown in the table below, just over half of the respondents were women, while just under half were men and one percent identified as trans. The vast majority were working-age adults aged 25 to 64.

When asked how they identify their race, 44 percent indicated that they identify with one or more racialized groups, including Arab-Middle Eastern, South Asian, East Asian, Black, Indigenous, Latin American, and / or mixed race. Tenants identifying as Black or Indigenous were over-represented in the survey compared to the proportion of



Black and Indigenous residents in the general population of the cities in which the survey was carried out.

		Completed survey % (N = 147)
<b>Gender</b>		
Female		54
Male		44
Trans		1
<b>Age</b>		
Median age (years)		38 years
<b>Racial identity</b>		
Racialized		44
Black	19	
Indigenous	6	
<b>Immigration</b>		
Born outside Canada		33
In Canada < 10 years	7	
<b>Language</b>		
Primary language other than English or French		13

One-third of respondents were born outside Canada, but only seven percent had been in Canada ten years or less, and only thirteen percent spoke a primary language other than English or French. These rates of newcomers and non-English-speakers are low compared to their numbers in Toronto, Ottawa and Hamilton. It is likely that newcomers and non-English speakers were under-represented in the survey due to the inclusion criteria, and because recruitment and the tenant interview were carried out in English. The research assistants confirmed this observation, noting that most newcomers who access TDC services were not recruited for the survey.

### c. Vulnerability

The survey reveals an astonishingly high rate of vulnerability among tenants interviewed. More than one-third said that they or someone in their household have a disability; 29 percent of tenants reported mental health or cognitive disabilities, including frequent responses of anxiety, depression, attention deficit, post-traumatic stress, and addiction. In spite of the high rate of disability, only 4 percent of tenants had been identified on the TDC intake form as requiring accommodation in services at the LTB for barriers such as disability, violence, and language.<sup>1</sup>

		Completed survey % (N = 147)
<b>Disability</b>		
Tenant identifies that they or a person in their household have a disability		38
Physical	9	
Mental health / cognitive	29	
Multiple	4	
<b>Discrimination</b>		
Tenant has faced housing discrimination		49

<sup>1</sup> This question is only asked on the Toronto intake form, not those used in Ottawa and Hamilton.

Financial	40	
Protected grounds	32	
<b>Homelessness</b>		
Tenant has experienced homelessness		63
Visible homelessness	36	
Hidden homelessness	62	

About half of those surveyed stated that they had encountered discrimination in a previous housing search, and about one in three said it was on the basis of gender, race, presence of children, sexual orientation, and other grounds prohibited by Ontario’s Human Rights Code.

Finally, almost two-thirds of tenants reported that they had experienced homelessness. For 36 percent, this was visible homelessness, such as staying in a shelter, outside, or in a place not fit for human habitation, while 62 percent had experienced hidden homelessness, such as having to stay with friends or family because they had no place of their own, or not being able to remain in their home because it was not safe.

#### d. Households & rental units

Most tenants surveyed live in small households of one or two members. Only 39 percent of households include children. Of these, a large majority have school-aged children aged 5-18, while fewer than ten percent have infants under 1 year, and ten percent have preschool-aged children. Twenty-one percent of tenants surveyed are single parents.

	Completed survey % (N = 147)	
<b>Persons in household (adults + children)</b>		
1		37
2		30
3		22
4+		11
<b>Children</b>		
Households with children		39
1 child	24	
2 - 5 children	15	
<b>Family structure</b>		
Single-parent families		21

The vast majority of respondents—88 percent—are renting in the private market, while only 13 percent are in social housing. Most tenants live in apartments, either in high-rise buildings, or in low-rise apartment buildings and secondary suites such as basements, subdivided houses, and over stores. As would be expected considering the small households, most have one- or two-bedroom apartments.

	Completed survey % (N = 147)
<b>Landlord type</b>	
Private	88
Public	11
Cooperative	2
<b>Unit type</b>	
Apartment in high-rise	42
Apartment in low-rise building or secondary suite	37
Whole house	13
Rooming house	3
Condo rental	2
<b>Unit size</b>	
Bachelor or room	6
1 bedroom	39
2 bedroom	36
3+ bedroom	19
<b>Length of occupancy</b>	
Median	24 months
Range	1 month - 23 years

There is not necessarily a relationship between recent, short-term tenancies and rental problems: tenants were equally divided between those who had been in their current place less than two years and those who had been there longer. While 27 percent of tenancies were less than one year old, an equal number were long-term residencies of five years or more.

#### e. Income & rent

As might be expected, the tenants surveyed are a low-income group. Almost three-quarters of tenants have household incomes below the low-income cut-off. This is in spite of the fact that more than half of tenants have some income from employment, and for 44 percent employment is their primary income source. Just under 60 percent have some income from government programs such as Ontario Works (OW), Ontario Disability Support Program (ODSP), and Employment Insurance (EI).

	Completed survey % (N = 147)
<b>Source of income</b>	
Any income from employment	53
Any income from income security programs	59
Has more than 1 source of income	37
<b>Income</b>	
Median monthly household income	\$2000
Households below LICO	72
<b>Rent</b>	
Median rent	\$959
Paying more than \$1500	12
Paying 50% or more of income on rent	47
No subsidy	89
<b>Arrears &amp; debt</b>	
Case involves rental arrears	72
Tenant has non-arrears debt	56

Rents paid by respondents are below average for the private market in the cities surveyed, though still not affordable for most of these low-income households. Half were paying less than \$960, while only 12 percent were paying more than \$1500. Close to half of tenants surveyed were paying 50 percent or more of their income on rent; almost one in five (18%) were paying more than 70 percent of their income. In spite of their low incomes and inability to afford even moderate private market rents, 89 percent of respondents were receiving no housing subsidy.

With incomes simply too low to afford rent, it is not surprising that 72 percent of respondents were in arrears. More than half also reported other kinds of debt, such as credit card debt, student loans, and outstanding amounts on utilities.

## 2. TDC Services

### a. Previous legal services and access to TDC

One in four tenants had received previous legal advice about the matter for which they were at the LTB, 15 percent from TDC. About half of respondents had learned about Tenant Duty Counsel on the day of their LTB appearance, while about half knew about the service in advance.

	Completed survey % (N = 147)
<b>Previous legal services</b>	
Tenant has previously received legal advice about this matter	24
TDC	15
Legal clinic	10
<b>Awareness of and access to TDC</b>	
When did tenant first learn about TDC?	
Today	53
Before today	47
How did tenant find out about TDC?	
Commissionaire	20
Approached by TDC or students	12
LTB counter staff	12
Mediator or adjudicator	9
Sign	9
Announcements in hearing room	7
Legal clinic	4
Landlord or landlord's agent	4
Online	4
Notice of hearing	2
Other*	11

\*Includes previous LTB experiences, other services, overhearing or being told by another tenant at LTB, family or friends, and mistakenly signing up for TDC when tenant intended to sign up for mediation.

There is no single source that predominantly informs tenants about TDC services. Instead, tenants learned about TDC from many different sources: the commissionaire, LTB counter staff, mediators, adjudicators, and signage, as well as being directly approached by TDC or students, from hearing room announcements, and by chance. Only four percent had accessed information about TDC online, and only two percent saw information about TDC or legal support in their notice of hearing. This suggests

that the diverse promotional strategies currently in use are effective in reaching many tenants. At the same time, because there is no definitive method that systematically informs all tenants of TDC, some people who require TDC services may be slipping through the cracks in these sites.

## b. TDC services

The table below summarizes the services provided by TDC. Note that the numbers for each category add up to more than 100 percent, because the survey allowed for more than one category to be selected. In both the survey and interviews, these service categories tended to be blurry and difficult to define. Information for this section of the survey was drawn from both TDC intake notes and from the tenant interview, which sometimes contributed to the difficulty in distinguishing one level of service from another.

The survey findings are consistent with the TDC Program statistics on services provided: in almost all cases (94%), TDC provided legal advice; and most of the time, other services such as referral or document preparation were also provided. Representation, however, was quite rare, provided to fewer than one in ten tenants. In half of the cases, TDC spent 20 minutes or more serving the tenant.

	Completed survey % (N = 147)
<b>Services provided</b>	
<b>TDC provided advice</b>	<b>94</b>
Tenant followed advice in hearing / mediation	76
Advice worked out	81 / 92 (88%)
<b>TDC provided referral</b>	<b>42</b>
Legal clinic	26
Rent bank	10
Tenant plans to contact at least 1 referral in immediate future	25 / 54 (46%)
<b>TDC prepared documents</b>	<b>17</b>
Payment plan	8
Submissions	3
Tenant believes documents helped	15 / 18 (83%)
<b>TDC provided materials</b>	<b>10</b>
Tenant found materials helpful	9 / 11 (82%)
<b>TDC provided representation</b>	<b>8</b>
Negotiation	3
Adjournment	3
Mediation	2
Set aside	1
Tenant believed representation was effective	11 / 11 (100%)
<b>TDC spent 20+ minutes serving tenant</b>	<b>51</b>

### 3. Case Information

#### a. Case information

Survey results on originating application are also consistent with TDCP statistics: 89 percent of cases were landlord applications, while 11 percent were tenant applications.

As shown below, well over half of tenants said that there were other problems with their housing situation besides the issue that brought them to the LTB on the day of their interview. The majority cited infestations and repair and maintenance problems, as well as illegal charges, and issues in the relationship with the landlord.

	Completed survey % (N = 147)	
<b>Originating application</b>		
Landlord applications		89
L1	67	
L2	20	
Tenant applications		11
Other problems with housing situation		58

#### b. LTB Process

Though the eligibility criteria for the survey allowed for the recruitment of tenants who were not on docket as long as they had a hearing date in the immediate future, in the end almost all respondents (98%) were on docket.

About one in three cases was decided by full hearing, about one in four by mediation, and about one in five by side negotiation. The balance were adjourned, withdrawn, or dismissed, or the process for their resolution was unknown.

	Completed survey % (N = 147)	
Tenant's matter is on today's docket		98
<b>How was case decided?</b>		
Full hearing		34
Mediation		26
Side negotiation		19
Adjournment request		16
Motion for set aside		3

### 4. Outcomes & TDC impacts

Because of qualitative differences between cases, it was challenging to statistically define and measure outcomes to determine the success rate of TDC interventions. For example, in arrears cases, we defined one indicator of "success" as TDC helping the tenant negotiate for more time to pay off arrears. As seen below, almost three in ten arrears cases (29%) ended with a standard 11-day order, suggesting that in these cases TDC intervention failed to have an impact on the outcome. In fact, in one focus group, a former TDC commented, "If a tenant shows up to hearing on an L1 day [and sees TDC] they should never be walking out with a standard order."

But this outcome is not necessarily “unsuccessful” in every case. For example, in some cases that received a standard order, the tenant may already have made arrangements to pay the full amount, or may be planning to leave the unit.

The survey showed that TDC intervention contributed to improved outcomes in 57 percent of cases overall, and there was an even higher success rate in specific case types: 60 percent success rate in arrears cases, at least 65 percent success in preventing eviction, and 71 percent success in extending tenants’ repayment time. Case outcomes and impacts of TDC intervention for specific types of cases are reported in more detail below. Given the above-mentioned challenges in determining “success,” these rates may be underestimates. It is also important to note that the survey demonstrates higher rates of success in the TDC program’s priority areas, such as preventing eviction.

This section of the survey also included questions to tenants on how the outcomes would affect them. Responses to these questions provide a window into the stakes involved in different outcomes for tenants.

### a. Cases involving arrears

Detailed information was available for 94 cases involving arrears. As noted above, 29 percent of these cases received a standard 11-day order. In 55 percent of arrears cases, the repayment period was increased through TDC intervention, while in 12 percent of cases there was another improvement to the payment plan, and in seven percent of cases eviction was taken off the table. This suggests that TDC intervention contributed to a positive outcome in a strong majority of arrears cases.

Case involves L1 or L9 arrears	N = 94 (65% of completed surveys)
<b>Payment period ordered / decided</b>	<b>% of 94 arrears cases</b>
0 - 11 days	29
12 - 29 days	14
30 - 59 days	23
60 - 89 days	6
90 + days	28
<b>Impact of TDC intervention***</b>	<b>% of 65 cases for which info available</b>
Increased repayment period	55
Other improvement to plan	12
Eviction taken off table	7
No improvement to plan	11
<b>Tenant’s ability to fulfill payment plan</b>	<b>% of 56 cases for which response provided</b>
Tenant expects to be able to fulfill payment plan	89
<b>To fulfill the plan tenant will need to ...</b>	<b>% of 45 cases for which response provided</b>
Borrow money	62
Sacrifice extras (e.g. trips)	49
Sacrifice basic needs (e.g. groceries)	42
Take on extra work	40
Skip other payments (e.g. utilities)	36
Withdraw from savings	22
Sell belongings	13

Tenants were asked, “Will you be able to pay this amount?” and “What will you have to do to fulfill the payment plan?” Some tenants said that thanks to TDC, the payment plan would be manageable for them. Though 89 percent of tenants said they expected to fulfill the terms of the payment plan, responses demonstrate tenants’ limited ability to add repayment amounts to their monthly budgets, and the financial hardships they face in doing so. Some comments include:

“Can only pay additional \$158 per month until August because won't be able to afford food.”

“Will spend entire ODSP cheque to pay.”

“Will figure out how she can - no choice or eviction.”

Another indication of tenants’ financial precarity is the finding that more than half were planning to borrow money to repay arrears. This raises concerns for the sustainability of repayment agreements, particularly given that most tenants already have other debts.

### b. Cases involving amounts claimed by landlord

Detailed information was available for 95 cases involving amounts claimed by the landlord. Such amounts could include arrears, filing fees, damages, repair costs, and other charges. In half of these cases the amount claimed was more than \$2190.

Findings suggest that TDC intervention has little ability to influence amounts awarded to the landlord in such cases. In three out of four of cases, the amount awarded was the same as that claimed.

Case involves arrears, costs, damages or other amounts claimed by landlord

N = 95 (65% of completed surveys)  
% of 95 cases involving costs

Costs claimed	% of 95 cases involving costs
Arrears	93
Filing fees	52
Damages	7
Total amount claimed	% of 91 cases for which info available
Less than \$500	10
\$500 - \$999	4
\$1000 - \$2999	53
\$3000 - \$13,370	33
Impact of TDC intervention	% of 72 cases for which info available
No impact on amount awarded	74
Reduced arrears awarded	11
Filing fee waived	7
Reduced costs awarded	3
Reduced damages	1

### c. Cases involving eviction

Detailed information was available for 46 cases involving eviction. Of these, 15 involved persistent late payment, 11 involved a breach of a previous agreement, and



11 involved tenant behaviour (applications could involve more than one of these bases).

TDC intervention appeared to contribute to an improved outcome in at least 65 percent of cases: 37 percent ended with no eviction, and 28 percent with a voidable eviction order. The decision was not yet known in another 23 percent of cases. Tenants received an eviction order in only twelve percent of cases. It is also worth noting that only three out of four tenants wished to remain in the unit.

Tenants facing eviction were asked how difficult they expected it would be to find a new place if they were evicted from this one; almost three in four believed it would be very difficult. When asked what they would do if they could not find a new place in time, most appeared to have limited options: 28 percent said they did not know where they would stay, 20 percent said they would ask the landlord for more time, and 15 percent said they would go to a shelter. Tenants' lack of options is further illustrated by some of the responses that did not fit any of these categories: some said they would stay in their vehicle or on the street, and one said they would commit suicide. Fewer than three in ten said they could stay with family or friends if they could not find another place in time.

Cases involving eviction		N = 46 (32% of completed surveys)
Basis for eviction application*		% of 46 eviction applications
Persistent late payment		33
Repayment agreement not fulfilled		24
Tenant behaviour		24
Landlord's own use		9
Other reason		20
Does tenant wish to stay		
No		27
Yes		73
Decision		% of 43 cases for which info available
No eviction		37
Voidable eviction order		28
Non-voidable eviction order		12
No decision yet		23
How difficult will / would it be to find a new place		% of 44 cases for which response provided
Not at all difficult		9
A little difficult		5
Difficult		16
Very difficult		71
If tenant could not find another place by eviction date, they would		% of 40 cases for which response provided
Stay with family or friends		28
Don't know		28
Ask for more time		20
Stay in a shelter		15
Other**		20

\* Amounts add up to more than 100% because more than one response permitted.

\*\* Responses include: ask housing help, hotel, street, vehicle, commit suicide.

#### d. Cases involving tenant applications

Twenty-five cases involved tenant applications. Outcomes and TDC impacts for this group were inconclusive: the group was too small, and possible outcomes in different types of tenant applications too complex, to draw conclusions about overall success rates.

Tenants were asked how long the problems referred to in their application had been going on, and what impacts these problems had had on their daily lives. Responses show that a large proportion of tenants have been coping with problems in their housing for more than six months by the time their application comes to the LTB. A large majority said these problems had affected their comfort, convenience, safety, and other aspects of daily life. More than half said the problems had affected their health or that of their children.

Cases involving tenant applications*		N = 25 (17% of completed surveys)
Basis for tenant application**		% of 25 tenant applications
Order for repairs		48
Monetary award		44
Landlord harassment		20
Other tenant application		20
TDC impact		Inconclusive
Impact of the problem for tenant		
How long have you been dealing with these problems?		% of 16 cases for which response provided
Less than 1 month		0
1 month to less than 3 months		31
3 months to less than 6 months		25
6 months to less than 1 year		6
1 year or more		38
Tenant rates problem as having moderate or severe impact on following aspects of life:		% of total cases for which response provided (different for each question)
Comfort and convenience in home (N = 18)		100
Tenant's or children's well-being (N = 13)		85
Tenant's or children's safety (N = 14)		79
Tenant's or children's health (N = 13)		54
Other aspects of daily life (N = 16)		94

\* Includes tenant applications as originating applications, or T2 and / or T6 filed in context of L1

\*\* Amounts add up to more than 100% because more than one response permitted.

#### e. Cases involving adjournment

One important role for TDC is assisting tenants to request an adjournment in order to seek representation, obtain evidence, or resolve other issues such as social housing subsidy termination. In 29 cases there was an adjournment request by tenant or landlord, or a decision to adjourn by the adjudicator. In 68 percent of these cases, the tenant was successful in obtaining an adjournment with the help of TDC.

#### f. Tenant satisfaction with outcome

Overall, two-thirds of tenants said they were satisfied with the outcome of their day at the LTB, and about the same number said things had worked out the way they expected. In fact, tenants were often satisfied even if the resolution of their case did not appear to be in their favour. Tenant’s explanations for their satisfaction ratings revealed that many had come to the LTB expecting a devastating outcome, such as losing their home that day. People expressed relief to have avoided the worst-case scenario. As one tenant explained, “I still have a home to go to, even if I have to pay a payment plan, so I’m very happy.”

	Completed survey % (N = 147)
<b>How satisfied is tenant with what happened today at the LTB?</b>	
Very satisfied	34
Satisfied	31
Neutral	24
Unsatisfied	8
Very unsatisfied	4
<b>Did things today work out the way tenant expected</b>	
No	36
Yes	64

## 5. Tenant expectations & satisfaction

In order to understand tenants’ satisfaction with TDC services, it is important to understand the expectations against which they are measuring TDC services. We asked tenants what type of service they expected to receive from TDC, and the extent to which the service fulfilled those expectations. The survey also included a scale measuring tenants’ agreement with a number of statements rating specific aspects of the TDC service. Overall, tenants’ ratings demonstrate that TDC fulfills or exceeds expectations for almost all tenants, and that the vast majority are satisfied with most aspects of the service.

### a. Tenant expectations

Tenants generally had realistic expectations about the type of service TDC would provide: 95 percent of tenants expected TDC to provide advice, and only 15 percent expected representation. In more than 90 percent of cases, tenants said TDC services met or exceeded their expectations.

	Completed survey % (N = 147)
<b>Types of assistance tenant expected from TDC*</b>	
Advice	95
Representation	15
Document preparation	8
Referral	4
Other brief services	3
Did not know what to expect	6
Other kinds of assistance	12
<b>Rate service compared to expectation</b>	
Not as good / less than expected	7

As expected	49
Better / more than expected	44

\* Percentages add up to more than 100 because multiple responses permitted

## b. Satisfaction

Of non-TDC personnel they encountered at the LTB, tenants as a group were most satisfied with the commissioner, and least satisfied with their landlord. The researchers' notes on tenants' comments helped to illuminate the negative treatment some tenants encounter from multiple parties at the LTB. For example, "[The tenant reports that] the adjudicator did not listen to her, was rude, impatient, did not give tenant time to get documents due to fire, did not give tenant chance to speak. Landlord gave false information but adjudicator did not give tenant a chance to address it. The tenant felt that the adjudicator often listens to the applicant more than the respondent based on her two experiences before the LTB."

The survey revealed a very high satisfaction rate with TDC services among tenants. Between 80 percent and 96 percent responded positively to questions measuring satisfaction with various dimensions of TDC services. The composite score for this satisfaction scale demonstrates that almost all tenants (91%) were satisfied or very satisfied overall with TDC services.

When asked for their comments about the program, many tenants emphasized its importance and asked that it keep going. "Keep doing what you're doing," one said.

Satisfaction rating (average rating for 147 tenants surveyed)*	Score: 0 to 5
Commissionaire	1.55
Adjudicator	1.73
LTB counter staff	1.78
Mediator	1.94
Landlord's representative	2.63
Landlord	3.75
Satisfaction with TDC**	Completed survey % (N = 147)
1. I believe TDC understood my problem	95
2. I understood everything TDC told me	87
3. I felt that TDC cared about my case	80
4. TDC provided all the services I needed	83
5. Overall I was satisfied with services of TDC	92
6. I am pleased that I chose to access TDC	96
TDC satisfaction scale - average score for all items	
Satisfied (1 to <2.6)	91
Neutral (2.6 to 3.4)	7
Unsatisfied (3.5 to 5)	2

\* The lower the average satisfaction rating, the more satisfied tenants are as a group. Question: "Rate your satisfaction with how you were treated by people you encountered here today." Scale: 1 = very satisfied, 2 = satisfied, 3 = neutral, 4 = unsatisfied, 5 = very unsatisfied.

\*\* Percentage of tenants who “agree” or “strongly agree” with statement. Items 2 and 4 were stated in the opposite on the survey to guard against response bias (actual statements were “I did not understand everything TDC told me” and “There were services I needed that TDC did not provide today”)

## 6. Limitations of the survey data

On variables that were available for both groups, there appeared to be little difference between the larger group (212) who gave consent for their TDC file and LTB order to be included, and the smaller group (147) who completed the interview. This suggests that the findings for the interview group are representative of the tenants surveyed.

It is more difficult, though, to determine to what extent these findings are applicable to all tenants who access TDC services in the cities where the survey was conducted. And there is no way to say how this group—or TDCP clients in general—compare to all tenants who appear before the LTB. This survey does not provide any information, for example, on differences between the outcomes of tenants who access TDC and those who do not.

We can, however, speculate about some dimensions of the survey’s representativeness. For example, the criteria determining eligibility to participate in the survey excluded those who were experiencing a high degree of distress and / or who were unable to comprehend and participate in the consent process. This could mean that TDC clients with more severe cognitive and mental health disabilities were under-represented in the survey.

In addition, it is likely that tenants who speak a primary language other than English or French are under-represented in the survey, due to the survey’s eligibility criteria and the fact that recruitment took place in English or French. This may also explain the apparent under-representation of newcomers who had been in Canada less than ten years.

Observations suggest that tenants at the LTB who do not access TDC services are a somewhat bipolar group in terms of vulnerability. It is probable that some members of this group are tenants with more education and higher incomes, who may have access to other sources of legal assistance, may not feel that they require legal advice, and / or may be prepared to repay their arrears on the day of their hearing. At the same time, it is likely that another group of tenants who don’t access TDC are among the most vulnerable, including those with limited literacy who are unable to read the signs advertising TDC or fill in the sign-up sheet, and those with precarious status who may be concerned about accessing legal services. The survey results suggest a need for more information about the rate of vulnerability among tenants at the LTB.

## 7. Key learnings from the survey

### a. The survey confirms tenants’ disadvantage

It has been amply demonstrated in prior research that tenants as a group tend to have higher rates of low income than homeowners, and are more likely to be members of equity-seeking and disadvantaged groups. Further, previous studies also suggest that tenants who come before the LTB are a small and particularly disadvantaged subset.

The survey reflects the expected high rates of tenant households that are low-income, racialized, and lone parent families. The proportion of respondents who are newcomers and speakers of non-official languages is lower than expected, for reasons discussed above.

This tenant profile suggests that arrears cases are endemic to Canada's current, market-dominated rental system. In this system, many tenants whose incomes are low enough to qualify them for social housing are forced to obtain housing in the private rental market, where they pay a large proportion of their already-low incomes on rent. Given the limited flexibility in their monthly budgets, low-income households in these circumstances are more likely to find themselves in arrears should their income decrease or expenses increase.

#### b. Tenants who access TDC are extremely vulnerable

If the rates of disadvantage found in the survey were unsurprising, the rates of vulnerability were astonishing. Two out of three respondents had histories of homelessness, half had faced discrimination in housing, and more than one-third identified that they or a person in their household had a disability.

To the extent that the tenants we interviewed represent those who access TDC, or even those who come before the LTB, this appears to be an extremely marginalized subset of tenants. The implications of this finding for the types of services tenants may require are discussed extensively below.

#### c. Though most cases are landlord applications, most tenants have other concerns

The survey reflects LTB statistics showing that the vast majority of cases are landlord applications. But when asked, the majority of tenants said that they had other kinds of problems with their housing situation, including infestation, maintenance and repair issues, illegal charges and landlord harassment. This finding suggests that tenant applications are severely under-represented at the LTB. The barriers that impede tenants from bringing applications are discussed further below.

#### d. All methods of informing tenants about TDC services are necessary

The survey found that tenants had learned about TDC services from many different sources, from signage to LTB staff to direct approaches by TDC and students. This finding suggests the value of maintaining all methods currently in use to inform tenants about TDC services. At the same time, the absence of one or two principal

sources through which most tenants receive information about TDC raises the concern that some tenants may be missing out on this information altogether.

e. TDC makes a positive difference, and tenants are satisfied with its services

TDC intervention appears to contribute to an improved outcome in the majority of cases, though success was difficult to measure because of the many factors at play. The qualitative findings explored below shed more light on the influence of TDC services on tenants' access to justice.

And finally, the survey confirms that, in the opinion of its primary beneficiaries, the TDC program is performing very well. The service meets or exceeds tenants' expectations, and they are overwhelmingly satisfied with it. In this sense, the recommendations outlined below should be understood as offering possibilities for improvement to a program that most consider to be more than satisfactory as it is.

## FOCUS GROUP & INTERVIEW FINDINGS

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The focus groups, interviews and site visits lend nuance and complexity to the survey findings, contributing to a fuller picture of TDC services. Qualitative findings are presented below, organized by the four questions framing the TDCP Review.

### 1. TDCP services and tenants' access to justice

The first question guiding the review is,

*In what ways do TDCP services affect tenants' access to procedural and substantive justice? Which services appear to improve access to procedural and / or substantive justice, for which tenants, under which circumstances?*

#### a. Different understandings of "justice"

Before we can assess the influence of TDC services on access to justice, it is important to acknowledge that key informants raised different understandings of the meaning of "justice" as it applies to tenants at the Landlord and Tenant Board.

First, there is a tension between the adjudicative role of the LTB in enforcing the Residential Tenancies Act, and broader understandings of housing as a human right. Many informants raised the concern that under the RTA, landlords' contractual rights in rental agreements supersede tenants' social and economic rights. Certainly, ACTO and local clinics work to promote a right to housing, and some TDC programs have focused on influencing jurisprudence at the LTB to take housing rights into account. But by and large, the daily work of TDC in promoting tenants' access to justice operates within the constraints of the current legislation and LTB procedures, which may at times be at odds with broader conceptions of justice and rights.

Tenants, too, may have an understanding of "justice" that diverges from the actual remedies and mechanisms available to them at the LTB. In fact, tenants and community services may not recognize landlord-tenant issues as "justice" issues subject to legal resolution. Instead, tenants may understand their housing problems as straightforward financial issues, or consider their conflicts with the landlord to be personal in nature. They may not understand that they have access to a range of legal rights and procedures through which to address these problems. One service provider explained, "People don't see the gravity of their situation, or realize that there's legislation and legal issues behind it. People see the landlord relationship as an intimate relationship they can resolve on their own."

On the other hand, tenants may arrive at the LTB expecting "justice" to reflect their ideas of what is fair. They may seek to prove their own perspective, or expect remedies that are not provided for under the RTA. An important role for TDC is to inform tenants of the legal parameters of their case and help to frame realistic expectations. As one said, "Opinion doesn't matter - it's the facts that you have to bring in to court. So TDC has to focus on the facts."



Interviews and focus groups also revealed divergent understandings of what constitutes procedural justice. Some members and mediators expressed an understanding of procedural justice as providing equal treatment to landlords and tenants. In their view, the LTB is just insofar as it is a level playing field in which, in the words of one adjudicator, “everyone gets to have their say.” In this respect, some mediators and members see TDC services as “a privilege, not a right,” particularly given that landlords do not have access to free legal assistance.

Other informants, in contrast, say the LTB is characterized by major imbalances in power, resources, legitimacy, social capital, and risks between landlords and tenants. From this perspective, TDC services are necessary for ensuring substantive equality for tenants. One LTB member, for example, explained, “Tenants are the more disadvantaged party.” As such, they require an advocate. Some informants raised a concern that there is a general imbalance in access to justice at the LTB, and that landlords’ needs and rights are given more weight than those of tenants. As one TDC put it, “Why is a landlord’s claim for money so much more important than tenants’ rights?” Community service providers, meanwhile, note that the LTB is seen by the tenants they serve as a frightening, intimidating and disempowering environment. TDC’s very presence helps to mitigate tenants’ sense of disempowerment. As a community worker explained, “If I’m going into something that I know nothing about and have somebody offer to help me, it lifts a weight off my shoulders. It makes [tenants] feel they have hope.”

## b. Facilitating the LTB process

When asked how TDC influences access to justice, LTB members and mediators agreed that one important area to consider is the program’s contribution to due process at the LTB. As one member commented, the presence of TDC helps fulfill the LTB mandate to ensure the principles of natural justice are upheld in hearings, particularly in view of the power imbalances discussed above. She explained, “[The TDC program is] an asset and benefit to tenants. A lot are unsophisticated, some have cognitive disabilities...Speaking about natural justice and fairness at the Board - for these people it is an essential tool.”

In what can seem an intimidating environment that is stacked against them, having someone in their corner promotes tenants’ perception of the LTB process as fair and legitimate. As one informant explained, “For me as a mediator I’m seen to be part of the big scheme to evict tenants, and the member and landlord too. So [tenants] see TDC as being on their side.”

Members and mediators also point out that the TDC program facilitates the daily work of the LTB in a number of ways: by informing tenants about the law and about LTB process; by making tenants aware of their rights and obligations; by providing information that helps tenants more realistically assess their situation and case, and make better-informed decisions; and by helping tenants stay calm and focus on the most important issues in their case. One member explained, “If parties are well informed they can participate in the hearing better. It expedites the process and

allows us to get through the matter in a clear and concise manner. Tenants who have not had TDC advice don't know what they can and can't do."

In addition to helping hearings proceed smoothly, TDC also facilitates the work of mediators by informing tenants about mediation and by helping them communicate what they want. Also, because TDC is there to inform and advise the tenant, mediators are better able to maintain their impartial role. Given large docket sizes, mediation is crucial to enabling the Board to process all the matters before it. In this regard, one member noted, "[A benefit of TDC to the LTB is] steering tenants into mediation. We'd be dead if we didn't have the mediators. We couldn't possibly handle all the contested hearings, there just isn't time."

At times though, LTB members and mediators may diverge from TDC in their understanding of TDC's role and tenants' rights within the LTB process. Where these differences are pronounced within a region or site, it can be difficult to work together effectively.

One example is the impact of TDC on timing. A number of members and mediators expressed concern about delays resulting from tenants waiting for TDC services before a hearing or mediation can proceed. This perception appeared to be especially acute in a particular region, in which several mediators and members commented on long waits of up to two hours before hearings can continue. On the other hand, several other members and mediators in different regions stated that the presence of TDC helps proceedings move more quickly: "TDC doesn't slow it down. Because of the ability to educate and bring tenants to mediation, it helps facilitate things."

Another concern raised by some members and mediators is the perception that TDC is infringing on the mediator's role when negotiating directly with landlords. They suggest that this causes delays while other tenants wait for TDC advice, and may be confusing for landlords who may not know the difference between TDC and the mediator, and may not realize that TDC is there to promote the tenant's interests. One mediator explained, "I think this falls outside the TDC mandate. Mediators are there to negotiate with landlords. We are the impartial body." On the other hand, some TDCs commented that they considered negotiation with landlords to be an important part of their role, particularly in the context of landlord representatives drawing tenants into side negotiations.

Finally, some LTB members and mediators believe that at times, TDC help tenants "game the system," for example by informing them that OW and ODSP can't be garnished, or by assisting them to extend time before eviction through the mechanisms available to them in the LTB process. Other informants, though, consider it important that TDC informs tenants of all their legal rights and options, as they are unlikely to have other access to this information. They point out that landlords are often represented and have access to similar advice about options available to them.

### c. TDC services & tenants' access to justice

In considering how specific TDC services influence tenants' access to justice, it becomes apparent that the categories typically used to describe various TDC services—summary advice, brief services, document preparation, referral, and representation—are quite blurry and difficult to distinguish in practice. As one TDC explained, "We never make a distinction between advice and brief services. It's always advice plus extra."

Informants agreed that this flexibility of the TDC model is one of its most valuable features, enabling TDC to tailor the services provided to the nature of the case and the needs of the tenant. On the other hand, the protocol for determining which level of service to offer a tenant is not always clear. The decision to go beyond summary advice into a more active or time-intensive role may not necessarily depend on tenant needs, but on other considerations such as TDC's availability, timing, TDC's level of experience, the possibility of making a positive impact, and other such factors. As one TDC put it, "I didn't get a form on how to triage. I make case-by-case decisions."

Though the service categories are not always distinct, interviews and observations did suggest that each contributes in different ways to tenants' access to justice.

#### *i. Summary advice*

TDCs, community service providers, tenants, and LTB mediators and members agree that TDC advice makes an important difference for tenants' access to procedural and substantive justice. More than one person said, "Without them tenants would be lost."

A key reason for this is that TDC advice equips tenants with knowledge of the law. "I am glad I saw duty counsel," one tenant commented, "because duty counsel gave me the relevant section 83 of the [RTA] to use for my mediation and hearing - which I would not have had or thought of had I not seen duty counsel." TDC's legal knowledge is also of particular use in cases that turn on the law - such as recognizing defects in notices or determining whether the Act applies. On the other hand, some members and mediators noted that the quality of legal advice from TDC is sometimes variable, particularly when the service is rotated among non-specialists. Some TDCs also acknowledged this; for example, one said, "I've seen [my colleague] do things I would never dare to do, because she knows this area so much better than I do."

TDC advice is also important for procedural justice because it prepares tenants for an unfamiliar and potentially intimidating process. As noted above, this is not only important for the tenant but for the hearing process overall. In this regard, an LTB member commented, "A tenant who has seen TDC versus one who hasn't is night and day [...] It immeasurably increases their access to justice."

Many TDCs expressed the importance of informing tenants of their situation, options, and rights, including letting them know that the worst-case scenario is often not as bad as they anticipate. Even when eviction is inevitable, for example, TDC advice can assist tenants to improve the terms and argue for more time. Informants also agreed that tenants who feel less desperate are better able to self-advocate, particularly in side negotiations or mediation.

Members, mediators and TDCs also agreed that TDC advice often provides a “reality check,” helping tenants distinguish between their expectations about fairness and justice, and the actual merits of their case. One community worker, for example, noted, “People think they are going to get thousands of dollars in abatement of rent [for maintenance issues].” Even when this information may be unwelcome, it helps tenants to make better decisions about how to proceed and contributes to a sense of satisfaction with the outcome, as seen in the survey results. A member explained, “If a tenant has been to TDC they are more comfortable with what they have been told. They may not like it [...] but they appear more comfortable with the outcome.”

A few members and mediators pointed out the corresponding problems that can arise when TDCs’ advice contributes to (or fails to dispel) unrealistic expectations on the part of tenants. Several noted that this is particularly problematic in mediation, where tenants might reject a reasonable offer in favour of a hearing, only to end up with a worse outcome.

TDC advice also helps tenants to sort through what is often a complicated and emotional story, and focus on the issues of immediate importance to the case. A TDC explained, “The tenant comes in thinking these are the important issues. We clarify what the most important issue is and give them a sequence of what to say, and they follow it. Things often turn out.” TDCs also coach tenants on arguing their case, building their skills and confidence to self-represent.

While all agreed that summary advice works well for tenants who are capable of self-representation, most also raised the concern that not all tenants are able to apply TDC advice in a hearing or mediation on their own. A number of informants recounted witnessing tenants who failed to articulate arguments or were overcome with anxiety in the hearing room, when just minutes earlier they had calmly discussed their case with TDC. Another concern is that tenants may be well equipped with advice but may not be offered (or may not recognize) the opportunity to present it. One tenant who participated in the survey lamented, “All the work that Duty Counsel did, and I didn't get a chance to read it [in the hearing].”

Several also suggested that TDC advice could be improved with standardized forms for tenants with clear, basic instructions, common arguments, and space for TDC to make notes on the specifics of their case.

Overall, informants agree with this TDC who explains that the impact of advice is “Huge - night and day. Some tenants come in not even understanding why they are there, but by the end of day they are fully knowledgeable about what’s happening and why. We help them understand and get through the process.”

#### *ii. Brief services and document preparation*

Document preparation and other brief services are a very important adjunct to summary advice. Much TDC advice blurs into this area; for example, most TDCs said that they regularly provide written notes to tenants on legal arguments and options. Even in busy sites like Toronto, TDCs often also do written submissions on reviews and set-asides, especially if the tenant is vulnerable or if the case is urgent.

Informants across all sites reported that helping tenants to calculate and propose repayment plans in arrears cases is a very important aspect of TDC work. Tenants are rarely aware that they can propose a payment plan other than the deadline identified on their notice. Helping tenants to create and defend a plan they can afford prevents eviction in the immediate term, and makes later breaches less likely. As one TDC explained, “We know what the LTB expects and accepts. We can help tenants balance payments and calculate. We will prepare the payment plan, type it up, give multiple copies of different versions with contingency plans. If the member doesn’t accept one they will accept the other.”

Members and mediators agree. One stated, “One thing I find really helpful that TDC does is helping tenants to argue that a payment plan is best. Tenants will have a typed-out payment plan. That is so helpful because we have such high volume. They look at income from all sources and expenses, they are close to the tenant’s ability to pay on a monthly basis. It makes things more realistic.”

Tenants, community organizations and TDCs also pointed out that tenants could use much more support in the area of document preparation, for example in filing tenant applications. With appropriate supervision, this may be an area that could benefit from student and volunteer assistance.

### *iii. Referral*

TDC refers tenants to a range of services, such as the rent bank, moving assistance, mental health services, and income support programs. These services can assist tenants in addressing the financial and other issues underlying their housing problems. Members and mediators were unanimous in pointing to referrals to non-legal services as a critical benefit of TDC services that contributes to access to justice.

TDC also commonly refers tenants to legal clinics for further assistance on their case. In most sites, clinic legal workers are providing TDC services and can facilitate referrals to their own clinic, or even determine whether to take on a case themselves.

Once a referral has been made, TDCs can also help tenants to get an adjournment to seek representation or other services. “TDC helps to buy time to meet with a service who can help - Housing Help or legal clinics,” a focus group participant noted. Outcomes are improved when TDCs lend direct support to such adjournment requests. A member explained, “For adjournments, there is no absolute right. When TDC comes into the hearing room, I know the request for adjournment is a serious one.”

Interviews and focus groups suggested that in Toronto, clinic referrals are less effective. Both TDCs and clinics in Toronto report gaps in communication and services that may hamper tenants’ access to justice. In Toronto, not all clinics provide walk-in services on housing issues. TDC is often tenants’ only access to legal service when needed. In addition, clinics’ income eligibility criteria exclude many tenants whose incomes are nevertheless too low to afford private legal assistance.

Clinics’ variable intake procedures also make it difficult for TDCs to refer with confidence. Tenants are sometimes disappointed if they expect service based on a TDC referral. A clinic worker explained, “Sometimes it’s difficult when people walk in

after being referred by TDC. ... They say, 'Duty counsel told me if I came I could get help.' It's a difficult start to the relationship. We need improved communication - let tenants know about our intake procedure."

Gaps in service between clinics and TDC are amplified in areas of Toronto that are inadequately served by transit and services. Tenants may find it impossible to coordinate accessing both types of services when needed. A clinic staff explained, "In Scarborough ... the clinic is 30 minutes away [from the LTB] on transit. If the tenant lives in the south part of Scarborough, and needs to pick up their child at 3pm, they can't go to both places. If Scarborough TDC calls us we will probably see the tenant the next day. TDC knows that it's hard [for tenants to wait] so they will stay long past their own hours to help tenants instead of sending them to the clinic. If I see a client in the afternoon and help them fill out a form, like a motion to void, and then send them to TDC, by the time they get there it's the end of the day or TDC has 10 other people to see. TDC needs more resources in Scarborough."

#### *iv. Representation*

The survey suggests that representation is very rare in high-volume sites: only eight percent of tenants surveyed received representation. The visits to smaller sites showed that there is wide variation in representation rates, with representation much more common in some locations than in others.

It is challenging to say where an active TDC role ends and representation begins. In some sites that participated in the review, the TDC program aims for, and provides, a high rate of representation. In others, TDCs play an active role that may not extend to full representation. For example, the TDC may follow up with a tenant during mediation to assist in evaluating an offer, engage in side negotiation with a landlord, provide information in to the Board during a hearing, enter the hearing room to keep an eye on proceedings and intervene if it appears necessary, and sit with a tenant to provide support during a hearing in situations such as landlord harassment - all without getting on the record.

The level of active involvement varies between sites, but also within sites from one LTB sitting to another. Here is an example: "It varies from day to day. Some days we won't step inside the hearing room, on other days we're there with everybody. Sometimes adjudicators will call us in. We will do partial representation. We speak to almost all adjournments and preliminary issues. We inform the Board that we are doing preliminary assistance and then stepping back, for example if the case is complicated, like an N5. Most tenants want our help, but some don't want or need us to sit in so we just go through the arguments [with them]."

In other sites, TDC rarely enters the hearing or mediation room. This is usually because it simply isn't feasible with the volume of cases on the docket. As a Toronto TDC explained, "In Toronto we do less representation than in the smaller centres because we want to be available to everyone who needs us."

Previous research and this study's interviews suggest that representation leads to better outcomes for tenants. It was impossible to test this belief with the survey, however, because the incidence of representation was so low.

TDCs, community organizations, and many members and mediators agree that it would be beneficial for TDC to represent more often. A TDC pointed out, "We can provide scripts to tenants to go in with, scan notices and spot deficits, do reviews. We do a lot of great stuff, but it's really frustrating that we can't go in the hearing room. We know that many people - newcomers, people who don't speak English - are sitting ducks." Representation in mediation is also considered important, especially for vulnerable tenants.

There is inconsistency, though, in determining how to allocate TDCs' limited time. As noted above, the decision to take a more active role is often based on a range of considerations, which may be different for each TDC and across sites. When determining whether to represent, TDCs said they take into account disability, language issues, emotional state, ability to understand the process, TDC availability, volume of cases on the docket, landlord harassment, likelihood of making positive difference, complexity of the case and the legal issues, tenant sophistication, whether the landlord is represented, which adjudicator is sitting and whether they are likely to accept the tenants' argument without an advocate, whether the tenant is willing to follow their advice, and whether it seems the tenant will, in the words of one TDC, "just get rolled over" on their own. Need for accommodation is certainly a factor in the decision, but it is often superseded by the simple question of whether TDC has the time.

Observations suggest, and informants agree, that many tenants in need of representation are left to go it alone. But considering the demographic profile of tenants revealed by the survey—deep poverty, high rate of disability, and the majority with past experiences of homelessness—the question of who requires representation becomes tricky. Most tenants using TDC services could be understood to require accommodation of some kind. And, as discussed above, even tenants who appear to understand TDC advice may not be able to apply it once in a hearing or mediation.

At the same time, many informants affirmed that tenants can often self-represent effectively if provided with good support. Sometimes, in fact, self-representation is considered to lead to better outcomes. For example, one TDC recounted, "I have stopped doing section 83 arguments for tenants. It's more successful if tenants do it themselves. I say, 'This is your story. This isn't legal stuff.' I will write out the points they need to hit."

In addition, there is some debate about whether, and when, representation improves outcomes. TDCs and LTB members and mediators noted concerns about TDC representing in a hearing without adequate preparation time. Inadequate preparation is problematic in terms of Law Society obligations, but also raises practical considerations. TDCs may not be able to secure a good outcome for tenants if they don't have access to all the relevant information. A TDC explained, "Representation is not always advantageous. We don't know all the issues, and we could go in and do a bad job. It closes off the possibility of review. We could make a big mistake."

While it is clear that representation generally improves tenants' access to justice, it is less clear to what extent lack of representation diminishes access to justice. This is

further complicated by the risk that, in the context of the resources available, increasing representation might actually decrease tenants' access to TDC.

#### *v. Tenant applications*

Tenant applications are an important component of access to justice for tenants, but LTB statistics show that this mechanism is rarely accessed by tenants. One informant noted that every rental agreement has two parties - a landlord and a tenant - but the services of the LTB are overwhelmingly used by landlords. Community workers, TDCs and tenants also noted an imbalance in the treatment of tenant and landlord issues before the LTB. Many suggest that the LTB accords more importance and attention to landlord applications than tenant applications. For example, tenant applications are scheduled at the end of every docket, after landlord applications. One tenant explained, "I felt that the whole system worked in favor of the landlord ... I felt like no one took into account my T2 and T6 issues."

The survey demonstrates that many tenants who are at the LTB for arrears have other problems with their housing that could form the basis for tenant applications. Though the vast majority of originating applications (89%) were landlord applications, more than half of tenants surveyed (58%) said there were other problems with their living situation besides the issue for which they are at the LTB today. Most cited problems with the condition of the unit, infestations, and repairs, while some were concerned with landlord behaviour, safety issues, and illegal charges.

The researchers' notes on tenants' responses to this question show that many of the situations tenants described would be appropriate for a tenant application. Here are just two examples:

"Condition of unit is uninhabitable, heating does not work, has to keep stove on all night to keep warm, increases hydro bill."

"Massive cockroach infestation. Hasn't slept with light off to keep roaches away. Stove is broken, fridge is broken, leaks in kitchen and bathroom, no lock on balcony door. Light fixtures are malfunctioning. Elevator keeps breaking down, he's been stuck in elevator. Security issues - door doesn't lock properly."

Community service providers point out that many, if not most, low-income tenants live in dwellings that do not meet basic standards of adequacy. They suggest a number of reasons tenants don't bring applications for repairs and rights violations: lack of awareness of rights, lack of understanding of these as legal issues, fear of reprisals, cost of the filing fee, complicated paperwork, and intimidation about engaging in a legal process. In some cases, landlords "have something over" the tenant - such as allowing an extra person in the unit, or rental arrears - which tenants believe means they forfeit their own rights. Finally, with low vacancy rates, high cost of housing, and the generally poor quality of rental housing they can afford, tenants may believe that there is nothing better available. Community workers across sites reported that many tenants who request repairs are told, "If you don't like it, you can leave."

Unfortunately, tenant applications tend to fall through the cracks in access to legal services. Because of their complexity and the need to prepare submissions and gather



evidence, they are a poor fit for time-limited TDC services. But they also don't fit within the mandate of most legal clinics, which tend to focus on eviction. As one clinic legal worker noted, "[We only take] egregious tenants' rights type of cases, not just the usual leaky faucet situation. We would love to capture more of those usual types of cases - we know that's where the systemic barriers are."

A community worker explained that many tenants not only require assistance making an application, but also need representation in bringing it to the Board. "With maintenance issues, TDC advice is extremely helpful to prepare the application. But when it comes to proving it in front of the LTB, lots of people don't have confidence to stand up and make their case. They may have other issues they fear will be brought against them. Even after applying many don't show up because they are intimidated."

This review identified some student clinics and partnerships that offer support to tenants to file applications; these are discussed below. But for the most part this is one area where access to justice is sorely lacking for tenants.

#### d. Vulnerable tenants and access to justice

When examining TDC's influence on access to justice for specific groups of tenants in particular circumstances, the question of vulnerable tenants comes to the fore. The survey revealed an astonishing depth of vulnerability among tenants accessing TDC services: two-thirds had experienced homelessness, half had faced discrimination in housing, and more than one-third said that they or someone in their household had a disability. These experiences intersect other aspects of disadvantage: almost three-quarters of tenants surveyed live in poverty, half identify as racialized, and one-fifth are single parents.

Considering this demographic profile, it is important to consider the ways in which TDC influences access to justice for the most vulnerable and marginalized tenants.

##### *i. Tenants who never make it to the LTB*

When asked about vulnerable tenants, TDCs pointed out that many tenants—in some sites, 50 percent or more—never appear for their LTB date. They speculated that many in that number might be among the most vulnerable, and wondered what could be done to improve their access to justice.

Interviews and focus groups with community service providers and tenant organizations offered an opportunity to learn more about the "no-shows" on every LTB docket. Not surprisingly, many said that the tenants they work with rarely get to the LTB, and as a result, do not have access to TDC services.

In fact, they pointed out that the most vulnerable tenants they serve—especially those with histories of homelessness—don't have access to the LTB at all. Some may incorrectly believe that their tenancies are not subject to the RTA, particularly if their rental agreement has been construed as informal by the landlord. Others are simply not aware of their rights and due process. Such tenants may just leave when told to do so by their landlord, without any kind of formal notice.

Similar stories were recounted across all sites of the review. One housing worker said, "We have people coming in with handwritten notes from landlords ... A lot of evictions are not legal - tenants are given days to leave." Another reported, "'My landlord says I have until the end of the day to pay my rent' - we get that all the time."

When they do receive proper legal notice from their landlord, many just walk away when they see the words, "Notice of Eviction." Informants reported many incidences in which tenants fail to read the notice thoroughly and miss the information that they do not, in fact, have to leave the unit on the date specified. "Often they are served with an N4, read it and assume that they have to just leave," explained a housing advocate. "The notice doesn't mean what it says. It should say 'You have to pay your rent by this time OR ...'"

Given the incidence of low income among tenants, many simply cannot afford to pay their arrears. Leaving the unit may seem to be the only option. On the other hand, by not attending their hearing, tenants may miss out on information about resources that could help stabilize their tenancy, such as the rent bank. A community worker summarized the factors that inhibit her clients from pursuing access to justice when facing eviction: "Two things cause people not to go to their LTB hearing: they believe the landlord will be 100% effective, and the forms they receive from the LTB read extremely scary - though they have improved. People will just abide by what they read without getting the assistance beforehand. Or if they do get assistance it's at the 11<sup>th</sup> hour. That's why people don't show up. Often it's over stupid amounts of money, like \$600. I hear the case and I think, 'I really wish that tenant had shown up'."

For Indigenous tenants, legacies of colonialism and ongoing experiences with a racist justice system promote fear and mistrust of legal processes and lawyers, including TDC. An outreach worker explained: "Many Inuit distrust the legal system. They have had bad situations with the RCMP, trauma and abuse, the history of the RCMP taking their kids to residential schools, displacing communities. Inuit youth get disproportionately stopped and carded by police. Why would we trust the legal system?"

Tenants who have been in conflict with the law may also avoid LTB proceedings, in the belief that the LTB and criminal courts are all part of same legal system. Some may believe that if they have criminal "priors," these will be a strike against them at the LTB. Others who are familiar with criminal court processes may not realize that the LTB hearing can proceed without them. "We see a population who do not identify the legal system as one they can trust and rely on. Because of their past conflicts with the legal system, they underuse their rights," a shelter provider reported.

Child protection involvement is another factor that inhibits some tenants from following through with their matter at the LTB. Some fear that they will lose their children if they are evicted in the formal, public setting of the LTB. They instead leave quietly, keeping their loss of housing under the radar.

A history of homelessness may also lead tenants to give up on the legal process before it begins. A community worker commented that many tenants she has worked with

think, "I've been homeless before, I'll be homeless again, there's no point." Tenants may also anticipate that they will face stigma and discrimination at the LTB because of homelessness, mental health issues, or past eviction.

Finally, some tenants may become so overwhelmed that they simply ignore notices until it's too late. Many TDCs and community workers spoke of tenants' denial and paralyzing anxiety in response to a threatened eviction. One said, "The anticipation [of going to the LTB] is worse than actually going." Sometimes this is compounded by disabilities and other issues. As one TDC put it, "There are lots of people who have problems with literacy, cognitive processing, addictions, varying levels of functioning - who don't get to offices, don't understand forms, don't open mail."

Vulnerable tenants are even less likely to access the LTB for their own applications on repair and maintenance issues, even though they are often living in substandard and unsafe conditions. An informant pointed out, "Often landlords who are renting illegal units, or not maintaining their apartments, take advantage of people who aren't aware of rights. Those types of clients don't have mental or physical strength to follow through."

Community workers pointed to the need for outreach legal information, education, and advice through shelters and other community programs in order to reach tenants who might otherwise not have access to TDC.

#### *ii. Tenants with disabilities*

Across all groups, informants agree that TDC services are particularly important for ensuring access to justice for tenants with cognitive and mental health disabilities. Mental health issues such as anxiety, depression, and addictions, as well as acquired brain injuries and other cognitive disabilities, may be causal factors in tenancy problems including arrears. In addition, people with disabilities often have very low incomes and as a result face difficulty in paying rent.

Behaviours linked with mental health issues, such as hoarding, substance use, and difficulties with self-care and activities of daily living, can be direct causes of L2 eviction applications. These are likely to be treated at the LTB as simple examples of tenants failing to maintain their responsibilities, unless a legal representative reframes them as disability issues and advocates for the right to accommodation.

One service provider stated that many of the tenants she encounters at the LTB have an addiction issue. She cited lack of services and supports, inaccessibility of detox and rehabilitation services, and stigma as reasons why tenants with addictions have housing problems leading to eviction.

Service providers in various locations also noted that tenants with disabilities are sometimes victims of home takeovers, in which others move into their unit and use it as a location for conducting illegal activities. Tenants may fear they will be harmed by the invaders, or evicted by their housing provider, if they talk to anyone about what is happening. Service providers reported that sometimes clients will enter shelters because they aren't safe in their home.

Meanwhile, tenants with disabilities face discrimination in obtaining and maintaining housing. Informants pointed out that some landlords use the LTB as a mechanism to get rid of tenants they consider difficult. A social worker described this problem: “For some, it seems the LTB is a convenient place to take tenants with severe mental health issues and use loopholes in the law to get them out. Social housing providers are using the LTB as an arena of execution to evict problem tenants.”

Once before the LTB, mental health and cognitive disabilities can make it very difficult for tenants to self-represent. Interviews and observation confirmed that TDC support makes a critical difference. An LTB member noted, “If you leave parties [with disabilities and human rights issues] to their own devices there’s limitations to how they attend their own case. But if they’re accompanied by TDC in the courtroom things are crystal clear ... It makes my decision whether to grant an adjournment or request for accommodation easier to make.”

Tenants with disabilities also face discrimination and lack of awareness within the forum of the LTB itself. A tenant noted, “[I am satisfied with today’s outcome] because I don’t want to be on the street. I’m unsatisfied however by the lack of understanding of my low-income situation and mental health problem. I felt a lack of humanity.”

In spite of the enormous importance of active TDC involvement for tenants with disabilities, the extent to which TDCs systematically collect information about tenant disabilities is highly variable. And as a community worker points out, tenants are unlikely to volunteer such information unless asked: “The irony is, the province has a duty to accommodate, but if people can’t even identify that need, then how do they access that right?”

Even when information about disability is provided, as discussed above, TDC’s decision whether to offer a more intensive level of service is subject to a number of factors other than the need for accommodation. The survey and interviews confirm that a much larger proportion of tenants have disabilities than are provided with representation or identified by TDC as requiring accommodation in services.

Tenants with mental health issues may also need more than just legal assistance at the LTB. A TDC explained, “For a lot of tenants with mental health problems, they just need someone to support and be with them.” TDC is not often available to provide this intensive level of support.

Many informants pointed out that TDC services alone can’t improve access to justice for this group: a change is needed in how the LTB approaches eviction in the case of tenants with disabilities. As one TDC described, “The housing trajectory of a person with mental health issues is social housing to private market apartment to basement to rooming house to shelter to the street. We need a system to catch that person in middle, not let them fall all the way through.”

### *iii. Other forms of vulnerability and marginalization: “The desperation sector”*

Many interviews pointed to the general vulnerability facing tenants at the LTB. One mediator said, “[Tenants at the LTB are] below the poverty line, have cognitive

difficulties, face human rights issues, are young, marginalized, people who might end up homeless, have physical disabilities. TDC services are vital to their survival.”

As described above, the survey reveals multiple dimensions of disadvantage and marginalization among tenants: poverty, receipt of social assistance, discrimination, lone parenting, and homelessness are just some factors other than disability that intersect with tenants’ risk of housing problems and eviction.

Key among these is homelessness, which the survey showed is a common experience among respondents. Some informants suggested that past experiences of homelessness may render tenants more vulnerable at LTB; for example, they may be more likely to make any deal in order to keep a place.

Homelessness also intersects with other forms of marginalization. For example, a shelter worker explained that the trans people she serves who move out of the shelter into rental housing face discrimination in the housing market, don’t have access to the supports they need to successfully transition out of homelessness, and are often evicted.

Outreach housing workers commented that for tenants who have been on the streets a long time, loneliness and lack of familiarity with expectations associated with rental housing can lead to housing problems and eviction. Some may not have the skills to keep their unit clean, or properly store and prepare food; others may allow friends who are still on the street to move in to their place.

Another area of vulnerability that was raised in a number of focus groups is child welfare involvement and the threat of child apprehension. As one TDC said, “Preventing eviction helps prevent child apprehension.”

Another community worker explained, “To return children to the home, Children’s Aid wants the mother to have a suitable size place, but she can’t afford a three-bedroom apartment without the [social assistance payments] for the children. So she goes into arrears.” Service providers report that the risk of arrears is compounded for lone mothers because many are not receiving the child support to which their children are entitled.

In the survey, seven percent of tenants reported that in the past they had been told by a child welfare agency that their housing was not adequate for their children. A worker at an Indigenous agency confirmed that inadequate housing puts families at risk. “We see women have their children apprehended because their housing is inadequate. This is historically a long term issue for Indigenous people.” At the same time, fear of child welfare involvement may inhibit parents, especially single mothers, from seeking legal services in housing matters. “We get families just shutting down and not saying anything [about their housing problems]. They won’t talk to a lawyer,” a legal clinic worker reported.

As noted above, legacies of colonialism and direct experiences of racism run through Indigenous tenants’ experiences at the LTB. In addition, some may lack awareness of their rights as tenants. “People who come from remote communities might never have rented before. They just move out if a landlord says they have to move out. They don’t know their rights.”

Some interviews identified racialized newcomer communities as a particular target for mistreatment and exploitation by landlords. “We have a lot of women at the shelter who are newcomers, they don’t speak the language,” a service provider explained. “Landlords get them to sign papers they don’t understand.” Others noted that those with precarious status might fear that if they are involved in any kind of legal dispute they will be deported.

Fear and intimidation are also a factor in the tenancies of women fleeing violence. “Lots of properties are owned by men,” a women’s shelter worker explained. “[Women fleeing violence] don’t want to confront a man. They would rather live with what’s going on than trigger their own trauma and mental health. Many don’t understand the forms at the LTB, the legal process. They don’t want to risk losing housing and ending up back in a shelter or with their abuser.”

For women, the reality of gender-based violence brings an added dimension of vulnerability to tenancies. Community workers in several sites noted that women face illegal entry and other forms of harassment, demands for sex if their rent is in arrears, and sexual assault by landlords and superintendents. Just as some landlords routinely exploit tenants with mental health issues, addictions, or language and literacy barriers, there are those who have incorporated sexual exploitation into their business model. Service providers in several sites said that some landlords in their community were known for pressuring female tenants with addictions into prostitution in exchange for keeping a place.

Tenants who have confronted racism, sexism, and other forms of discrimination in their housing search may be more intimidated about entering into a legal dispute with a landlord. A TDC commented, “[This city] is quite racist. Women looking in the private market know they have strikes against them - single mom, Aboriginal, in a shelter, on Ontario Works. The comments out of landlords’ mouths are just hurtful. Women get discouraged.”

Tenants with little education or low literacy are also vulnerable in LTB proceedings. “I have had landlords forge a signature on a document to end a tenancy, or get tenants to sign a document they can’t read,” one informant described. “They get the notice but can’t read it. By the time they get the sheriff’s notice it’s too late, they are already evicted.” Many have little understanding of the LTB process, and as a result are easier to take advantage of. One informant recounted a story of a landlord representative who made a side agreement with a tenant, told the tenant they could leave, and then allowed the adjudicator to make an ex parte order in favour of the landlord, believing that the tenant had not attended.

Vulnerable tenants are particularly likely to live in poor conditions, but the lack of legal support for tenant applications creates a barrier. They also fear reprisals and loss of their housing if they bring complaints to the LTB. A housing worker explained, “I have seen a lot of really bad rooming houses in unsafe condition. But tenants don’t want to do anything out of fear. I will offer to help them go to LTB, but they are afraid they won’t find anything else they can afford. If they are paying \$400, \$500 they know they can’t find that price anywhere else in the city. They say, ‘Before I touch any papers you have to find me another place.’ It puts me in a difficult position

- I want to respect the tenant's capacity to make their own decision but I also want to support adequate housing. It's such a challenge."

People living in chronic poverty may feel hopeless that their living situation could ever improve. A service provider said, "It becomes normalized for people. They think that's just how it is. Nothing has changed for so long. Even if you try to explain to people that it's not right, they say nothing will change. Maintenance and repair are in such bad shape but people have learned to live with it."

One mediator referred to the LTB and other services as "working in the desperation sector." Indeed, the extent of the vulnerability, marginalization, and desperation tenants are facing at the LTB underlines the absolute necessity of TDC services. At the same time, it raises important questions about whether TDC services are sufficient to secure tenants' access to justice.

#### e. Impact of TDC services

In spite of the complex challenges facing most tenants who access it, TDCs and community services across sites report the TDC program has a good success rate. The survey, too, found that overall, TDC contributed to positive outcomes in 57 percent of cases. TDC services contributed to an even higher success rate in specific case types: 60 percent success rate in arrears cases, at least 65 percent success in preventing eviction (which is the priority area for TDC), and 71 percent success in extending tenants' repayment time. As noted in the discussion of limitations in the survey data, though, we must exercise caution in relying on these findings, as "success" sometimes proved difficult to define and measure, and some groups (such as eviction cases) are too small to produce findings that can be generalized beyond the survey respondents.

The survey showed few statistically significant relationships between the type of service TDC provided and positive case outcomes. The only strong relationship was an unexpected finding: tenants who had received previous legal advice were less likely to have a positive outcome. This may be explained by the possibility that tenants who had had previous advice were further along in their matter and therefore had fewer possibilities for a good outcome. For example, this group might include tenants who had made a previous repayment agreement with the help of TDC, and were now back at the LTB after breaching that agreement.

Though not statistically significant, there was a higher positive outcome rate overall for tenants with whom TDC spent more than 20 minutes, and tenants who received referrals in addition to advice. Longer time spent with TDC also corresponded to higher success rates in arrears cases and eviction applications. And success rates for repayment agreements were higher in cases where TDC provided referral and assisted with document preparation.

There were also few statistically significant differences among groups of tenants in success rates. Where differences do exist, they confirm that TDC services are particularly effective for vulnerable tenants. For example, tenants who had experienced visible homelessness were significantly more likely to have a positive

outcome in all types of cases combined (though tenants with histories of homelessness were less likely to have a positive outcome in eviction cases). Tenants who had faced housing discrimination, those who reported that a member of their household had a disability, tenants on social assistance and those with incomes below LICO all had somewhat higher success rates.

Interviews and focus groups provided a more nuanced understanding of TDC impacts and their contribution to tenants' access to justice. All agree that TDC intervention saves many tenancies. Even when a tenancy can't be saved, TDCs can still contribute to justice for the tenant by helping them argue for more time. As one TDC pointed out, "We save a lot of tenancies. And when we can't save them we offer a transition period."

At the same time, there was general recognition that TDC is of different benefit for different case types. One clinic lawyer summarizes it in this way: "Rent arrears cases are ideal cases to be delivered through TDC. The advice is always similar - repayment plans, repair issues. TDC is great to do that. A lot of other issues, TDC is not as good for, such as cases that are more factually tricky and complicated. N5, T2, T6 - it's hard to give that kind of advice in advance of hearing. If tenants come to the clinic for summary advice on a T2, prepping them takes an hour."

Informants reported that TDC services are most beneficial for the following types of cases:

- arrears
- referrals
- adjournments, especially when paired with a referral to a legal clinic
- L2 evictions based on persistent late payment
- requesting reviews and set-asides
- procedural issues
- A1s

TDC's legal expertise also helps tenants avoid paying costs when withdrawing their applications. One TDC explained, "I'll often go with the tenant and say, 'Based on my advice they are withdrawing this application' so the landlord won't go after costs. They didn't get legal advice before, now they have it, and they shouldn't be penalized."

As well, TDC services are considered particularly useful in cases involving loss of subsidy or other administrative problems with social housing. A clinic lawyer noted, "This is where TDC is very handy. The case just needs administrative paperwork and a request for adjournment to resolve the administrative issue."

On the other hand, TDC services are seen to be of less direct benefit in N5s, N6s, N7s, and L2s for behaviour. These types of cases are generally too complex for TDC's scope of practice, but TDC is still able to contribute to a positive outcome through an adjournment request and referral to a legal clinic.

Above Guideline Increases (AGIs) are considered to be an area in which TDC services and even clinics are often of little assistance. One TDC explained, "There is not that



much to be done with those cases. The law lets the landlord do this. If the landlord has done what they're supposed to do, the AGI is granted. Tenants come up in arms but there's nothing to be done."

Finally, tenant applications are one area that falls between the cracks: neither TDC nor clinics are typically able to provide the level of assistance tenants require to be successful. Many agree this is a very complicated area, not usually appropriate for TDC but one in which tenants often have inadequate access to other services.

Relatedly, there is disagreement among sites as to whether it is in tenants' best interest to bring up tenant issues in arrears applications. On the one hand, it may improve the tenant's outcome, and can help tenants avoid paying a filing fee for their own application. On the other hand, tenants are rarely well-prepared to bring these issues in an arrears case, and they lose the chance to raise these issues again. One TDC explained her approach: "We try to focus on what we can accomplish today. For example, if they have no evidence about repair and maintenance issues, we don't focus on that. We don't bring in the T6 in arrears cases unless they are well prepared."

TDC services also have impacts beyond their influence on the outcome of the case. For example, they may also help to restore the landlord-tenant relationship. One TDC said, "We re-establish tenancies. They come in hating the landlord and leave chatting and happy. We help them put their life back together." A survey respondent agrees: "Things could have gone either way and the fact we got something out of it was good. We also have maintained an amicable relationship with the landlord."

More broadly, a positive outcome at the LTB can be very empowering for tenants, and have ripple effects into their community. A shelter worker explained, "For those who have gotten through whole [LTB] system they feel pretty empowered after. We don't see a lot of losses in that system because the woman is usually in the right. It sets a sense of pride for the woman - she knows she can do this. They feel they have accomplished something for themselves and their kids, and they can speak to other women."

Finally, a number of informants noted that TDC helps to educate landlords, members, and mediators on tenants' rights. This in turn may have a ripple effect, contributing to system changes and improved case law.

## 2. Tenants' needs and satisfaction

The second question framing the review is:

*How well do services at case-study sites meet the expressed needs of TDCP clients? Does client satisfaction vary by demographics, the circumstances of their cases, the services provided, or other variables? How might services be improved to better meet the needs of a greater number of clients, or specific subgroups of clients?*

In order to assess how well TDC is meeting tenants' needs, it is first necessary to consider what tenants' needs are, and to determine which are appropriately met by

TDC and which require other services. Interviews, focus groups, and observation demonstrated that tenants who come before the LTB have wide-ranging legal and non-legal needs. These needs, and tenants' expectations of TDC services, influence tenants' satisfaction with the service and their recommendations for improvements.

## a. Tenants' legal needs

### *i. Information and education*

Tenants require legal information and education in many areas. For example, they may require TDC support in recognizing housing problems as legal issues; learning about the LTB process, rules, and sequence of events; understanding landlord and tenant rights and responsibilities; comprehending the scope of their case, the potential outcomes, and the options available to them; learning how to prepare the evidence and arguments for their case; and developing self-advocacy skills. TDCs and community workers particularly noted the need for legal information and education on tenant rights. One community worker pointed out that tenants actually have quite a lot of protection under the RTA, but lack information about it. "If tenants knew what the reality is, and what they can pursue, it would change the power dynamic [between landlords and tenants at the LTB]," she said.

### *ii. Legal advice*

Tenants also require legal advice on a wide range of issues from TDC: the legal matter they are facing; the issues of focus; what information is admissible, and in what form; alternatives for getting their issues addressed; case law and arguments that can support their case; their rights within the LTB process; assessment of defects in notices and other documents from the landlord; and potential outcomes and consequences of various strategies. Community service providers frequently noted that they lack legal skills and knowledge, and rely on TDC and clinics to meet this need for their clients. One explained, "[Tenants who go before the LTB] have no idea - most people don't. Going to the Board is very scary. They need guidance from the beginning to the end. They need someone to even tell them where to go to get help. If you can connect them with the clinic they are golden because they will get what they need."

### *iii. Accommodation in the LTB process*

Many tenants who access TDC services require accommodations in areas such as literacy; English as a second language; comprehension and cognitive barriers; mental health issues such as anxiety and trauma; and the general impacts of chronic poverty on mental, emotional, and physical health. Informants emphasized that the LTB is an overwhelmingly stressful environment in which it is unlikely that most tenants will be able to function to their full capacity. They cautioned that all tenants, regardless of dis/ability, require clear communication. "A lot of times when clients end up at the clinic for advice and come back to our office, the legal jargon is confusing and they misunderstand," one service provider said. A TDC also noted that many tenants may

require help applying TDC advice and expressing themselves: “It rolls off our tongue but for someone who is emotional it’s tough.”

*iv. Low-barrier housing law assistance*

Finally, in Toronto, Ottawa and London, the TDC is available on-site or nearby during LTB hours and can provide drop-in advice and assistance to tenants who don’t have a matter on docket that day. TDCs and community organizations agree that this kind of low-barrier drop-in service is needed by many tenants, particularly in a large urban setting. Some workers noted that tenants may need face-to-face advice and information to fully understand, while the tenant hotline and some clinics provide information and summary advice on housing issues over the phone.

While providing such a service appears to fit more within the mandate of legal clinics than that of TDC, community workers in some sites commented that it can be difficult for their clients to get the information and advice they need from legal clinics in a timely manner. “I’ve called [the local legal clinic] – it’s a bit of process to get the information that you need. You leave a message and somebody gets back to you. When you’re working with somebody to get information that creates a barrier...I might lose track of the client if I have to wait. We need the information right away.” Others noted that when tenants are ambivalent about facing up to their LTB issue, the difficulty in accessing clinics may further reduce their motivation: “I’ve heard from people that they call, don’t get an answer, try again, and eventually just give up. People are relieved not to get a call back, because they don’t want to deal with the issue!”

This is where the drop-in nature of TDC services makes an important difference. As one TDC explained, “We are at the Board. When tenants come with questions, we can provide answers and solutions to issues they are facing. There’s no need for an appointment, no schedule to speak to someone, no complex intake. They don’t need to go to another location just for advice. Clinics have variable hours, but tenants can rely on ours. [...] Tenants use our services because it’s more accessible to their needs. I ask why they don’t go to the clinic and they say it’s not convenient. We provide drop-in service, from someone who doesn’t dabble in residential tenancies law.”

This explanation outlines many of the needs that are currently being met by TDC services to tenants not on docket, and help to explain the high rate of tenants not on docket served in the Toronto locations in particular. Any review of the high rate of not-on-docket cases served in Toronto must take these needs into account. Such a review must also take into consideration the inability of tenants to afford private legal assistance, particularly in expensive rental markets, even when their incomes exceed LAO guidelines. The Tenant Hotline, for example, frequently refers tenants to TDC when their income would exclude them from access to clinic services.

In the end, tenants will “vote with their feet” – accessing services that best meet their needs. One tenant recommended, “Don’t stop funding the TDC program as there are a lot of people who need and can’t afford lawyers. People with minimum wage can’t afford it. Put TDC in more neighbourhoods. I went to [a neighbourhood clinic]

and it only had two lawyers involved in tenants' issues so I was not able to get representation."

## b. Non-legal needs

While TDC's role encompasses tenants' needs for legal information, advice, and accommodation, a number of non-legal needs are also at play for most tenants who access TDC services. Community and TDC informants agree that for many tenants, arriving at the LTB is the end result of complex and intersecting social, financial, and health-related issues. As one put it, "The legal issue is only 10 percent of the issue." Some of these needs can be met by TDC, while others require longer-term support and non-legal skills.

### *i. Practical assistance and emotional support*

First, tenants often need practical assistance when they come to the LTB. TDCs at all sites said that tenants often require access to printing, photocopying, document preparation, internet, and a telephone. While landlords are likely to have access to office equipment and other technology, many low-income tenants do not. Informants noted that tenants may expect to be able to submit evidence such as photos and emails from their mobile phones. Tenants may also require practical assistance just to get to the LTB. As one community worker said, "Women need childcare and transportation to attend meetings and hearings. If they can't get it they just give up." Though meeting these practical needs is not directly within TDC's mandate, TDC programs often end up providing these services, or assisting tenants to access them via the LTB. A number of sites reported that they use year-end surplus funds to purchase useful technology such as portable printers in order to better meet these needs.

Further, tenants often experience the LTB as a very stressful environment. Even when well-equipped with an understanding of the legal parameters of their case, tenants may have difficulty representing themselves effectively if they feel anxious or overwhelmed. Many informants suggested that it would be helpful to have staff or volunteers available to accompany tenants in hearing and mediation to provide emotional support and assist them to implement TDC's advice.

A social housing provider, for example, noted the need for housing support workers who could accompany social housing tenants to the LTB. She explained, "For alternative housing providers, it's a challenge of being both the landlord and the support worker. When their tenants go before the LTB, even then [the alternative housing providers] provide a housing support worker. But I would like to see a pool of housing support workers and a protocol that they get called by the non-profit landlord when the landlord is taking the tenant to LTB."

### *ii. Financial assistance*

A second important non-legal need for tenants is financial assistance. While TDC does not provide this service, the program plays a key role in connecting tenants with financial supports in the community. Tenants' access to such supports, or lack

thereof, also may have a direct impact on the outcome of their case. The former Community Start-Up and Maintenance Benefit (CSUMB) was a provincial, mandatory benefit available to tenants on OW and ODSP. Since its cancellation, access to funds to help tenants repay arrears differs from one community to another. Some communities have replaced the CSUMB with a Housing Stabilization Fund (HSF), which is subject to narrower eligibility criteria, co-payments, decreased amounts available, and tighter limitations on frequency of access. In some communities, HSF funds can't be accessed if a repayment plan is in place. Some locations also have community-based benefits such as rent banks, community trusts, and eviction prevention benefits, that are available to tenants who are not in receipt of social assistance. These funds may offer assistance with arrears, moving costs, home repairs, first and last months' rent, and utility arrears. In some sites, these funds provide loans, while in others, the tenants does not have to repay the benefit.

The survey shows that many tenants plan to borrow money in order to repay arrears. Unfortunately, we did not gather information as to whether these loans were to come from the HSF or rent bank programs. The survey and interviews did show, however, that tenants are accessing payday loans and other forms of predatory credit, sometimes in order to pay arrears. Because of their hidden fees and high interest rates, use of such loans may exacerbate tenants' financial insecurity. In Hamilton, tenants' organizations are working with a local credit union to set up a low-interest advance on the HST credit and tax returns for low-income people, in order to counteract this trend. Community service providers also identified some tenants' need for trusteeship programs and other assistance in managing finances.

### *iii. Help with finding housing*

When faced with eviction, many tenants also need help to find sustainable, appropriate housing they can afford. This is a difficult task for many, made more challenging in a competitive rental market in which rents are steadily increasing. A number of service providers said that tenants need direct support in their housing search. Outreach housing workers may accompany tenants to view apartments, in order to counteract discrimination, inspect the unit, advocate for the tenant's rights, and assist with paperwork. But as one community worker pointed out, the availability of this service is insufficient to meet the need: "It adds to the challenge that desperate people will pay \$800, \$900, \$1000 for a place in terrible condition. The landlord doesn't need to impress - there are people lined up to move in. I've seen many cases where landlords will say, 'After you move in you'll get a new fridge, I'll fix this and that' - but once the lease is signed tenants are taking it as-is and are stuck. It makes such a difference when we can accompany client to view units, but now we can hardly leave our offices anymore. We have to be advocates and let [tenants] know [an apartment in poor condition] is not acceptable. But we also have to be diplomatic with the superintendent, and let them know what they have to fix up before tenant moves in." Without such assistance, tenants may be more likely to return to the LTB.

### *iv. Help with maintaining housing*

Finally, in order to maintain their housing, some tenants need help with activities of daily living, cleaning, preparing their units for pest control services, and complying with LTB orders. Community services and TDCs made particular note of bedbugs as a challenging issue. If tenants fail to prepare their units properly, they may perpetuate the problem for others in their building, and could face eviction as a result. Many tenants, however—especially those with physical disabilities, older adults, lone parents and people with mental health issues—find it impossible to take the required measures. One housing worker said, “I can’t tell a 95 year old to prepare her own unit. Sometimes tenants are saying no [to bedbug treatment] because there’s no way they can do it. Landlords need to know how to access services that can help.”

#### *v. TDCs and clinics meeting non-legal needs*

Though practical assistance, financial management, housing search accompaniment, and life skills support fall far outside the definition of legal services, some TDCs and clinic housing law programs attempt to meet these needs - often because a tenant is facing eviction and no other services are available. At one site, TDCs sometimes drive tenants to the LTB, and the legal clinic staff team recounted spending a Saturday at a tenant’s home clearing clutter that was threatening her tenancy. In Thunder Bay, a TDC received a special commendation after a landlord representative witnessed her calming a tenant’s fussy baby while providing TDC services and supervising a student.

TDCs, clinic housing programs, and outreach services may be the only thing standing between a tenant and eviction into homelessness. They are left to bridge the chasm created by inadequate social assistance, unaffordable rent, insufficient social housing, and inaccessible services. A community worker gave an example of a tenant facing eviction because of her cats. “I had to tell her it was bad. She needed to hear that from somebody she could trust. Everything had to go. To keep her in the place we had to source everything - who can help remove stuff from the house? Where can we get new stuff? It was very hands-on. She had nobody - she was by herself. She would have been swallowed up with that. She was able to keep her unit. Outreach is needed.”

#### **c. Tenant expectations and satisfaction**

The survey shows that satisfaction with TDC services is high among tenants. Almost all tenants (91%) scored in the “satisfied” range of a satisfaction scale. Satisfaction rates ranged from 80 percent to 96 percent in responses to questions measuring specific dimensions of tenants’ satisfaction, such as feeling that TDC cared about their case, understanding TDC’s advice, and receiving all services required. Interviews confirmed that most tenants appear satisfied with the services TDC provides. In fact, some TDCs noted that even when tenants are angry and disappointed about the outcome of their case, they often express gratitude for the information and support they receive from TDC.

At the same time, satisfaction questions typically provide a limited perspective on the extent to which a service is successful. Recipients of a service are likely to say they are satisfied, particularly when asked the question in the same location in which the service is received. Satisfaction can also be a proxy for a respondent’s sense of

entitlement, or lack thereof. For example in the survey, the lowest-income tenants and those on social assistance were significantly more satisfied than others. This may be a reflection of the excellent service TDC provides, but it may also reflect the fact that these groups often receive poor treatment from other services.

Expectations, and the extent to which services meet them, can provide more robust information for planning services. We also asked tenants what they expected from TDC, and whether services met those expectations. In general, tenants' expectations were in line with the scope of TDC services: only 15 percent expected representation. The vast majority said TDC services had met or exceeded their expectations.

TDC services also aim to influence tenants' expectations. Many TDCs talked about the importance of giving tenants information about processes and possible outcomes to help shape their expectations. Many tenants have no idea what to expect at the LTB; for example, many believe they stand to be evicted that day. TDCs empower tenants with knowledge of the process so that they can make better-informed, less desperate decisions. Members and mediators also saw managing tenants' expectations as part of TDC's role. They pointed out that TDCs provide tenants with a realistic view of their prospects, for example helping them to recognize that an offer on the table in mediation is likely better than what they might get at a hearing. On the other hand, many TDCs believe it is their role to raise tenants' expectations, by informing them of their entitlements with regards to rental housing, educating them about their rights in the LTB process, and providing high-quality referrals to trusted organizations they know will help.

#### d. Tenant recommendations for TDCP

Tenants were asked what recommendations they had for improving TDC services. While many had no suggestions, or believed that the service is perfect as it is, a number offered recommendations. These fell into four main categories: increasing awareness of and access to TDC; increasing services and playing a more active role; improvements to TDC's "customer service"; and improvements to the space.

##### *i. Increase awareness of and access to TDC*

First, many said that tenants should be better-informed of TDC services. Some suggested that information about TDC be included with the Notice of Hearing, that the commissionaire inform every tenant about TDC, and that customer service officers at the LTB let tenants know of TDC services. There also needs to be better promotion of TDC services in the community. As one tenant said, "Let tenants know *before* having issues at the LTB that there is a tenant duty counsel available."

Many tenants would also like to see more TDCs available so that tenants can have more access to the service. One tenant explained, "I tried to see TDC on a previous occasion but was unable to because I did not have a hearing that day and TDC was too busy. Today TDC advised me that my T1 and T2 forms were filled out incorrectly. It would have been very helpful to meet with TDC prior to my hearing date. There should be better availability of TDC for tenants who don't have a hearing." Another suggested starting intake earlier, well before hearings begin for the day. A third simply said, "Everyone should speak to TDC."

### *ii. Increase services and representation*

Another very common recommendation was to increase services, and to provide more representation. One tenant noted, "It would be helpful if there was someone to get into the courtroom with me to explain and keep organized for me." Another noted that hearings are intimidating, especially when the landlord is represented, and tenants need support. Other recommendations for increased service included spending more than 20 minutes with each tenant, providing more in-depth legal advice, and following up with tenants to find out how their hearing or mediation went.

### *iii. Improve "customer service"*

A third area of recommendations could be classified as improvements to how the TDC program approaches clients and provides information, or "customer service" improvements. One tenant recommended anti-oppression training for TDC, saying, "They are fixed on the legal issues, not the human case, and lose sight of the person." Others reminded TDCs to use plain language, translate legal concepts, and avoid legal jargon.

A few commented that they found TDC's tone to be abrasive. One added, "I already felt bad enough coming here today." Another said they did not feel comfortable asking questions or requesting clarification for this reason.

Tenants also suggested improvements to the advice offered. One suggested that TDC's advice was too focused on the law, and did not assist with formulating a plan of action. Another wanted to see advice that was more tailored to the tenant's specific case, rather than of a general nature. In general, tenants wanted more in-depth advice from TDC.

A tenant also critiqued the online information provided by the LTB, saying it was "very landlord-centric."

### *iv. Improve space*

Finally, some tenants recommended improvements to the space at the LTB. Suggestions included a private TDC office, and a separate waiting room for tenants that is not accessible to landlords.

## 3. Promising practices

A third question framing the review is,

*What are promising practices at case-study sites? In what ways do these practices reflect sites' specificities such as client population, region, connection with legal clinic, local rental market, LTB process, and other variables? How might promising practices be adapted for use in other sites?*

Though the TDC program is funded and coordinated through ACTO, each clinic that offers TDC services is free to use the funds and administer the program in ways that best meet local needs. As a result, there are some interesting innovations across the province, some of which may be adaptable to use in other sites. This section presents



some of the promising practices observed at the eight sites included in the review. These range from approaches to administration and promotion of the TDC program, to micro-practices and tools in tenant services, to partnerships and data collection.

### a. Intake & preparation

Some sites have implemented procedures to increase the case information available to TDC and expedite intake.

In Belleville, the TDC program provided by Community Advocacy and Legal Centre (CALC) is strongly interlocked with the housing case law program at the clinic. In the week leading up to a sitting of the LTB, clinic intake staff match clinic intake files with matters on the LTB docket. Through a painstaking process of searching client files for addresses matching those on the docket, they identify any tenants on the docket who have an open file at the clinic. This enables clinic legal workers who will be attending TDC to make advance contact with tenants where appropriate. The TDC team also brings the case files along with them to the LTB, in order to be better prepared.

CALC's housing intake manual is a second administrative tool that interacts with the TDC program. The manual guides intake staff through a thorough information and summary advice process, assisting tenants to resolve their housing issues before they end up at the LTB, or helping to prepare them for their LTB hearing. Files from these intakes are then available to clinic workers attending TDC.

In Thunder Bay, a member of the clinic's administrative staff attends TDC to conduct intake, freeing TDC to provide more in-depth legal advice. In Toronto, electronic intake files are opened on the server when clients sign in using a computer terminal in the waiting room.

### b. Tenant awareness of and access to TDC

There are many effective ways of letting tenants know about LTB services. In the Southwest region, adjudicators always begin a sitting by allowing TDC and the mediator to introduce themselves and sign tenants up in the hearing room. Tenants are reassured that their matter will be held down until they have been seen by TDC. This was noted as a best practice by informants from within and outside the region. One commented, "I am always surprised when I go to Toronto or Hamilton and it's not done that way. There's just a sign-up sheet in the hall - it lacks a personal connection."

In Belleville, volunteers approach every tenant to inform them of the availability of TDC services. While mediators and members in some locations raised a concern that TDCs were pressuring tenants or making the service seem mandatory, we found that direct approach by the TDC team to tenants improved access to the service, and thereby, access to justice.

In Ottawa, London, and Toronto South, the commissionaire informs tenants about TDC when they sign in. In Thunder Bay, there is no private office for TDC; as a result, the

TDC team is always present and visible in the hearing room, which contributes to tenants' awareness of the service.

Though direct verbal information is the best approach, signage also makes an important difference. In Belleville and Hamilton, for example, a sandwich board is displayed prominently outside the TDC office.

Some sites are also exemplary in providing access to TDC. As discussed above, in Toronto, London, and Ottawa TDC is available onsite at LTB outside hearing hours. This allows for tenants to get advice and document preparation assistance in advance of hearing, and meets the need for low-barrier and emergency services in these large centres.

Another good practice seen at some sites is to maintain seamless service and ensure availability from one hour before hearings start until they have ended. Some informants noted problems with access to TDC. In some sites, the service only begins right before hearings start, the office closes for lunch, and / or services close before hearings have ended for the day. This impedes tenants' access to TDC.

Finally, some sites provide access to TDC and housing law advice in community settings. In York Region, for example, the TDC / Eviction Prevention team conducts outreach at shelters and other agencies. Service providers in other sites expressed a need for a similar service.

### c. Practice skills in tenant services

In interviews, focus groups, and observations, TDCs discussed and demonstrated a broad range of micro-practice skills they have developed to improve the effectiveness of their meetings with tenants.

#### *i. Dealing with strong emotions*

One critical skill for TDCs is dealing with strong emotions. TDCs and service providers described tenants' emotional state at the LTB as one of extreme anxiety, shock, surprise, anger, and denial. In response, TDCs must employ de-escalation, patience, and boundary-setting with clients. They noted the importance of staying aware of their own reactions, and checking in with each other, to support a balanced approach to tenants. One explained her site's approach to serving tenants who are angry or aggressive: "We won't tolerate abusive behaviour, but we never refuse to deal with anybody. We let them take a break, have a smoke, and try again."

By remaining calm and non-judgmental, TDCs are able to put tenants at ease, and promote trust and collaboration. A tenant commented, "I felt that TDC is there to help people, not just to do the job. The important thing is that they're kind and understanding and patient." TDCs are able to remain consistent when faced with difficult situations. One adjudicator noted, "I have seen TDC be quite supportive in very difficult circumstances. For example, when a client shows up late and intoxicated - TDC is able to support in a non-judgmental way, and get an adjournment."

At the same time, many TDCs acknowledged that they, too, sometimes become overwhelmed by the pace and by the desperate situations tenants are facing. Mediators and members noted that an important difference between experienced and inexperienced TDCs is the tendency of those with less experience to become too emotionally involved, which can cloud judgment.

### *ii. Focusing*

A second micro-skill area is helping tenants to focus. Tenants may arrive at the LTB with a complex story to tell, or with numerous issues of concern, many of which may not be relevant for the day's matter. TDCs undertake a delicate balance of acknowledging a tenant's story while helping them to focus on the most important issues. This is done through active listening, assertive instructions, and repetition. What may appear to be brusqueness in TDC's approach is in fact often helpful, because it prepares tenants for how the adjudicator will respond to irrelevant information.

### *iii. Providing clear information*

Providing information clearly is another skill area that TDCs must master. This is vital because tenants will need to retain and repeat the information when they represent themselves. As one TDC points out, this requires limiting the information provided: "People can only absorb so much so this is the most important information. If you go through all the possibilities their eyes start to glaze over." Even though most agree that information must be limited if the tenant is to comprehend it all, one TDC explained, "Part of giving all the info is 'checking off boxes' because we have an obligation [to go through these items with the tenant] - they may not be able to absorb it all." Mediators and adjudicators can recognize when a tenant has been bombarded with more information than they can absorb: "People seem confused, say they heard a lot, can't remember what was said or why. For example, some tenants will come in asking for an adjournment but can't remember why they are asking for it."

Community service providers recommend that TDCs enhance verbal advice with written information. One suggests, "A checklist for tenants on what their issues are. In the meeting TDC is giving good advice but it's in 10 minutes - tenants might miss things, or focus on things that are not as important. It would be good to have a paper tool to explain what each thing means." Others noted that infographics would be useful for those with literacy issues.

A number of TDC sites have indeed produced forms and other printed tools for this purpose. In London, for example, TDC has developed a form to assist tenants to calculate repayment plans, taking into account their monthly income, dates of pay, and other expenses. In Ottawa, TDC maintains files of case law organized by topic; she provides print-outs of relevant case law to tenants and annotates them with links to the tenant's own case. Other TDCs simply jot down notes for a tenant on what has been discussed, and what to say in their hearing. Some use visuals to help reinforce information: "When I give advice I give three contingency plans - draw a bubble map

with option 1, 2 and 3.” TDCs must also sometimes “translate” LTB materials such as notices and orders into language tenants understand.

#### *iv. Presenting realistic options*

Many TDCs explained that when presenting potential outcomes to tenants, they start with the worst-case scenario, which is often not as dire as tenants anticipate. From there they will explore options, assisting tenants to realistically appraise possible outcomes. Some point out that this is important for managing expectations: “You’ll get what you think is a fantastic deal for people and they are disappointed. Or you’ll get what seems like a terrible outcome but they are so relieved to have had help. So I start with worst case scenario ... then any improvement on that is good.” Members also noted that when TDCs present balanced and realistic information to tenants, things like requests for adjournment tend to have more positive outcomes.

#### *v. Orienting tenants to the LTB*

Many informants pointed out that the LTB is an unfamiliar and at times overwhelming environment for tenants. TDCs draw on various practices to orient tenants and prepare them for the LTB process.

In Belleville, the TDC program has produced a “Tenant map to the Landlord and Tenant Board,” that visually presents the steps of the LTB process, and the decisions that tenants must make along the way. The map is displayed on a standing banner in the LTB hallway where tenants can consult it. Other TDCs shared their techniques for preparing tenants to self-represent, including role-play. One demonstrated: “Part of my role for you is to see both sides. I’ve heard your side, now I’m going to pretend I’m the landlord. I say x-y-z - how are you going to answer?”

#### *vi. Supporting mediation*

Board members and mediators consider it vital that TDCs inform tenants of mediation and encourage them to mediate. TDCs and mediators note that mediation opens up more options for resolution than are possible in the hearing process: “A lot of times we see less awarded in the hearing room in tenant applications than was on the table in mediation. In landlord applications we [mediators] can step outside of the law and get creative with payment plans and set it up in a way that doesn’t happen in a hearing.” Across groups, informants agree that it’s best when TDC actively supports mediation. When TDC is in mediation, they can help the tenant express what they want and can take the role of tenant advocate, freeing the mediator to be impartial. If sitting in on mediation isn’t an option, TDCs can also be available to check in with the tenant in progress, and review an offer before the tenant agrees to it.

#### *vii. Making referrals*

As shown above, tenants’ needs often can’t be met by TDC services alone. For this reason, referrals are an important area of practice for TDCs. In the survey, referrals were the second-most-common service provided by TDC, offered to 42 percent of tenants. TDCs in several sites indicated that they had cultivated productive working relationships and even special referral protocols with many resources in their

community. In Toronto, for example, TDCs have a direct line to the city's rent bank programs, enabling them to incorporate information about a tenant's potential eligibility for rent bank funds into proposed repayment agreements. Informants emphasized that it is important to make appropriate, timely referrals, backed with sound knowledge of the service being referred to, its eligibility criteria, and its fit with a tenant's needs. If done poorly, referrals can leave a client feeling like they are being shunted from one service to another. If done well, referrals can make a difference for tenants and for community cohesion. One TDC explained his approach: "If tenants feel like there's continuity of service, then one agency has done right by them. We can be a referral not just to [the legal clinic] but to the housing help centre and other agencies. We develop an expertise in those referrals ... When dealing with someone in crisis, if you can direct them clearly and refer them well, it builds trust in the community. I'm not just sending you to someone else - I'm sending you to my colleague who will help you."

#### *viii. Providing advocacy before cases come to the LTB*

TDCs and service providers agree that solving problems early and avoiding the LTB altogether is often the best approach. Where TDCs are available on-site to assist tenants not on docket, they can provide assistance to tenants before the issue comes to the LTB. For example, one TDC explained that he often writes demand letters for tenants who have paid illegal deposits. Such a letter is often all it takes to get the money back.

#### *ix. Follow-up*

Follow-up after a tenant has seen TDC can help ensure that the resolution of their case is sustainable. For example, some TDCs said they always invite tenants to check back in with them before concluding a mediated agreement. For several, summary advice and other services happen not in a single 20-minute appointment, but over the course of the day. One TDC said, "It's not always one conversation. I will give information in pieces. I'll say, 'Go try this, come back if it doesn't work' or 'if there's a deal on the table come tell me about it'."

### **d. Staffing, partnerships, and TDC models**

#### *i. Bringing more "bodies" to TDC*

Across sites, informants agree that the more "bodies" on site at the LTB to serve tenants, the better. A larger TDC team improves promotion of the service to tenants, supports TDC's availability to intervene when needed in hearings and mediation, and increases the number of tenants served. Sites participating in the review have found various ways to extend TDCP resources with other sources of funding and staffing in order to serve tenants better.

In York Region, the legal clinic's Eviction Prevention Program, funded by the Region, has added a social worker and a second legal worker to the TDC team. The social worker provides assessment, support, referral, and case management to tenants who are at risk of eviction and have mental health issues. This program has been very

successful in preventing evictions and homelessness through the intensive services offered by the social worker. A secondary, but equally significant, effect is that it has freed TDC to focus on providing legal services. And because there are two legal workers attending the LTB, one can provide summary advice while the other represents tenants in mediation and hearings. This means that TDC is able to play a more active role without decreasing the number of tenants served. In addition to the TDC team, an outreach worker from the Salvation Army Rent Bank also attends TDC, and supports TDC clients in making arrangements for financial assistance. Of all sites visited for the review, this one best reflects a full-service model to meet the range of tenant needs described above.

Even when eviction can't be prevented, York Region's Eviction Prevention Program still supports better outcomes for tenants at the LTB. The TDC is often able to extend the tenant's time in the unit while the social worker facilitates re-housing, preventing evictions into homelessness. An adjudicator suggested that the existence of the program lends credibility to requests for more time: "[In York Region] if a tenant is significantly in arrears and simply doesn't have income to repay or pay regular rent, TDC there don't try to obfuscate or delay. Instead, they will try to find ways to give the tenant a bit more time so that there is time for the tenant to be re-housed by the social worker. They don't try to pretend something else is going on ... [They aren't] seeking an adjournment just to delay things."

In Belleville, the clinic sends a large team—including volunteers, students, and two legal workers—to every sitting of the LTB. Each person on the team plays a role that is suitable to their training: volunteers approach every tenant to inform them of the service, students begin the intake process, and TDCs provide legal advice and representation. As a result, the TDC program is able to serve almost every tenant who comes before the LTB, and to provide representation in a large proportion of cases.

In London, a community agency sends an outreach mental health worker to every sitting of the LTB. This worker is available to assist all tenants who appear to be in distress or who identify a mental health issue. TDC often serves tenants in tandem with the outreach worker, providing legal advice and then referring to the outreach worker for social services. The outreach worker sometimes accompanies tenants in mediation and hearings to provide emotional support and assist them in applying TDC's advice. This frees TDC to serve more tenants. On busy days, a second legal worker from the clinic also attends the LTB.

In Ottawa, there is a full-time, specialist TDC on-site at the LTB four days per week. Local clinics—including the student clinic—provide legal workers to attend the LTB on a rotating basis, coordinated by TDC. The TDC also supervises a placement student who assists with administrative tasks. The clinics have a flexible referral protocol, enabling clinic workers who attend TDC to self-refer tenant cases when necessary, regardless of catchment area.

In Thunder Bay, along with the legal worker who attends TDC, the clinic sends an administrative staff to assist with intake. Because the LTB sits infrequently in Thunder Bay, there are always other clinic legal workers at the LTB to represent tenants. When they are not representing, they also assist with TDC services if needed.

In Toronto, the early implementation of a partnership with the city's two university legal clinics shows promise. Student volunteers are on-site at the LTB during the academic year, and assist with promoting the service to tenants, finding tenants when it is their turn to see TDC, and keeping an eye on events in the hearing rooms. The Toronto TDC program will soon integrate tablets so that students can start the online intake process with tenants who are signed up to see TDC.

### *ii. Tenant applications*

As explored above, tenant applications tend to fall through the cracks; they are typically too complex and time-consuming for TDC, but fall outside the mandate of most legal clinics. The review identified two promising examples of partnerships that support tenant applications.

In Thunder Bay, the Lakehead student legal clinic has recently initiated a housing program focused on tenant applications. Though still in its early stages, this program shows promise and is much appreciated by the community legal clinic. Students provide intensive, long-term support to tenant applications, from intake through to the hearing or mediation. Demand letters that students assist tenants in preparing often lead to a settlement without an LTB application. For cases that do go to the LTB, students gather evidence and prepare a case binder. Before the LTB date, students rehearse hearing and mediation scenarios with the tenant. The program has already increased the number of tenant applications on the docket in Thunder Bay, and informants there predict that its existence will lead to improved rental housing conditions generally, as landlords learn that there will be consequences for allowing units to deteriorate or violating tenants' rights.

In Ottawa, a professor and students from the University of Ottawa law school worked with ACORN (Association of Community Organizations for Reform Now), an anti-poverty group, to bring tenant applications in buildings owned by a single landlord. The buildings in question had been allowed to deteriorate severely while the conglomerate that owned them tried to avoid legal sanction by transferring ownership between companies. The applications were mainly successful, with many tenants receiving rent rebates.

### *iii. Clinic-based and specialist TDC: Comparing models*

The sites reviewed provide TDC services in various ways. For example, in Toronto, full-time specialist TDCs rotate through four LTB locations. Instead of being based at the city's community legal clinics, the TDCs are staff of ACTO, and Toronto clinics are not involved in providing TDC services. In Ottawa, as described above, a specialist TDC is on staff at a legal clinic, but based at the LTB most of the week. She coordinates legal workers from all of the city's clinics, who attend TDC on a rotating basis. In London, a specialist TDC is on-site at the LTB during sittings, and nearby at the clinic on other days of the week, in order to provide summary advice and document preparation to tenants. If a matter is complex, he refers the tenant to a clinic case worker. In the other centres, TDC is provided by legal workers based at clinics. In some sites, such as in Hamilton, TDC attendance is rotated through a large

team, while in others, such as Belleville, specific clinic staff are designated to play this role.

Informants from sites where TDC duties are rotated among clinic legal workers point to a number of advantages to this model. It acquaints the whole clinic team with housing law, while also informing TDC services with knowledge of other areas such as social assistance. It provides the whole legal team with a window into front-line trends and systemic issues. TDC practice is enriched with the skills learned through in-depth case work, and no one is forced to balance weekly TDC attendance with a clinic case load. The pace and volume of TDC work are less likely to become overwhelming when it is rotated through a large team. This model also provides a bridge to the clinic for tenants, and allows for verbal communication about the case between TDC and the clinic worker who will take on the case, so that the tenant does not have to repeat their whole story.

On the other hand, having a specialist TDC role also has advantages. A specialist develops expertise on housing law, LTB procedure, the adjudicators and mediators, and local landlord representatives. A specialist TDC can also take on the role of coordination and service planning for the TDC program. They can also provide specialized information and advice to others attending TDC who may have less experience with housing law, ensuring a consistent quality of service. A clinic legal worker pointed out, "I'm not TDC very often. Personality is important but experience is SO important. So specialist TDCs who know mediators, members, clients, commissionaire - that's a better model."

Ottawa's model, which combines a specialist TDC role with rotating legal workers from clinics, appears to be the perfect medium for higher-volume TDC sites. It brings together the advantages of specialized knowledge and service coordination with the benefits of strong connections between clinics and TDC.

#### e. Working with LTB & landlords

Observations and interviews confirmed that things work best when there is a collegial working relationship between LTB and TDC, and a sense that all are working together for a shared purpose. This perception was shared across groups. A TDC commented, "We hear horror stories from other places of bad relationships with the mediators, members, commissionaire. Those are our biggest allies." LTB members and mediators consider it vital that TDC work with them to arrange the ordering of tenants' cases, so the workflow is efficient for all. One explained, "In some locations it's a well-oiled machine. There is open communication. We can go to TDC to say the tenant wants mediation, and they will see them right away so we can start mediation. Or we can start the mediation process and if there is an offer on the table they can go see TDC about it. We can keep things flowing. In other locations we have to wait a couple of hours twiddling our thumbs." Open communication, a non-adversarial approach, and mutual respect were recommended by all for ensuring optimal services for tenants.

TDCs and community workers at a number of sites also referred to the importance of developing positive relationships with landlords. For TDCs, knowing the landlord or



representative well can assist in negotiating a deal that meets the needs of both tenant and landlord. While tenants may interpret their relationship with their landlord as a personal one, TDCs are conscious of most landlords' priority - to have a stable tenant who pays the rent. They are able to propose arrangements to landlords that respond to this priority. As one explained, "Landlords don't want to make friends - they want to make money. They don't want to lose long-term tenants who are dependable."

In smaller centres, TDCs are careful to maintain good working relationships. "We have developed good relationships - that's the benefit of a small town," one said. "We see the same people most of the time. We know the main landlord rep quite well, and there is mutual respect and trust. We don't screw him over, or propose things that are outrageous and unreasonable. We know where his hard lines are. We go back and be honest with the tenant." Many housing workers discussed the importance of landlord relationships for finding and maintaining housing for their clients. Preserving these relationships and preventing problems is a key goal because it means the landlord will remain willing to work with them, and offer housing to other clients down the road.

LTB applications can often be prevented through early intervention, support and negotiation to work out problems between landlords and tenants. This is the flip side of tenants who never make it to the LTB - those who have the supports to prevent LTB applications from being filed. Clinics play an important role in this process, and can often assist with issues that lie behind tenancy problems, which alleviates the problem for the landlord as well. "When we negotiate with landlords, there is trust that we will help with [underlying issues such as] OW and ODSP problems," a clinic lawyer said.

In some locations, clinics and TDCs sit on local committees that bring together community agencies, municipal services, and housing providers. These can be sites for early resolutions of problems. Social housing providers also may work directly with legal clinics and TDC in an effort to prevent eviction.

#### f. Data collection & reporting

Good data collection and analysis can help TDC programs to identify strengths and areas for improvement. The review identified promising practices in this area at two sites. In Belleville, the intake form tracks tenant outcomes so that the program can measure its success rate. The form also documents quantifiable outcomes such as dollars saved, dollars awarded, and extra time given to tenants, enabling the program to report on the literal value of the services provided. The York Region Eviction Prevention Program contacts tenants at three months and six months post-intake. Information about tenants' housing situation, income, and other variables is logged during these calls, providing detailed data on the trajectories of tenants who have received services.

#### 4. Other factors that may affect TDC effectiveness and tenants' access to justice

The fourth question framing the review is,

*What other factors relating to the TDC program and the LTB—such as administrative and procedural practices, resource allocation, and space—affect TDC services and tenants' access to justice? What recommended changes could enhance TDC services and tenants' access to justice?*

While the review aimed to identify impacts, promising practices, and areas for improvement within the TDC program, these can't be discussed in isolation from other factors. This question provides an opportunity to point to some of these factors, and consider what changes are required outside the scope of the TDC program to promote tenants' access to justice.

##### a. Structural & systemic

It is impossible to ignore the extent to which the troubles that end up at the LTB are structurally determined. For most tenants, coming before the LTB is the product of multiple, intersecting inequities, injustices, and experiences of discrimination and marginalization. The demographic and economic profile of tenants revealed by the survey reflects the groups most excluded from housing markets and labour markets: people with disabilities, Indigenous and racialized persons, lone mothers, immigrants, people on social assistance, and others. Survey respondents are currently housed, but two out of three have been without a place of their own in the past. While this review aims to maximize the Tenant Duty Counsel Program's service to tenants within its scope of operation, the structural and systemic factors driving their risk of eviction require policy and program responses at the federal and provincial levels.

##### *i. Inadequate housing, incomes and services*

In interviews and focus groups, informants repeatedly drew attention to the broader context that contributes to tenants' situations: the desperate shortage of social and supportive housing; the failure of social assistance rates to meet the cost of rent for even the most deplorable rental options; precarious and piecemeal employment that renders tenants' monthly incomes unpredictable; discrimination against and exploitation of the most vulnerable groups; legacies of colonialism and ongoing systemic racism and sexism; institutions whose operations consistently worsen people's circumstances rather than improving them; and a desperate shortage of the kinds of hands-on, non-judgmental, flexible services that make a real difference in people's lives. Without changes in these areas, housing precarity will continue. As one TDC declared, "The fundamental question we should be asking is, Why are tenants getting evicted? We need prevention - to not let it happen in the first place."

##### *ii. Loss of social housing subsidy*

In this structural context, social housing is a precious resource that stands between many low-income tenants and homelessness. Regrettably, the issue of arrears and

eviction due to loss of social housing subsidy was one that TDCs at almost every site were very concerned about. Landlord applications for arrears resulting from subsidy loss come to the LTB as simple arrears cases, and the RTA prohibits the adjudicator from considering the subsidy loss issue behind the arrears. All that TDCs can do is assist tenants to request adjournments to provide time to address the subsidy loss. If the case is heard and a repayment order is issued, this continues to be enforceable even if the tenant is later successful in having their subsidy restored.

The stakes in these cases are very high for tenants. Eviction from social housing for arrears prevents tenants from getting back on the very long list that many have waited on for years to access affordable housing. Residents of social housing are among the lowest-income and most vulnerable tenants, many of them lone parents, people with disabilities, survivors of violence, and formerly homeless. If evicted from social housing, most have literally no other housing options.

Service providers and TDCs explained that loss of subsidy is often due not to actual increases in income, but rather to tenants' failure to file annual income information or respond to housing provider's requests for this information. This failure was often due to tenants' inability to comprehend or respond to these requirements. Subsidy loss was also cited as an issue in tenant surveys. "The arrears should have never happened since my subsidy should never have been taken away," one tenant explained.

Such cases are often the product of administrative failures and gaps produced by the downloading of provincial social housing programs to the municipal level. Procedures for addressing subsidy termination differ from one municipality or region to another. In some jurisdictions there is no review mechanism at all: subsidy can be terminated with no opportunity for the tenant to defend their own position. In some cities, social housing providers don't even have to make direct contact with a tenant before terminating their subsidy. TDCs and clinic legal workers expressed frustration at the increasing time and resources they must dedicate to advocating on these matters for tenants.

Informants also note that tenants on OW and ODSP are required to file income information even though their social assistance benefits are administered by the same municipality that oversees their social housing provider. The fact that tenants meet OW / ODSP eligibility criteria is not considered adequate to demonstrate their income. Even tenants whose rent is paid directly to the provider by ODSP are still required to furnish income information regularly to the provider.

Informants also reported that, with the end of federal operating agreements that fund housing co-ops, tenants in rent-geared-to-income co-op units are facing a similar circumstance, in which their subsidies may be terminated with no review process. Arrears cases resulting from these terminations are just beginning to appear at the LTB, but observers anticipate they will increase as federal funding to co-ops drops off in the coming years.

Following the inquiry into the death in a shelter of a Toronto Community Housing tenant who had been evicted after the termination of his subsidy, Toronto has

implemented regulations and enforcement mechanisms governing the process of subsidy termination, including a requirement that landlords make direct contact with tenants before terminating subsidy. The City-run housing provider's arrears cases resulting from subsidy loss must now pass through review at the municipal level before they are brought to the LTB. TDCs and service providers at other sites pointed to the need for similar mechanisms in their municipalities, as well as a review mechanism at the federal level for federally-regulated co-ops.

### *iii. Non-legal services providing legal advice*

Another systemic problem that limits the effectiveness of TDC services is the issue of non-legal services providing advice to tenants without understanding the legal framework. As discussed above, many tenants fail to recognize their housing problem as a legal one. In some cases, social service providers may also consider these issues to be within their scope of practice. At times, community workers may simply be unaware of the availability of TDC or legal clinic services on housing issues; in other circumstances, they may consider a tenant's matter to be straightforward and not understand the legal mechanisms available to improve the outcome for the tenant. When workers attend the LTB with their clients, they may believe that TDC services are not necessary since they are there to support the tenant. Housing workers might also face a conflict of interest in which they are concerned about preserving their program's relationship with a landlord, and as a result may agree to resolutions that contravene a tenant's rights. For these reasons, TDCs and clinics strongly recommend that housing workers and other service providers work in tandem with TDC when their clients are involved in LTB proceedings.

## **b. Resources**

Funding for the TDC Program is provided by Legal Aid Ontario and administered by ACTO via contracts with the sites across the province that provide TDC. Clinics may use funds in any way that supports their ability to provide TDC services. This flexibility has given rise to many innovations as described in the previous section. But notwithstanding clinics' commitment to making the most of the resources available, resource constraints were a problem commonly mentioned by informants.

### *i. Staff*

The major concern expressed by informants in high-volume sites is that TDC programs do not have adequate staff to meet the legal needs of all tenants who seek their services, resulting in a lower level of service for tenants in these jurisdictions. In Hamilton, for example, TDC is attended by a single legal worker; informants agreed that this is often insufficient to meet the need, and also does not allow for effective outreach to tenants at the LTB and active interventions where required.

The problem is particularly urgent at Toronto North and Toronto South, where just two (or sometimes three) TDCs serve sites at which annual docket sizes are exponentially larger than anywhere else in Ontario - larger, in fact, than all sites outside Toronto combined. In spite of the exemplary skills and commitment of

Toronto TDCs, this results in a significantly reduced rate of service for Toronto tenants. For example, in 2014, only 5 percent of tenants on docket at Toronto North and 6 percent of those at Toronto South received TDC services. This is in contrast with much higher rates of service in some smaller centres such as Belleville (39 percent) and York Region (32 percent).

The inequity of services based on where tenants happen to live is further compounded by Toronto's very high proportion of vulnerable tenants, its extremely costly housing market, the inconsistencies among local legal clinics in intake procedures and availability, and the highly complex systems of services and supports to which tenants may require referral.

When considering differences in rates of service at various sites, it is important to remember that a number of factors are at play. At smaller centres such as Belleville and Thunder Bay, LTB sittings are less frequent, enabling clinics in these sites to dedicate more of their own resources to the TDC program on occasional LTB days. Another factor is that about half the tenants served at the Toronto sites are not on docket. As discussed above, the TDC program in those sites is filling a gap in services to meet a pressing need for low-barrier housing law assistance. Nevertheless, even when including tenants not on docket, the average number of tenants served per day in 2014 is lower at the Toronto sites than in most other sites reviewed.

A number of changes are needed to provide equitable rates of service to tenants in Toronto and other high-volume sites. First among these is increased funding to the TDC program, proportional to the numbers of tenants on docket at each site.

There are other changes, though, that can help make a difference. Ottawa's model—a specialist TDC who coordinates clinics to provide additional resources for TDC—achieves a 25 percent rate of service in Ontario's second-largest urban centre, and results in more seamless referrals of TDC clients to legal clinics. York Region has tripled the size of its TDC team through an Eviction Prevention Program funded by the Region, and as a result is able to serve 32 percent of tenants on docket. Such innovations could be considered in the Toronto context.

#### *ii. Space*

In many sites, TDC lacks adequate space to provide confidential services to tenants. In Thunder Bay, for example, TDCs provide services directly in the hearing room. In Ottawa, there is a single TDC office, and legal clinic workers attending TDC must meet with tenants in hallways, waiting areas, and the occasional mediation room when these become available.

Toronto North holds the distinction of having the worst TDC office space among the sites reviewed: a tiny, windowless room, barely visible at the end of a hallway, in which two TDCs serve tenants simultaneously. In addition to compromising tenants' privacy and confidentiality, this space is not accessible for tenants using mobility devices or strollers. TDCs also noted concerns with workplace health and safety. Tenants surveyed also remarked upon the inadequacy of the office space.

Fortunately there are plans to expand the TDC office at Toronto North, but concerns remain in both Toronto locations, as well as in Ottawa, that TDCs require access to

more private spaces in which to meet with tenants. Such spaces must also be visible and accessible to tenants.

The lack of space is an important consideration with regards to increasing staff as well. Expanding the TDC team with a social worker, rotating legal workers from clinics, an admin position, or even students and volunteers, is not feasible if the space can't accommodate them.

Ideally, office space for TDC at high-volume sites should include a separate zone for each team member with soundproof barriers between; barrier-free design and adequate space for tenants with strollers and wheelchairs to navigate comfortably; ergonomic design and access to the exit for TDC; and the availability of separate interview rooms, with a shared common area with office equipment that can also be used by clinic lawyers who are attending TDC to represent clients.

On the other hand, being confined to an office can also limit TDC's capacity to intervene when needed. One informant explained, "In my previous clinic there was no TDC office [at the LTB]. It was really interesting. We wouldn't be able to catch the really egregious things when we're in the office. But at that location we could. For example, I had a colleague who was able to intervene when a person with disability was about to be evicted. It's interesting how much you may be missing in an office." This suggests a need for an active, visible TDC presence in the hearing room and hallways.

Unfortunately, TDC sites lack control of their access to space. At on-site locations such as Hamilton, London, Ottawa and Toronto, the space is administered by the LTB, and the TDC program faces bureaucratic hurdles in making even minor adjustments such as hallway signage to improve tenant awareness of the service. In off-site locations such as Thunder Bay, York Region, and Belleville, TDC must find a way to operate in whatever temporary space the LTB has acquired to conduct hearings. In some cases this works out quite well—Belleville, for example, has a spacious room at the hotel where the LTB sits, and is able to store TDC supplies on-site between LTB dates—but circumstances can change unpredictably.

### *iii. Technology*

Informants across sites pointed out that TDCs need easy access to printing documents and photographs, photocopying, scanning, and faxing, both for their own work and to assist tenants who may be unprepared and lack access to technology. On-site internet and computers are also critical for TDC's work. Off-site TDCs also pointed to the need for a dedicated cell phone to make referrals for tenants. Some clinics noted that access to these technologies should be equitable across sites, not variable according to clinics' financial resources. While clinics are free to use TDC program funds to acquire needed equipment, understanding of this flexibility is uneven across sites, and some may have other needs to meet with these funds.

Some informants also pointed out that technology may have unintended consequences for tenant services. For example, some raised the question of whether the new computerized intake kiosk at Toronto sites causes TDCs to spend more time in the office, and whether it reduces their ability to prioritize the sign-up list. It may also

present a barrier to some tenants signing up if they are not comfortable with technology.

### c. Factors at the LTB

In many respects, the LTB sets the context for the TDC Program. TDC services are delivered on-site at the LTB, and are focused on assisting tenants to navigate LTB procedures. Duty counsels work alongside mediators, adjudicators, customer service staff and commissionaires of the LTB. Given the importance of the LTB environment in the provision of TDC services, it is not surprising that a number of factors relating to the LTB were seen to influence the effectiveness of TDC services.

#### *i. Scheduling*

Large dockets were seen to impede TDCs' ability to provide effective services to all tenants who might require them, and even to diminish adjudicators' ability to provide for due process and equitable consideration on all matters. As one TDC explained, "It seems like the LTB is procedurally stacking the cards against tenants' interests. We are seeing huge dockets - 62 hearings. There is no way a member can hold 62 fair hearings, and no way TDC can advise even a third of tenants."

There were reports that the rapid pace required by such large dockets was contributing to the denial of tenants' access to legal mechanisms that should be available to them. For example, one TDC said, "Everything has to happen so quickly. Tenant applications can be raised within landlord applications - but are denied by members for expediency because of backlog."

TDCs also reported that this rapid pace affects the quality of their service, and tenants' understanding of their advice: "Once I have given advice I will ask questions to verify that someone has understood ... You're probably also too busy to assist in more depth if you don't even have time to assess understanding. I think it's irresponsible - giving someone all this information and sending them off in the world." Tenants also expressed frustration at having their matters adjourned because of lack of time, after having taken the day off work and waited for hours at the LTB.

The problem is especially pronounced during the so-called "Superblock" days during which only L1 applications are scheduled. Some informants said that a separate block for L1s is a good idea, but that the number of cases scheduled on these days poses a problem. Others suggested that huge dockets on L1 days rely on a large number of tenants not appearing for their hearing, essentially institutionalizing the exclusion of "no-shows" from access to justice. Many raise the concern that procedural justice is also negatively affected by the volume on superblock days. One TDC recounted, "On a recent day at the LTB, I heard an adjudicator basically say 'I'm really busy, if you are going to see TDC you better see them now, or go out and try to work out an agreement [with your landlord].' Superblock days are just a factory."

For locations at which LTB sittings are less frequent, there was also a concern about unpredictable schedule changes and cancellations without consulting the clinic that provides TDC.

Informants proposed that the LTB recognize the TDC Program as a stakeholder, and seek input into scheduling.

### *ii. Side agreements & consent orders*

While most cases at the LTB are resolved through a hearing or mediation, at times landlords and tenants reach an agreement through “side negotiation” - informal discussion without the assistance of LTB staff. Agreements arrived at through these negotiations may be formalized through consent orders entered before an adjudicator. Breaches of consent orders can become the basis of rapid eviction proceedings.

TDCs reported that at some LTB sites, aggressive landlord representatives pressure tenants into side negotiation before they have a chance to get legal advice. TDCs see the consequences of unfair agreements when the case comes back to the LTB because of a breach.

A TDC described his frustration with this problem. “Sometimes landlord reps approach clients who are on my list and make deals. I don’t think they should do this - it’s a breach under Law Society rules. Tenants think, ‘I can work out a deal with my landlord and not have to wait.’ But their landlord presents choices like ‘You can leave in 10 days or leave in 30 days’ - but those aren’t your only options! Sometimes we see people saying they signed a consent order and didn’t know what they were signing - but then it’s too late.”

Informants pointed to ethical concerns that landlord agents are taking advantage of tenants’ lack of knowledge, which should not be permitted. Instead, they should inform tenants of their rights and refer them to TDC.

An LTB member also pointed to the imbalance of power in side negotiations and noted the importance of TDC advice to ensure informed consent: “Most landlords are represented. If the tenant is unrepresented, there is the possibility that in pre-hearing discussion there can be undue influence on the tenant to accept unreasonable terms. [...] It gives me comfort when I ask the tenant, ‘Have you seen duty counsel?’ and they say yes. Then I know the consent I am taking is an informed consent.”

This concern is underlined by the confusion expressed by some tenants regarding the distinction between side agreement and mediation. “I did not expect legal counsel for the landlord to approach me for mediation rather than the mediator,” one tenant commented - suggesting that in fact, the process they had participated in was informal side negotiation, not formal mediation supported by an LTB mediator.

Some TDCs also raised concerns of insufficient vetting of consent agreements by adjudicators: “You never hear a Board member say at the beginning of the day that repayment agreements will have to meet the adjudicator’s approval,” one noted.

A clinic legal worker pointed out, “The LTB has an obligation [to respond to this] too. It’s their social justice tribunal that ends up dealing with side agreements.” Most agreed that they would like to see clearer regulation and enforcement of side agreements by the LTB.

### *iii. Unclear notices and orders*



As discussed above, many interviews and focus groups described the problem of tenants misinterpreting notices they receive from the LTB. In some cases, tenants' misunderstanding can even lead them to leave their home unnecessarily. Some service providers and clinic workers also pointed out that tenants may not understand the orders issued by the LTB on their case. Again, tenant misinterpretations of the findings or conditions on their order can have grave consequences, including unintentional breaches.

A few respondents did recognize that LTB materials have recently improved. But many said there is a need for ongoing attention in this area. As one TDC said, "[LTB materials'] design and layout need to be clearer. This applies to all aspects of the package - not just information about TDC. ... Most tenants only read the first page with the date and time of hearing. It's information overload."

Some tenants, too, commented that they found information provided by the LTB confusing. More could be done to inform tenants what to expect on their day at the LTB and how to prepare their case. As a service provider pointed out, "Just putting things online doesn't make things clearer or instruct tenants how to put forward their case."

#### *iv. Inconsistent knowledge among members and mediators*

A number of TDCs raised the problem of inconsistency among adjudicators in how the hearing procedure is run and how the law is interpreted. They explained that this makes it difficult to advocate for tenants or prepare them to make effective arguments.

Interviews with adjudicators and mediators also revealed differences in understanding about the role of TDC and the rights of tenants to legal assistance. Some expressed a belief that tenants' access to TDC is "a privilege not a right"; while others stated that TDC's role is limited to providing summary advice.

Finally, some informants suggested that some members and mediators appear to lack awareness of, and sensitivity to, issues such as poverty, disability, and the long-term impacts of colonial legacies for Indigenous people. Training was recommended to improve members' and mediators' ability to sensitively serve vulnerable and marginalized tenants.

#### *v. Procedural issues*

TDCs also discussed a number of procedural issues that are negatively affecting tenants' access to justice.

First, TDCs in some sites reported increased difficulties in getting adjournments for representation, with adjudicators suggesting that tenants should have sought legal advice before the hearing. Another change reported is that while defective landlord applications used to be dismissed, many are now simply adjourned to make corrections. A third concern was limitations being placed on s.82 arguments: some adjudicators are now requiring pleadings, evidence, and disclosure, or refusing to hear about a maintenance problem if the tenant hasn't previously informed the landlord. TDCs noted that this presents barriers, especially for tenants with mental

health issues. Finally, the time delay for translation of orders into French can be prejudicial, particularly in the case of reviews. Tenants need access to the order as quickly as possible if a sheriff's order is pending.

There is also widespread concern that tenant applications face increasing barriers. Given that this mechanism is already little-used by tenants, informants are worried that these changes and barriers will further impede tenants' access to justice in this area. One issue discussed is that evidence in tenant applications is being dismissed if it isn't produced ten days in advance of the hearing. A TDC pointed out this requirement is difficult to fulfill because production orders are challenging for tenants to read and interpret, and tenants rarely have legal support in the preparation of their applications.

A second area of concern related to tenant applications is the Case Management Hearing model being piloted in some jurisdictions. These hearings are the subject of a separate review and were not examined closely here, but TDCs in locations where they are being piloted reported serious concerns. Case management hearings are described as "another hurdle for tenants" making tenant applications even more difficult. It is also very difficult to offer adequate TDC support for the telephone hearings. In addition, tenants may not understand the stakes and potential consequences of case management hearings, and may not avail themselves of legal support. Finally, informants reported that some case management hearings are resulting in agreements to end the tenancy, though this was not the original intent of implementing this model.

## DILEMMAS, DEBATES, & RECOMMENDATIONS

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One objective of the TDCP Review was to propose recommendations that could improve TDC services and tenants' access to justice. This section presents the recommendations that emerge from the quantitative and qualitative findings reviewed above.

### 1. Dilemmas & debates

The interviews, focus groups, and tenant survey sought to make room for multiple perspectives. On some of the issues discussed, there was no clear conclusion to be drawn; instead, what emerged were well-articulated debates and dilemmas. Any changes or interventions planned in response to this report and its recommendations will be most effective if they take into account the full range of perspectives captured here. Some of these contradictory perspectives and the questions they provoke are summarized below.

#### a. Does TDC duplicate, enhance, extend, or increase legal clinics' housing services?

When the TDC program was first implemented, there was concern that it not duplicate or replace clinic services. Instead, it was designed to be a new kind of service not previously available to tenants: low-barrier, drop-in legal advice and assistance on-site at the LTB. It was believed that such a service would help prevent evictions by catching tenants who might otherwise fall through the cracks.

Subsequent evaluations, annual TDC statistics, and this review all suggest that TDC has fulfilled this mandate. There is, however, ongoing concern that in some locations, the TDC program might allow for a reduced level of housing services at clinics.

Some informants suggest that in high-volume settings such as Toronto, clinics have come to rely on the existence of TDC, and have reduced their housing services to focus their limited resources on income security and other critical areas. One interviewee from a legal clinic, for example, said, "TDC as a system is intended to be in addition to services clinics provide. I am concerned about the number of people TDC speaks to off-docket [in Toronto]. Are clinics in Toronto off-loading their summary advice cases to TDC? That's mission creep - TDC doing something it's not intended to do and not set up to do. It is not set up with an office and the ability to open files."

Others, though, suggest that TDC increases the housing caseload at clinics by directing more tenants there. TDC is a first point of contact for many vulnerable tenants. Through referrals, it facilitates access to clinics for tenants who might otherwise not know about them.

In Toronto, clinics report that the volume of cases they serve is so high that it's difficult to say how, if at all, TDC might be impacting their caseload. But they point out that referrals received from TDC often come with information and preparation, such as forms already filled out, which reduces the clinic's workload. One clinic worker points out, "The majority of cases where people call us are housing matters. ... There is no way we can help anywhere near everybody who's calling with housing issues." TDC services, then, are an important extension of clinic services, meeting the needs of tenants who might otherwise not be prioritized for clinic representation.

Many informants point out that, as intended, clinics and TDC are fulfilling different, and often complementary, functions. Clinics are able to provide in-depth case work and representation, but to far fewer people than TDC serves. TDC, on the other hand, provides specialized advice and brief services on housing, and serves a higher volume of tenants on-site in a community setting. Community organizations said that they would like to see extended availability of TDC as a low-barrier form of legal service that's more accessible to their clients, and many tenants agree.

There are areas of overlap, perhaps unavoidable. One of these is summary advice on L1s. One clinic lawyer comments, "The overlap is all the L1s that talk to the clinic first and then also put their name down for TDC. They are going to get a repeat of the same advice from TDC." Then again, given this review's findings about the number of tenants who require more support in order to understand and apply legal advice about their case, receiving the same information twice might not be a bad thing.

At the same time, as discussed above, some areas—notably, tenant applications—fall through the cracks, not well-served by clinics or TDC.

## b. Should TDC represent more?

The survey found that many tenants who access TDC are deeply vulnerable and are likely to require accommodation and support, including representation. Interviews confirm that many tenants have difficulty with self-representation, and would like TDC to provide more representation.

There is general agreement that representation improves outcomes. However, previous research also demonstrates that increased representation by TDC reduces the rate of tenants served. Some informants ask whether increasing representation will really meet the needs of vulnerable tenants, or just make the service less available to them.

Many also note that TDC is not well-positioned to represent in complex cases. Ethical and professional obligations prohibit representation without adequate preparation and familiarity with a case. In many respects, the structure of the LTB environment—its fast pace, large dockets, and expectation that TDC will not delay proceedings—does not allow TDC to properly prepare for representation.

Observations and focus groups do suggest that outcomes improve when TDC takes a more active role in all levels of service, from summary advice through referral and document preparation to representation. A few sites have implemented a model of

limited representation that includes providing information to the Board, observing hearings and intervening if necessary, and full representation in simpler matters such as arrears.

Most informants agree that this kind of active role would be beneficial for tenants while respecting TDC's professional obligations and the distinction between TDC and clinic services. The challenge is to find ways to make this possible without decreasing the number of tenants served.

### c. Should TDC services be more widely promoted?

Focus groups revealed that many community services are not aware of TDC services; most said they would refer clients if they had known of this option. Tenants, too, recommended better promotion of TDC services.

But clinics and TDCs differ in their opinions about promoting TDC services to more tenants. Some worry that tenants who know about TDC will be less likely to seek clinic services in advance. One said, "We prefer that people not know about TDC service in advance. Tenants should come to the clinic in advance to get prepared. We don't want people to wait to the last minute."

Others noted that improved promotion in high-volume sites might simply lead to a level of demand TDC services can't meet. A TDC in Hamilton said, "If 20 people sign up I can't see them all. If tenants' access to services increases, that would pose problems."

### d. Is it appropriate to include students and volunteers in TDC services?

The Belleville site has expanded their TDC team with a robust volunteer program. Some informants suggest that including volunteers and students is one way to increase the services TDC can provide. Assisting with TDC may also offer an opportunity for students and community volunteers to learn skills, demystify areas of the law, and empower tenants.

Others, however, question whether this would diminish the quality of service TDC provides. They consider it a legal clinic's mandate to provide a level of professional service equivalent to that of a private firm, for clients who can't afford to pay. Some also raise concerns about confidentiality with volunteers, particularly in small community.

A possible resolution to this dilemma is to reframe the question: what are tasks within the scope of TDC practice that could be performed by volunteers, students, and admin staff, leaving TDC available to provide legal services to more tenants or provide representation more often? Some examples might include intake, promoting the service to tenants, and assisting tenants to develop repayment plans.

### e. Should social services be part of the TDC program?

This review examined some very successful models for offering social work services, either through the TDC Program (York Region) or in partnership with a local agency (London). Both sites report that tenants with mental health and social service needs are much better-served as a result. They also state that the availability of these services frees TDC to focus on legal issues. In addition, they suggest that having a trained social worker providing assistance to tenants in crisis improves TDC well-being and prevents burn-out.

Some raise concerns, however, that including a social worker on the TDC team may blur the lines between tenants' legal rights and clients' behaviour. They ask, for example, whether knowing about a tenant's background might interfere with a purely legal approach to a case. They also suggest that the presence of a social worker might make tenants feel judged. Offering social work services through a partnership, at arm's length from the legal team, might be a preferable option for these reasons.

Others raise concerns about the partnership model, suggesting that partnerships can create a misunderstanding that the social worker is part of the TDC team when they are not, or that they are able to give legal advice. Some would prefer to see a social worker report to, and be bound by the policies of, the legal clinic.

Some point out that certain groups, notably Indigenous peoples, have very negative history with social workers - though as discussed above, the same is true of the legal system and the legal profession.

Finally, some suggest that tenants are not ready to avail themselves of social services when at the LTB. In this regard, one TDC explained, "It's such a high-stress environment for people. I wouldn't throw too much at people at that place and time. It's not the right place for a bevy of services."

## 2. Recommendations

This review is not an external expert evaluation. Instead, it aims to generate practice-based evidence, identify promising practices, and place the perspectives of practitioners, service recipients, and other stakeholders in dialogue with each other.

The recommendations below emerge directly from the review's findings, and respond to the issues that informants identified as most important. Some of the recommendations were made by informants, while others have been framed in response to issues that have emerged from the survey, observations, and conversations conducted during this review. The recommendations below don't necessarily point to deficits. In many cases, they are intended to validate approaches that are working well in one site and could be implemented in others. Many clinics and TDC programs will see their own innovations reflected below.

These recommendations are intended to be concrete and applicable. Instead of addressing broader conditions, they focus on changes within the TDC program and in areas that directly affect it. For this reason, they are addressed to specific entities that are directly connected with tenant duty counsel services: the TDC Program; the clinics and individuals who provide TDC services; the Landlord and Tenant Board;

Legal Aid Ontario; and the municipal / regional level of government. Some are aspirational, but most represent realistic program and policy changes that are achievable in the near term.

These recommendations are intended as conversation-starters that may be helpful to focus strategic planning processes. For the most part, they specify *what* needs to change (or continue), without dictating *how* that should happen. Decisions about how to implement these recommendations are best left to those directly involved in their implementation.

#### a. For the Tenant Duty Counsel Program

##### *i. Increase training & professional development*

TDCs have excellent opportunities for keeping their legal knowledge on housing issues current, including the Clinic Resource Office, ACTO, and an annual training conference. TDCs noted that they would like to have access to more training on procedural matters in addition to the law.

Interviews and observations suggest that TDCs also require more systematic training in some of the “customer service” skills discussed above: providing information clearly, helping people focus, dealing with distress, plain language communication, setting boundaries, and responding to diverse needs. Some informants commented that “it takes a certain kind of person” to offer effective TDC services; but some of what informants interpret as personality traits are in fact skills that can be learned. One TDC explained, “The biggest thing I had to learn was bedside manner. The biggest advice I give is ‘take a breath’ - helping someone calm down, then walking them through the process. Soft skills are the most important. The rest is factual.”

The extent of training in these kinds of skills varies from site to site. The TDC Program should develop and disseminate training modules and standards in this area.

A second area that could benefit from a more consistent approach to training is cultural competency. TDCs need background knowledge and communication skills for working effectively with diverse populations. One community worker commented, “[Lawyers] are well-equipped to deal with legal issues but not equipped to deal with mental health and other issues. It can create frustration on both sides. This leads to underrepresentation [for clients] and a low success rate. Lawyers need cultural competency training [to work with people facing homelessness].” Another area in which a need was identified for training is Inuit cultural awareness.

Training opportunities should be provided remotely or on-site to clinics, as not all clinic legal workers who attend TDC are included in the annual ACTO training.

##### *ii. Develop & disseminate tools*

Closely related to training is the need for standardized forms, tools, and manuals to inform TDC work and assist tenants in applying the advice they receive from TDC. An LTB member commented, “It would be helpful to have a form that everybody gets with checkboxes and specifics written for the hearing room. Tenants find it hard to recall the legal stuff that TDC tells them.” Some community services added that the CLEO materials are excellent for informing service providers, but too detailed for

their clients to use. Brief, simple brochures on tenant rights and LTB processes—such as ACTO’s tip sheets—are preferable for tenants..

The TDC Program could meet these needs by developing and maintaining an online bank of tools for TDCs. This review identified some excellent examples from local sites that could be standardized and circulated for local use and adaptation. Examples of items that informants identified include an intake form, an intake manual, a student and volunteer training manual, a repayment agreement form, case law information sheets, instructions to tenants for common arguments and legal approaches, an FAQ about LTB process, a standardized form for TDC to provide to the tenant that summarizes their advice, and a referral form with a case summary for sharing between TDC and clinics.

*iii. Provide more staff, for a more active TDC role*

Across the board, informants recommended more representation and a more active TDC role. One said, “More representation - that’s the number one thing. The inability to do that is having a big impact on TDC’s ability to increase justice for tenants. We know from experience elsewhere that it’s possible to have lots of representation - if you have the resources.” At the same time, it is also necessary to maintain, or ideally increase, the rate of tenants served.

The only way to meet these two goals is to increase staffing. The high rate of disabilities, history of homelessness, and deep vulnerability among tenants as demonstrated by the survey underscores the need for more resources to meet tenants’ needs. Ideally, there should be a TDC team of at least two people attending the LTB. At smaller sites and off-site locations, clinics accomplish this by engaging students and volunteers, and dedicating additional clinic staff to TDC. Clinic legal workers who are on-site to represent clients sometimes fill out TDC services when needed.

At larger sites, an infusion of resources is necessary to bring TDC staffing to adequate levels. The TDC Program should advocate with LAO and municipalities to fund or co-fund extensions to TDC services. A good example is the York Region Eviction Prevention Program, which adds the services of a social worker to the TDC team to assist with mental health and social issues, and provide follow-up support and referrals.

The inadequacy of TDC services to meet the need is part of a broader trend of insufficient investment in the LTB. The consequences for justice are reflected in the comments of an LTB member: “Unfortunately, we all have to do more with less. I see some people in the hearing room and I think, ‘Oh, they need an advocate.’ We get line-ups to see TDC, people get impatient, have to go pick up their kids. They just go in and accept anything. We see two or three a day who needed help, who would have had a different outcome [with TDC’s assistance]. They didn’t get the help they needed: they only got five minutes with TDC, or couldn’t wait to see TDC. For example, a woman in a case I heard recently said, ‘[TDC] told me to ask for more time,’ but couldn’t communicate why. She needed more help, representation. Not just ten minutes with TDC.”



#### *iv. Promote flexible use of TDC funds*

Informants at some sites expressed a need for more flexibility in the use of TDC funding. Some spoke to the need for temporary staff to cover the time that clinic legal workers spend out of the office attending TDC. Others wanted to see dedicated funds for the acquisition of technology such as printers, photocopiers, scanners, dedicated TDC cell phones, and laptops with necessary software. They pointed out the importance of having consistent access to technology at all sites. One TDC commented, "We need a better commitment from the TDC program to fund infrastructure. For example, I need to be able to simply make an excel form on rent arrears, print it, and provide it to the tenant."

The service contract for provision of TDC offers a great deal of flexibility in the use of funds; however, it appears that knowledge of these options is inconsistent across sites. The TDC Program has a role to play in sharing examples of creative use of funds and supporting TDC sites to make best use of surpluses.

#### *v. Enhance online TDC-clinic communication*

Informants identified a need to simplify online information transfer between TDC and clinics. They suggest that the TDC Program develop a specific module for secure transfer of case information between TDC and clinics, to allow for the transfer of intake files from one location to another.

A related recommendation is to implement an online TDC filing system that can facilitate locating records of tenants' previous TDC services and clinic referrals, and provide access to this at system all TDC sites.

TDCs and community services pointed out that such measures would address the problem of tenants having to tell their story multiple times. One explained, "Tenants end up telling their story to so many people. They may feel shame, or just get tired of telling their story - it's so exhausting. They just don't want to talk to TDC."

#### *vi. Extend data collection & reporting*

Its front-line contact with vulnerable tenants offers the TDC Program an opportunity to gather and report on important data that can help shape programs and policies to better serve tenants' needs. In order to best mobilize this opportunity, the TDC Program should develop and implement a standardized data collection tool to be used at all TDC sites.

In keeping with the recommendations of the Colour of Poverty Coalition and others, this tool should collect disaggregated data on disability, racial identity, Indigenous status, immigration status, income, lone parent status, and other factors that affect tenants' access to adequate housing. This information is important both for providing appropriate services, and for measuring the program's efficacy for equity-seeking groups. The survey conducted for this review demonstrates that such questions can be incorporated efficiently into the intake process, and that tenants share this information willingly when asked. It also demonstrates that when such questions are not included in the intake interview, tenants are unlikely to volunteer information on issues, such as disability, that may have important ramifications for their case.

Information about tenants' outcomes is vital to understanding eviction and other trends, but such data is not systematically collected, analyzed and reported on by the LTB. The TDC Program should provide input to the LTB on the development and implementation of a system for tracking case outcomes.

Such information could also be gathered and analyzed on a smaller scale by the TDC Program itself. This review identified promising data collection practices at some sites: in Belleville, information about the case outcome is collected on the intake form; and in York Region, the Eviction Prevention Program conducts follow-up with tenants to track their longer-term outcomes.

While such efforts are often time- and resource-intensive, there are options for implementing them in a limited way. For example, the TDC Program and TDC sites could work with students and volunteers to collect and analyze follow-up data on orders and outcomes for a "snapshot week" across the province. Such point-in-time data collection exercises have been successfully implemented in homeless counts across Canada. Though not as powerful as comprehensive outcome data, these kinds of snapshots nevertheless offer a critical window into trends and needs.

#### *vii. Advocate for a diversion program*

The survey suggests that a large proportion of tenants who access TDC services have histories of homelessness, have faced housing discrimination, and are affected by disability. Interviews and observations confirm the need for new approaches with vulnerable tenants.

The LTB is an important site for intervention in the cycle of eviction and homelessness that so many vulnerable tenants face. Several informants recommend that a diversion program similar to that found in criminal courts be implemented at the LTB, in order to address tenancy problems and prevent evictions. Instead of evicting vulnerable tenants into homelessness, the LTB process could be an opportunity to connect tenants and landlords to supports that can help maintain tenancies.

The development and implementation of such a program falls within the mandate of the LTB and LAO (see below); however, the TDC Program has a vital role to play in this process.

### **b. For Tenant Duty Counsel and clinics that offer TDC services**

#### *i. Increase staffing*

As discussed above, clinics should strive to provide a minimum of two staff when attending TDC. At lower-volume sites this can include other clinic legal workers who are at the LTB to represent tenants but can also be available to assist TDC.

Clinics can also increase TDC staff by engaging students, volunteers, and administrative staff in their TDC team. Roles for non-legal staff can include informing tenants of TDC; gathering intake information; keeping an eye on what's happening in the hearing room; acting as intermediary with TDC for tenants who have follow-up questions; assisting tenants to begin filling in standardized forms such as the

repayment agreement form; and providing moral support and accompaniment (but not legal advice) in hearings and mediation.

Having other team members in these roles would free TDC to provide legal advice to more tenants, play a more active role, and increase representation.

*ii. Provide training & coordination*

In keeping with the previous recommendation, clinics should conduct student and volunteer training for assisting at TDC, using training materials from other sites adapted to local use.

In collaboration with the TDC Program, TDC sites should also provide professional development opportunities and internal mechanisms such as a TDC manual and TDC team meetings, to ensure consistency in skills and knowledge among all clinic legal workers who attend TDC.

*iii. Explore partnerships & service extensions*

Considering the very high rate of tenants with disabilities, mental health problems, and histories of homelessness, TDC sites should explore options for the availability of social work services on-site at the LTB, either through the addition of a social worker to the TDC team, or via partnerships with local mental health agencies. High-volume sites like Toronto should aim to include eviction prevention social workers on the TDC team, funded by the municipality.

TDC sites should also initiate and maintain communication with other relevant services, including the rent bank, social assistance, and housing help services, with an aim to increasing access to these services for tenants at the LTB. Options could include having outreach workers from these services at the LTB, or setting up a protocol for direct communication between TDC and these services on LTB days. A promising example is Toronto TDC's communication protocol with the rent bank. More broadly, TDCs should also cultivate relationships with other services to facilitate referrals and collaboration.

Informants also identified a need for outreach legal information and education on tenant matters. Specific recommendations for clinics and TDC sites include:

- ✓ Collaborate with local tenant associations and anti-poverty groups to provide legal information and education on tenant issues, and train members to act as peer support workers at the LTB.
- ✓ Provide outreach information, education and advice at community settings such as shelters and social housing providers.
- ✓ Work with agencies to provide tours of the LTB before tenants' hearing days, to reduce anxiety, decrease the rate of no-shows, and improve tenant outcomes.

*iv. Increase tenant awareness of and access to TDC*

The review identified a general need to increase tenants' awareness of and access to TDC. Specific recommendations for promoting the service to tenants include:

- ✓ display prominent signage;
- ✓ use clear language, such as “free legal advice and assistance” instead of “duty counsel”;
- ✓ actively inform tenants and sign them up for TDC in the hearing room;
- ✓ facilitate the sign-up process so that written or computer sign-up don’t function as barriers for tenants with limited literacy, English, or computer skills;
- ✓ inform tenants verbally and in writing about key factors that might inhibit them from accessing TDC (for example, that their hearing will be held down until TDC has met with them);
- ✓ clarify the difference between TDC and legal aid (some tenants familiar with legal aid anticipate that TDC will be as difficult to access as legal aid is);
- ✓ for clinics that serve large regions including rural and northern areas, ensure that brochures and other information about services are available in smaller communities, in locations such as churches, town halls, and service clubs.

Specific recommendations for increasing tenants’ access to TDC include:

- ✓ provide full coverage: start intake at least one hour before hearings begin, and remain available through the day until hearings end;
- ✓ expedite follow-up questions, for example from tenants who want to check with TDC about a mediated agreement;
- ✓ provide follow-up to ensure that tenants understand the outcome of their matter;
- ✓ for on-site locations: when possible, offer TDC services at the LTB outside hearing hours and /or provide direct communication to housing intake or TDC at the clinic for tenants who visit the LTB.

An informant also commented that if resources allowed and the contact information was available, it would be ideal to have TDC reach out to tenants in the days before their hearing, to demystify the process and inform tenants that they are available to support. This kind of service used to be available through CERA’s eviction prevention program, but was terminated due to privacy concerns.

*v. Take an active role & provide representation*

Across sites and groups, informants agreed that TDCs must take an active role, including writing down and rehearsing arguments, making direct contact with referrals, being present in the hearing room, accompanying in mediation, intervening when required, providing information to the Board, making adjournment requests on

behalf of tenants, and representing where it is ethically and practically appropriate to do so.

As discussed above, sites will need to leverage additional resources to make this possible without reducing the number of tenants served.

A key insight that emerged from interviews and observations is the need for an active, visible TDC presence outside the TDC office. Some of the most pressing issues emerge in hallways and hearing rooms, and TDC must be aware of what is happening in these spaces. A visible TDC presence in the hearing room is important for procedural justice. “Just having a second person influences proceedings, ensures the legal issues are attended to even if they are not raised,” one informant said.

Where it isn’t possible for TDC to be in the hearing room, local sites could have a student or volunteer play an observer role, staying aware of emerging issues in hearing rooms, informing TDC of tenants who may need help, and taking notes of the hearing process. Students or volunteers could also monitor side agreements and landlord-tenant interactions in hallways, and be a friendly supportive presence for tenants.

#### *vi. Foster a collegial relationship with LTB staff, members and mediators*

Findings suggest that tenants’ access to justice is improved when there is a positive, collegial working relationship between TDC and LTB staff, members and mediators. Some recommendations for cultivating such a relationship include:

- ✓ clarify and negotiate roles and procedures: for example, when negotiating with a landlord, check in with the mediator to ensure this does not infringe on their role;
- ✓ maintain an open exchange of information with the member to ensure smooth running of the docket;
- ✓ organize “bench and bar” functions such as seminars and workshops at which LTB members, mediators, and clinic staff can have contact outside the LTB.

#### *vii. Explore options for supporting tenant applications*

Statistics show an extremely low proportion of tenant applications in most LTB sites. But community informants describe very high need among tenants for access to this mechanism.

This review demonstrates that tenant applications fall through the cracks: they are not a good fit for TDC’s model of brief service, but also not priority for most legal clinics.

Informants agree that tenants require more support in order to have equitable access to this mechanism. One clinic lawyer said, “The forms are overwhelming for tenant applications. It’s like asking me to rewire my house. TDC can provide 20 minutes - but would you trust me to wire my house after 20 minutes of advice from an electrician?”

Everyone should be represented, especially on tenant applications. People are getting crushed unrepresented.”

Legal clinics have a role to play in reviewing options to address this need. With LAO and other stakeholders, clinics could prototype interventions in this area. Options to be examined could include a TDC-like service to provide assistance with tenant applications; partnerships with student clinics and other organizations to facilitate tenants’ access to assistance; and targeted tenant application “blitzes” in partnership with tenant associations. Some promising examples to consider include the Ottawa Housing Justice Project with ACORN, and the student clinic at Lakehead.

*viii. Recommendations for Toronto TDC and clinics*

With just two sites serving more than half the province’s total LTB cases, Toronto is a unique case requiring a distinct model. Structurally, Toronto’s TDC program is much more complex than those in other centres: it includes four LTB sites, a large team of specialist TDCs who are affiliated with ACTO rather than with neighbourhood legal clinics, and numerous geographically-dispersed community legal clinics with varying intake procedures and mandates.

Review findings show a need for improvement in service coordination between clinics and TDC in order to best meet the needs of vulnerable tenants.

In order to address this, Toronto TDC and clinics should create a mechanism, such as a committee, for shared service planning and communication between clinic housing programs and TDCP. Such a mechanism would enable stakeholders to share information on services, identify areas for improvement, and coordinate responses to emerging issues.

One role for such a committee would be to examine the increasing proportion of tenants who are not on docket served by TDC at Toronto North and South locations, to determine whether changes are required in clinic and TDC services to better meet the needs of these tenants. As noted above, any review of this issue must take into consideration tenants’ demonstrated need for low-barrier, drop-in legal advice on landlord-tenant matters.

Changes in clinics’ and TDC’s service models could also address some of the gaps identified in this review. For example, TDC referrals would be improved by clinics’ adoption of uniform eligibility criteria and intake procedures in housing matters.

The findings suggest that it may be worthwhile for Toronto TDC and clinics to explore the possibility of implementing Ottawa’s model of clinics rotating through TDC attendance. This would increase the legal resources available to tenants at the LTB and allow for a more intensive level of TDC services while maintaining rates of service. It would also enable more seamless TDC-clinic referrals, improve service coordination, and build housing law capacity at clinics. Such a model might also address tenants’ need for low-barrier legal advice on housing that is currently being met by TDC.

Finally, Toronto TDC should continue its partnership with student clinics, while increasing training, coordination and supervision. In order to make best use of

students' time and provide optimal training opportunities, there should be a clear protocol for allocation and supervision of student tasks, such as conducting intake, maintaining contact with tenants who have seen TDC, and monitoring events in the hallways and hearing rooms. Observations suggest that it may not be feasible to integrate effective student supervision into TDCs' current workload.

### c. For the Landlord and Tenant Board

#### *i. Improve coordination and collaboration with TDCP*

In interviews, members and mediators emphasized that TDC is a vital component of the LTB. They note that, through its services to tenants, TDC ensures the fulfillment of the Board's mandate to uphold the principles of natural justice in its proceedings. At the same time, members and mediators recognized TDC's role in expediting the adjudication and mediation of cases at the LTB.

As such, the LTB should recognize and engage the TDC program as a central stakeholder in service planning, coordination, and scheduling. The Board is encouraged to maintain open communication with the local TDC provider on scheduling, and solicit the input of the TDC program when contemplating changes to the operations of the LTB. In addition, the LTB should provide adequate space for TDC services, with due regard for the importance of tenant privacy and confidentiality. Finally, the Board must ensure that TDC has access to the tenant's case file, particularly at off-site locations and for telephone hearings.

As noted above, a collegial relationship between the LTB and TDC is the foundation for smooth operation of the Board. The recommendations directed to TDC sites for open communication, consultation, and shared activities apply equally to the staff, administrators, members and mediators of the LTB.

#### *ii. Establish a consistent knowledge base among mediators and adjudicators*

Interviews suggest inconsistencies among members and mediators with regards to their understanding of the role and mandate of TDC; recognition of tenants' right to access legal advice; knowledge about issues affecting tenants such as poverty, discrimination, and gender-based violence; and skills in serving diverse populations, including Indigenous communities and persons with disabilities and mental health issues. Training and professional development should aim to equip all members and mediators with a consistent knowledge base in these areas.

Likewise, such training should promote consistency among mediators and adjudicators in interpretation of the RTA and in the application of rules of procedure.

#### *iii. Improve communications*

The findings above identify a number of gaps in LTB communications that may affect tenants' access to justice and their awareness of the TDC program.

Service providers, TDCs and tenants raised concerns that the Board's written communications—particularly notices and orders—are often inaccessible to or

misinterpreted by tenants, and that this can have grave consequences for tenants' access to justice and the security of their housing.

Every effort should be made to ensure the clarity of language and design of all written communications with tenants. In particular, these should

- ❖ accurately convey the tenant's legal situation (for example, do not inform tenants that they are evicted unless that is the case);
- ❖ provide prominent and detailed information about the availability of TDC and clinic services;
- ❖ include clear information about the LTB process (for example, advise tenants that not every hearing will begin at 9:30, and that they may need to book a half day or whole day off work).

Telephone, in-person and online communications, too, could be improved. These should consistently inform tenants of TDC and clinic services, and provide timely in-person response. Community service providers comment that in particular, the wait times for assistance at the 1-800 number are often too long, and the pre-recorded information is overwhelming and too focused on arrears cases.

Finally, tenants must always be provided with documentation to confirm a stay of order when they have filed a review, motion to void, or set aside, so that they have evidence to present to the sheriff.

#### *iv. Review L1 blocks and docket sizes*

TDCs, clinics, members and mediators have raised serious concerns about the impact of large docket sizes and L1 blocks on tenants' access to due process, services, and justice. These should be reviewed in partnership with the TDC Program in order to ensure that tenants have equitable access to services and due process regardless of the type of application in their case.

#### *v. Formalize "navigator" role*

Observations and interviews revealed that tenants often experience the LTB as chaotic and overwhelming. There were remarkable differences between sites in the supports available to tenants to navigate this unfamiliar environment. In some sites, the commissioner plays the role of navigator, informing tenants of the availability of TDC services; keeping the overall process running smoothly; remaining aware of tenants' and landlords' whereabouts; and ensuring that tenants who are late, with TDC, or temporarily absent from the hearing room are not issued ex parte orders. In sites without a commissioner, and those where the commissioner did not play a navigator role, there was a noticeable impact on tenants' ability to function and their awareness of TDC services.

This navigator role is vital and should be formalized. The formalization process should include review of whether such a role is appropriate to assign to the commissioner or whether another staff member should be providing navigation.

#### *vi. Improve accessibility & accommodation*



Informants identified a number of measures that could improve accessibility of the LTB for tenants, and accommodations that some tenants may require in order to have equitable access to justice through the LTB. These include:

- ❖ locate LTB off-site hearings at barrier-free locations that are easily accessible by public transit, on or close to main arteries;
- ❖ offer closed hearings for tenants with mental health concerns such as anxiety, and for those whose issues are sensitive;
- ❖ provide separate waiting areas for landlords and tenants, and conduct mediation and hearings separately, in cases of harassment and intimidation.

*vii. Create a diversion program*

As already discussed, the extent of tenant vulnerability revealed by the survey—including very high rates of homelessness and mental health disabilities—suggests the need for a diversion program similar to that in the criminal justice system. The aim of such a program should be to prevent evictions into homelessness by connecting tenants and landlords with necessary supports. Informants confirm that the LTB is a critical site for intervention and prevention of homelessness. As one informant noted, “Once a tenant identifies with a need to accommodate - such as violence, mental health, addiction, refugee, etc - their case should be diverted into a different system focused on maintaining housing and getting people the help they need, like mental health court [in the criminal system]. Many landlords are aware that people come from trauma. Landlords will even say in an N5 that the person is yelling and screaming, hearing voices. So, let’s work with the person and not evict them.”

The LTB should initiate and lead a process to design and implement a diversion program for vulnerable tenants, in collaboration with the TDC program, community services, tenant organizations, private and public sector landlords, and other stakeholders.

*viii. Establish, publicize and enforce regulations about side agreements*

LTB mediators and adjudicators, TDCs, community services, and tenants all identified concerns regarding landlords and their agents approaching tenants directly for side agreements. Many informants stated that such approaches place undue pressure on tenants and can lead to unfair agreements. This concern is particularly acute given the depth of vulnerability among tenants revealed by the survey.

The LTB has an important role to play in regulating side agreements. First, tenants at the LTB should be informed in writing and verbally that they are encouraged to seek TDC advice before entering into an agreement with the landlord. As well, members must ensure that tenants have received legal advice before entering into consent orders.

In addition, the LTB should establish, publicize and enforce regulations regarding landlord representatives’ conduct at LTB. For example, such regulations should prohibit landlord agents from approaching tenants for side agreements if they are on the list to see TDC. Finally, the LTB should report landlord representatives who engage in unethical conduct to the Law Society. The burden should not fall on tenants to make these reports.

#### *ix. Follow up on no-shows*

Service providers confirmed that the most vulnerable tenants often do not attend their LTB hearings. The LTB should implement the Gosling inquiry's recommendation to follow up on tenants who don't appear for their hearing.

#### *x. Ensure equitable access to services for francophone tenants and tenants in the North*

Some informants raised concerns regarding equitable access to service for Francophone and Northern tenants. In particular, telephone hearings for both groups present problems for access to procedural justice and TDC services. For example, TDCs do not typically have access to the case file in telephone hearings, which compromises their ability to knowledgeably advise and represent the tenant. TDC and tenant also lack mechanisms for private consultation during such hearings. All documents pertaining to the case should be provided in advance of a telephone hearing.

In addition, TDCs representing Francophone tenants recommended that the LTB expedite translation of orders for French hearings, particularly for reviews and other cases where the time delay could be prejudicial.

#### *xi. Track and document case outcomes*

As discussed above, the LTB, in consultation with the TDC Program and other stakeholders, should develop and implement a system for tracking case outcomes, produce regular reports on this data, and make these available to the public.

### **d. For Legal Aid Ontario**

#### *i. Provide adequate resources for TDCP*

LTB mediators and members, TDCs, clinics, community service providers and tenants all commented that the TDC program is vital but under-resourced. LAO must provide adequate resources to the Tenant Duty Counsel Program for an equitable level of service across the province, including in Toronto and the North.

One member noted that ensuring adequate resources for TDC also promotes fairness for landlords. When TDC can't provide a more intensive level of service, "taking time to adjourn to allow the tenant to go to the clinic can be unfair to the landlord if there are substantial arrears. Not all landlords are big corporations with deep pockets - some small landlords rely on rent to pay their mortgage. So if the main source of support to tenants is not available within the hearing, it raises problems."

#### *ii. Participate in the development and implementation of a diversion program*

As discussed above, LAO should support and collaborate with LTB, TDCP, and other partners to design and implement a diversion program for tenants with mental health concerns, histories of homelessness, and other vulnerabilities. A diversion program would ensure that instead of evicting tenants into homelessness, the LTB process could be an opportunity to connect tenants and landlords to the necessary supports to

maintain the tenancy. Such an initiative would be a necessary component of Ontario's commitment to end homelessness.

### *iii. Improve data collection & reporting*

LAO should partner in and fund the development and implementation of a system to track case outcomes at the LTB, as already discussed above.

In addition, LAO should require the services it funds to collect and report disaggregated data on income, racial identity, Indigenous status, immigration status, disability, lone parent status, and other factors that affect tenants' access to adequate housing. LAO-funded organizations, including legal clinics, will need resources and technical support in order to implement this requirement.

## **e. For local and regional governments**

### *i. Extend & enhance TDC program*

This review demonstrates that the LTB is an important, but often-overlooked site of intervention for homelessness prevention. There is an opportunity for municipalities, regions and DSSABs to partner with their local TDC programs in the development and delivery of eviction prevention programs at the LTB. In this process, municipalities should work closely with their local TDC program, community service providers, tenant organizations and other stakeholders to assess local needs, identify services required and direct resources to the program. Components of such a program could include the provision of mental health and social services at the LTB, as well as supports such as transit fare and childcare to enable tenants to attend LTB.

The TDC program provides a good example of the importance of low-barrier, drop-in services, particularly in large urban centres. Some informants recommended that this model should be expanded in partnership with municipal services. As a tenant advocate suggested, "Provide a one-stop tenant help centre - with interpreters, paralegals, Ontario Works, etc - and a 24-hour hotline."

### *ii. Ensure availability of a housing stabilization fund for tenants*

This review revealed an uneven landscape for tenants across Ontario with regards to access to financial support for preventing eviction and stabilizing housing. Informants agree that tenants in centres large and small require access to such a fund. In this regard, municipalities and regions should:

- ❖ ensure availability of funds for tenants who are employed and those in receipt of OW / ODSP;
- ❖ provide funds to repay rental arrears and amounts owing on utilities, as well as moving costs and last month's rent;
- ❖ simplify the eligibility criteria and application process for tenants;
- ❖ ensure transparency and due process in determining eligibility, and provide an appeal mechanism;
- ❖ establish direct communication with TDC in order to provide rapid information about tenants' access to these funds;

- ❖ coordinate availability of service with LTB hearing days, and consider providing outreach pre-assessment directly at LTB;
- ❖ make funds available as soon as there are documented arrears, to help prevent an L1 from being issued; and
- ❖ allow funds to be applied to repayment plans, as well as standard 11-day orders.

*iii. Establish a review process for loss of housing subsidy*

Clinics and TDCs at most sites cited arrears due to social housing subsidy loss as a particularly vexing problem. Procedures and mechanisms for subsidy loss vary between municipalities; in some sites, there is no review mechanism. The Residential Tenancies Act prohibits the LTB from looking “behind” arrears to determine the validity of the loss or reduction of subsidy for tenants in social housing. Key informants indicated that, in some cases, even once a tenant has successfully appealed and their subsidy has been restored, they may still be required to fulfill an LTB order to pay arrears. TDCs and community services reported that many tenants face barriers in complying with income verification requirements to maintain subsidy. Older adults, and those with disabilities, language barriers, and literacy issues, may require support in order to provide the required documents. Once evicted from social housing because of arrears, tenants face a high risk of homelessness.

Such cases should be subject to municipal review before being brought to the LTB. One clinic legal worker explained, “[Loss of social housing subsidy cases] have been the biggest bane of our existence. Often tenants have lost subsidy for no good reason. Most are struggling with mental health issues, and end up entering a consent order that they owe money. We have to take it to the City and hopefully get the subsidy suspension reversed but [even when that is successful, tenants] still have the LTB order. It would be good to have the process reversed: get the subsidy issue dealt with first before going to the LTB.”

Municipalities should work with local legal clinics, social housing providers, tenant organizations and other stakeholders to implement a review process for subsidy loss and ensure tenants receive advice and representation in this process. Toronto offers a promising model, with a Commissioner of Housing Equity whose role is to review arrears-related evictions of vulnerable social housing tenants. City regulations stipulate that housing providers must establish direct contact with a tenant before terminating subsidy, and that tenants have access to necessary services to assist them in providing required information to maintain their subsidy.

We also heard numerous examples of eviction applications resulting from communication gaps between social assistance programs and social housing programs administered by the same municipal or regional government. Municipalities, regions and DSSABs must improve internal communication between their social housing division and their OW, ODSP and HSF programs, to ensure that social housing arrears arising from internal administrative errors do not result in LTB applications. If a tenant is in receipt of OW or ODSP, municipalities should allow their eligibility for those benefits to confirm their eligibility for subsidy.

*iv. Educate and regulate landlords*

More than half of respondents to the tenant survey stated that they had problems with their rental housing in areas such as maintenance and repair, infestations, and illegal charges. These findings indicate a need for municipalities to establish a consistent, proactive program of landlord education and regulation. In particular, municipal licensing and standards programs must provide timely inspection of complaints from tenants, conduct proactive rental housing audits, and effectively enforce maintenance and repair orders. Municipalities should also educate landlords and tenants about their rights and responsibilities, and the resources available to them.

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## APPENDIX A: TENANT SURVEY

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### Tenant Duty Counsel Review - Tenant Information and Survey

Interview completed by	
_____	
Date _____	TDC Site
_____	
LTB case # on docket	
_____	
Identifier (Site - mm - dd - interview #)	
_____	
<i>Site: Toronto North = 1, Toronto South = 2, Ottawa = 3, London = 4</i>	
Complete? <input type="checkbox"/> Full interview <input type="checkbox"/> Release only	

### INSTRUCTIONS FOR INTERVIEWER

The tenant information below will be collected from the TDC intake form, from the tenant during the tenant interview, and from the order issued in the case by the LTB.

Information that the researcher will collect from the TDC intake form, case notes and order is in regular text. **Questions to be posed during the tenant interview are in bold.**

#### STEP 1

Verbally request tenant's permission to sit in on intake, or be introduced to tenant by TDC.

#### STEP 2

Briefly explain purpose of study, and ask tenant to sign release form. Make arrangements to meet with tenant at end of matter.

**STEP 3**

Use TDC intake form and case notes, or information from intake, to complete questions from Sections A, B, & E, and any available information for Section D.

**STEP 4**

Locate tenant at end of matter. Verbally present informed consent letter, get client's signature or verbal consent, provide one copy to tenant. Provide gift card.

**STEP 5**

Complete survey. Be sure to clearly mark ALL items, including those that are N/A or NO.

**STEP 6**

Review survey, complete any missing items. Mark COMPLETE, or file until order becomes available. Obtain order from LTB and complete Section D. Store completed and in-progress surveys in designated drawer in TDC office until collected for analysis.

**SECTION A: INTAKE & TENANT INFORMATION**

*(After informed consent process is completed and intake form is obtained)*

I have the information you provided to [Tenant Duty Counsel] earlier today. In order to better assess the services we provide, I would like to ask you for some additional information. All your responses are confidential and this form is anonymous - I am not including your name.

---

CLIENT INTAKE

1. Date \_\_\_\_\_
2. i. On today's docket?  Y  N  
ii. If not on today's docket, what date is hearing?  
\_\_\_\_\_
3. Tenant postal code (of address associated with LTB case)  
\_\_\_\_\_
4. Gender:  Female  Male  Other



5. i. Landlord type  Private  Public  Co-operative

ii. What type of unit do you live in?

- Whole house
  - Apartment in multi-unit building less than 5 storeys
  - Apartment in multi-unit building 5 storeys or more
  - Second suite (basement, part of house, over store)
  - Condominium rental
  - Other (specify)
- 

iii. How many bedrooms are in your unit? \_\_\_\_\_ *Enter 0 for bachelor*

(Please do not count the living room or other non-bedrooms where people sleep)

6. Length of occupancy

i. Years \_\_\_\_\_ Months \_\_\_\_\_

ii. Has tenant moved out of unit?  Y  N

(if Y) Move out date (dd / mm / yyyy)

---

7. Rent

i. Total rent \_\_\_\_\_ (*enter amount for whole household*)

ii. Paid  Weekly  Monthly  Other (specify)

---

iii. *If rent paid weekly or other, calculate monthly rent:*

---

iv. Is your rent subsidized?

- no subsidy
  - in subsidized social housing
  - in subsidized co-op unit
  - in private unit with rent supplement / other subsidy
  - Other *Specify*
- 

8. i. Arrears  Y  N

9. Previous legal advice and previous landlord-tenant issues

i. The client has previously received legal advice about this matter.

Y  N

ii. I see you have received previous legal advice about this matter. Was that from: *Check all that apply*

Tenant duty counsel

Legal clinic (specify which one) \_\_\_\_\_

Private lawyer

other (specify) \_\_\_\_\_

iii. *if answer to 9.ii. is TDC*

How many times before today have you met with TDC about this matter or other problems in your current place? \_\_\_\_\_

iv. At previous meetings, what services did you receive from the Tenant Duty Counsel? *Check all that apply*

Did they give you a referral to another service?

Did they provide advice about the case?

Did they prepare documents or help you prepare documents?

Did they represent you in a hearing, mediation, or other meeting?

Did they provide any other kinds of help or information?

(specify)

\_\_\_\_\_

ACCOMMODATION REQUIRED

10. Accommodation required (*check all that apply*)

Disability

Language

Literacy or numeracy

Violence or abuse

Other (*specify if information available in case notes*)

\_\_\_\_\_

CLIENT ELIGIBILITY

11. i. Family size Adults \_\_\_\_\_ Children \_\_\_\_\_ Total \_\_\_\_\_

*If there are children in family*

ii. I see there are children in your household. How old is / are the child(ren) in your home? Let's start from the oldest, down to the youngest.

Child 1 (oldest): \_\_\_\_\_ Child 2: \_\_\_\_\_ Child 3: \_\_\_\_\_ Child 4: \_\_\_\_\_

Child 5: \_\_\_\_\_ Child 6: \_\_\_\_\_ Child 7: \_\_\_\_\_ Child x (youngest): \_\_\_\_\_

iii. Are you the parent or guardian of the children in your household?

Y  N what is your relationship to them?

*If respondent is the parent or guardian*

iv. Are you a

- parent in a couple
- single parent with sole custody
- single parent with shared custody
- other (specify)

\_\_\_\_\_  refuse / dk / na

12. Income

i. What is your main source of income? (*select only one*)

refused / dk / na

- EI
- Employment
- Ontario Works
- ODSP
- Workers Comp
- Other (specify) \_\_\_\_\_
- CPP
- Pension
- War vet
- Private disability benefits

ii. Do you get income from any other sources? (read list and check off any that apply)

- No income from other sources                       dk / na / refused
- EI
- |  |  |
|--|--|
| <input type="checkbox"/> Employment    | <input type="checkbox"/> CPP                         |
| <input type="checkbox"/> Ontario Works | <input type="checkbox"/> Pension                     |
| <input type="checkbox"/> ODSP          | <input type="checkbox"/> War vet                     |
| <input type="checkbox"/> Workers Comp  | <input type="checkbox"/> Private disability benefits |
| <input type="checkbox"/> Child support | <input type="checkbox"/> Other (specify)             |
- 

iii. So thinking of your income from all sources, what is your monthly household income to the nearest \$100?

\$ \_\_\_\_\_  refuse / dk / na

*(Prompt: Include the total monthly income from all adults who regularly contribute to the household expenses, from any sources you receive on a regular monthly basis. Don't include occasional payments like HST credit, gifts, loans, or contributions to expenses from people who are staying with you temporarily.)*

*(If tenant seems reluctant, say: We know that tenants often have trouble paying their rent if it is too high for their income. We want to understand how this affects tenants who come before the Landlord Tenant Board. Please be assured that I am requesting your income information for research purposes only. This information is anonymous, and will not affect your access to services. We will not share this information with welfare, your landlord, or anyone else.)*

iv. *(If tenant refuses to provide income)* If you prefer not to provide information about your monthly income, can you please estimate for me what percentage of your income goes to paying your rent and other housing costs each month? *(offer client calculator to divide rent by income)*  
*(Or if tenant has provided income information, show numerator and denominator for income spent on rent and housing costs - or calculate percentage)*

\_\_\_\_\_ %

v. Do you have any of these kinds of debts owing? Check all that apply

- no debts owing                       refuse / dk / na
- rent arrears
- credit card

- student loan
- bank loan
- payday loan
- car loan
- amounts owing on furniture or household items bought on payment plan
- outstanding amounts on utilities, cable, phone, internet, etc.
- personal loan
- other

Now I would like to ask you some information about your background. We are asking these questions because we know that some groups of tenants have trouble finding and keeping good housing because of discrimination based on their race, country of origin, disability, income, and other factors. We want to understand how this affects tenants who come before the Landlord and Tenant Board.

13. i. What year were you born? \_\_\_\_\_

ii. In what country were you born?

\_\_\_\_\_

iii. *If other than Canada* What year did you come to Canada?

\_\_\_\_\_

iv. What language do you speak most often at home?

\_\_\_\_\_

v. How do you identify your race? Please select all that apply:

dk / na / refused

Aboriginal / Indigenous *If yes, check below:*

First Nations  Inuit  Métis  non-status

Latin American Indigenous  other

\_\_\_\_\_

Arab

Black

East Asian

Latin American

South Asian

South-East Asian

West Asian

White / Caucasian

Mixed race

Other (please specify)

\_\_\_\_\_

14. i. Does anyone in your household have a physical or mental disability?

Y  N  dk / na / refused

ii. *If yes* Please specify who has a disability, and what type:

15. Have you ever been in any of the following situations?

i. Had no place of your own and had to sleep at someone else's home for more than one night

Y  N  refuse / dk / na

ii. Had no place of your own and had to sleep at a shelter for more than one night

Y  N  refuse / dk / na

iii. Had no place of your own and had to sleep outside, in a vehicle, abandoned building, or other place not meant for people to live in, for more than one night

Y  N  refuse / dk / na

iv. Had your own place but couldn't stay there because it was not safe for you

Y  N  refuse / dk / na

v. Had your own place but were told by a child welfare agency that it was not adequate for your children

Y  N  refuse / dk / na

vi. Had a landlord refuse to rent you a place because your income was too low, you didn't have a job, or you had bad credit?

Y  N  refuse / dk / na

vii. Had a landlord refuse to rent you a place, and you believe it was for a discriminatory reason?

Y  N  refuse / dk / na

(if Y) What do you believe the discrimination was based on? (check all that apply)

- refuse / dk /na
  
  - gender             race             disability
  - language             ethnicity
  - because you were born outside Canada
  - because you had children
  - because you receive social assistance
  - other (specify)
- 

## SECTION B: CASE INFORMATION

Thank you for providing that information about yourself.

Now I would like to ask you some questions about your case at the LTB today. I have the information that you discussed about your case with the Tenant Duty Counsel.

Now I am going to confirm the information I have about your case.

16. Originating application

- L1                             C2
- L2                             C3
- L Other                     C4
- T2                             A
- T6                             Other
- T Other                     No application
- C1

17. Notices

- N4                             N12
- N5                             N13
- N6                             N2
- N7                             N3
- N8                             N10
- N9                             N11
- Sherriff's notice

18. Orders

- Consent
- Contested
- Uncontested
- Exparte
- Interim

19. I see that the reason you are here today is (plain language explanation of originating application and subsequent notices / orders). Is that right?

i. Explain:

ii. *(If landlord application)* Did you receive a written notice from your landlord about this case?

- Y       N       dk / na / refused

iii. Besides the issues you are here for today, are there any other problems with your housing situation? *(Prompts - condition of the unit, trouble paying rent, relationship with landlord)*

- No other problems
- Y Explain:

20. *(To verify in case notes or ask tenant)* Are there any other applications associated with this case? *(Select all that apply)*

- L1                       C2
- L2                       C3
- L Other                 C4
- T2                       A
- T6                       Other
- T Other                 No application
- C1

**SECTION C: LTB PROCESS**



Now I would like to know how things have gone for you here today.

21. Besides the discussions you had with Tenant Duty Counsel, what processes were you involved with today at the Landlord Tenant Board?

- Side negotiation (with landlord / rep)
  - Mediation (with landlord / rep and Board mediator)
  - Adjournment request
  - Motion for Set aside
  - Request for review
  - Full hearing
  - Other
- 

22. Now I would like to ask you to rate how you were treated by the LTB staff, LTB members, and other people you encountered here today.

For each of the following people, please rate your satisfaction on the following scale:

*(read all options out loud)*

1. very satisfied   2. satisfied   3. neutral   4. unsatisfied   5. very unsatisfied

i. Commissionaire (security)	1	2	3	4	5	DK/NA	
ii. LTB counter staff		1	2	3	4	5	DK/NA
iii. Mediator	1	2	3	4	5	DK/NA	
iv. Adjudicator	1	2	3	4	5	DK/NA	
v. Landlord's representative	1	2	3	4	5	DK/NA	
vi. Landlord	1	2	3	4	5	DK/NA	

*For tenants who are francophone or identify French as a language they speak at home:*

vii. When dealing with the Landlord and Tenant Board, did you know that you have a right to services in French?

Y    N    refuse / dk /na

If you have called the LTB, were you able to speak French?

Y    N    refuse / dk /na

When you came in to the LTB, were you greeted in French?

Y  N  refuse / dk /na

If you filled in forms, were you offered forms in French?

Y  N  refuse / dk /na

Were you informed that you have a right to a bilingual hearing, and to speak French in your hearing?

Y  N  refuse / dk /na

*Add any further information that the tenant shares about their experiences with French services at LTB. If they are at an English hearing day, ask why they have opted for / ended up with an English hearing:*

23. i. Has your case been decided, is it still ongoing, or are you waiting for the result?

been decided  ongoing  waiting for result

ii. How was it decided?

- Side negotiation (with landlord / rep)
  - Mediation (with landlord / rep and Board mediator)
  - Adjournment request
  - Motion for Set aside
  - Request for review
  - Full hearing
  - Other
- 

iii. Did things today work out the way you expected?

Y  N  DK / NA / refused

iv. How satisfied are you with the result of what happened today at the LTB?

very satisfied  satisfied  neutral  unsatisfied  very unsatisfied

Explain:

## SECTION D: SPECIFIC CASE OUTCOMES

(The material below is to be verified from case notes, order, mediated agreement, TDC discussion, and / or ask tenant. Note questions for tenant under Q. 27, 28, 29, 30 )

24. Case withdrawn (landlord applications only)  N/A skip to 25

i. Was the case withdrawn?  Y  N

ii. Reason for withdrawal

Defective application / Procedural error

Lack of evidence / insufficient evidence

No merit

Other (specify)

---

25. Case dismissed (landlord applications only)  N/A skip to 26

i. Was the case dismissed?  Y  N

ii. (If Y) Dismissal is

Permanent

Case may continue

iii. Did TDC assist with obtaining dismissal?

Y  N

iv. (If Y) How did TDC assist? (check all that apply)

provided advice for argument

assisted with document preparation

representation

referral

other (specify)

---

iii. Grounds for dismissal

Defective notice / procedural error

Notice not received by tenant

insufficient evidence

merits of case

Other (explain) \_\_\_\_\_

26. Adjournment  N/A skip to 27

- i. Did tenant seek adjournment?  Y  N
- ii. Did TDC assist with seeking adjournment?  Y  N
- iii. [If Y] How did TDC assist? (check all that apply)
  - provided summary advice  completed documents
  - represented in mediation  represented in side negotiation
  - represented in hearing  referral
  - other (specify)

- 
- iv. For what purpose was adjournment sought? (check all that apply)
    - to obtain representation via:  clinic  private lawyer
    - to obtain documents / evidence
    - accommodation required
    - referral to legal clinic for social housing subsidy
    - referral to legal clinic for other reasons (*specify*)
    - Other (*specify*)

- 
- v. Was adjournment granted?  
 Y  N

27. Arrears / costs / damages claimed by landlord  N/A skip to 28

- i. Does this case involve amounts claimed by landlord? (*check all that apply*)
  - Arrears  Damages  Filing fees  Costs  Other (*specify*):

- ii. What total amount was the landlord claiming?
- 

- iii. Did TDC assist tenant?  
 Y  N

- iv. [If Y] How did TDC assist? (check all that apply)

negotiation

provided summary advice       completed documents  
 represented in mediation       represented in side  
 represented in hearing       referral  
 other (specify)

---

v. What was the amount decided? \_\_\_\_\_

no decision yet

reduced

same as claimed

increased

vi. TDC impacts (check all that apply)

no impacts yet

Reduced arrears claimed

Reduced damages claimed

Reduced costs claimed

Filing fee waived

No improvement on amount awarded

vii. *(if amounts have been awarded to landlord)* Are you going to be able to pay this amount?

Y

N *Explain*

---

dk / na / refused

28. L1 or L9: Arrears <input type="checkbox"/> N/A skip to 29
---

i. Does the case include an L1 or L9 application for arrears?

L1

L9

ii. What time period for repayment was landlord asking for?

\_\_\_\_\_ days from today

iii. Did TDC assist tenant to negotiate a payment plan?

Y

N

- iv. [If Y] How did TDC assist? (check all that apply)
- negotiation
- provided summary advice       completed documents  
 represented in mediation       represented in side  
 represented in hearing       referral  
 other (specify)
- 

- iii. What was repayment period decided?
- no decision yet \_\_\_\_\_ days from today

- iv. What is the difference? \_\_\_\_\_ days

- v. Outcomes / TDC impacts (check all that apply)

- no impact yet
- (L1 only) Voidable eviction order  
 (L1 only) Eviction taken off table  
 Increased repayment period  
 Other improvement to payment plan (Explain)

- 
- No improvement to payment plan

- vi. Details of payment plan (dollar amounts and time period)
- 

- viii. Do you think you are going to be able to fulfill this payment plan?

- Y       N       dk / na / refused

Explain:

- ix. To fulfill this payment plan, will you need to do any of the following things? (check all that apply)

- none of the options below apply       dk / na / refused

- borrow money

- take on extra work
- skip other payments such as utilities, phone, other debts
- sacrifice extras such as entertainment, trips
- sacrifice basic needs such as groceries, clothing, transit, child care
- sell belongings
- withdraw from savings

29.	Eviction	<input type="checkbox"/> N/A skip to 30
-----	----------	---

i. On what grounds is the eviction being sought?

- repayment agreement on arrears not fulfilled
- other previous order breached / not fulfilled
- persistent late payment
- landlord's own use
- tenant behaviour
- other (specify)

ii. When does the landlord want tenant to leave the unit?

\_\_\_\_\_ days from today

iii. Does tenant wish to stay in the unit?

- Y       N       tenant has already left unit

iv. (*whether or not tenant wants to stay long-term*) How long does tenant wish to be able to stay in the unit before moving out?

\_\_\_\_\_ days from today

v. What is the final decision?

- no decision yet
- voidable eviction order
- non-voidable eviction order
- no eviction

vi. (if eviction order) How long can tenant stay in unit?

\_\_\_\_\_ days from today

vii. How did TDC assist? (check all that apply)

- negotiation
- provided summary advice
  - represented in mediation
  - represented in hearing
  - other (specify)
  - completed documents
  - represented in side
  - referral
- 

viii. Outcomes / TDC impacts (check all that apply)

a. *(If eviction because previous order breached / not fulfilled)*

- no impact yet
- Dismissed
- Relief from eviction with new order / agreement *Specify / explain:*
- Delayed eviction
- Eviction as planned

b. *(If persistent late payment)*

- no impact yet
- Dismissed - pattern of persistent late payment not established
- Relief from eviction with "payment on time"
- Delayed eviction
- Eviction as planned

b. *(If landlord's own use)*

- no impact yet
- Dismissed on lack of merit
- Dismissed on technical error
- Delayed eviction
- Eviction as planned

c. *(If tenant behaviour)*

- no impact yet
- Dismissed on lack of merit
- Dismissed on technical error
- Voidable eviction order
- Non-voidable eviction order
- Delayed eviction



ix. (if result not known yet or if decision was no eviction or voidable order)  
If you were to have to leave this place, how difficult do you expect it would be to find another place to live?

(if eviction has been ordered) How difficult do you expect it will be to find another place?

- have already found another place
- not at all difficult
- a little difficult
- difficult
- very difficult

Explain:

x. (if result not known yet or if decision was no eviction or voidable order)  
If you were to have to find another place, and could not find one by the date of eviction, would you ...

(if eviction has been ordered) If you can't find another place by the date of the eviction, will you ...

- ask for more time
- stay with family or friends
- move to another city
- stay in a shelter
- don't know what I would do
- Other *Explain:*

30. Tenant applications	<input type="checkbox"/> N/A
-------------------------	------------------------------

i. Does the case involve a tenant application?

- Order for repairs
- Regain possession of unit
- Vital services reinstated
- Landlord harassment
- Ongoing rent / charge reduction (amount) \_\_\_\_\_ / month
- Future abatement of rent (amount) \_\_\_\_\_ / month
- Other monetary award (amount) \_\_\_\_\_

Other tenant application issue *Specify:*

\_\_\_\_\_

ii. Did TDC assist tenant?

Y  N

iii. (If Y) How did TDC assist? (check all that apply)

provided summary advice  completed documents  
 represented in mediation  represented in side  
negotiation  represented in hearing  referral  
 other

iv. Outcomes / TDC Impact

no outcome yet  Application not successful

Order for repairs  
 Regain possession of unit  
 Vital services reinstated  
 Ongoing rent / charge reduction (amount) \_\_\_\_\_ /  
month  Future abatement of rent (amount) \_\_\_\_\_ / month  
 Other monetary award (amount) \_\_\_\_\_  
 Other impact (Explain)

v. How long have you been dealing with these problems?

\_\_\_\_\_ weeks

vi. Please rate the impact these problems have had on the following aspects of your life:

a) Your comfort and convenience in your home  
 no impact  small impact  moderate impact  severe  
impact

b) Your own / your children's safety or sense of safety  
 no impact  small impact  moderate impact  severe  
impact

c) Your / your children's physical health  
 no impact  small impact  moderate impact  severe  
impact

d) Your / your children's mental or emotional well-being

no impact                       small impact     moderate impact         severe impact

e) Any other aspect of your daily life? Specify below.

no impact                       small impact     moderate impact         severe impact

Is there anything else you want to share about the impacts of these problems?

31. Any other type of case not listed above (e.g. motion to void an order, review, etc).

i. Explain type:

---

ii. Did TDC assist tenant?

Y                       N

iii. [If Y] How did TDC assist? (check all that apply)

provided summary advice                       completed documents  
 represented in mediation                       represented in side  
negotiation                       represented in hearing                       referral  
 other

iv. Outcomes / TDC Impact

no outcome yet

Explain outcome / impact:

## SECTION E: SERVICES PROVIDED & SATISFACTION

Thank you for providing that information about your case. Now I would like to ask you about the services you received today from the Tenant Duty Counsel.

32. Accessing service

i. First, when did you first learn about the availability of Tenant Duty Counsel services?

today     before today     refuse / dk / na

ii. How did you find out about Tenant Duty Counsel services? *check all that apply*

refuse / dk / na

Legal clinic *Specify which*

---

Another service *Specify which*

---

Commissionaire

LTB counter staff

Announcements in hearing room

Approached by TDC or students

Landlord or landlord's agent

Mediator or adjudicator

Friend, family member or acquaintance

Other *Specify* \_\_\_\_\_

iii. How long did you wait to see Tenant Duty Counsel today?

\_\_\_\_\_ minutes (*indicate specific number, not range*)

iv. Did the amount of time you waited to see TDC pose any problems for you?

No                       refuse / dk / na

Yes *Please explain*

---

33. i. When you signed up for Tenant Duty Counsel services today, what kinds of assistance did you expect they would offer you? *(let tenant answer, or offer options below in plain language)*

dk / na / refused

did not know what to expect

advice

document preparation

other brief services

referral

representation in negotiation with landlord

representation in mediation

representation in hearing

other *(specify)*

---

ii. Did the service turn out as you expected?

Y

N

dk / na / refused

Explain:

---

iii. *(interviewer rate based on above explanation, or ask tenant)* Did the TDC service turn out

not as good as / less service than expected

as expected

better than / more service than expected

iv. *(Ask TDC or tenant)*

How long did TDC spend with you today? \_\_\_\_\_  
minutes

34. Referral

*(If referral listed in intake notes) I see that today the Tenant Duty Counsel gave you a referral to (specify from below).*

OR

Did Tenant Duty Counsel offer you any referrals?

no referrals *(skip to 34 iv.)*

dk / na / refused

Legal clinic

Housing help centre

Legal Aid Ontario

Police

Private Bar Lawyer

ODSP

Human Rights Legal Support Centre

OWA

Health Unit

Food bank

Fire Marshall

Rent bank

Property Inspector

Tenant hotline

Investigation and Enforcement Branch

Sheriff

Mediation LTB

Small claims court

Shelter

Social Housing

Other *Specify* \_\_\_\_\_

ii. Do you plan to contact any of these referrals? *If more than one referral complete for each one. Write number next to options above.*

refuse / dk / na

ref 1  Y  Maybe  No *Explain (whether y/m/n)*

ref 2  Y  Maybe  No *Explain (whether y/m/n)*

ref 3  Y  Maybe  No Explain (whether y/m/n)

---

iii. When do you plan to contact them? *If more than one referral complete for each one. Write number next to options above.*

refuse / dk / na

ref 1 ref 2 ref 3

- Today  
   Tomorrow  
   Within a week  
   At a specified later date / time  
   Eventually, only if required

iv. Do you plan to return to TDC for further services on this case?

Y  N  refuse / dk / na

Please explain:

---

35. Materials provided

i. *(if materials listed in intake)* I see that today the Tenant Duty Counsel gave you materials from *(list below)*

OR

Did Tenant Duty Counsel give you any materials?

no materials provided *(skip to 36)*  refuse / dk / na

ACTO Tip sheet  CLEO materials  Other *specify*

---

ii. Have you had a chance to look at these materials yet?

Y       N

iii. Do you find these materials helpful?

Y       N       refuse / dk / na

Please explain:

---

36. Advice provided

i. *(fill in below from intake notes, and/or ask tenant) What advice did Tenant Duty Counsel provide you? (Let tenant explain and select all that apply)*

no advice provided *(skip to 37)*       refuse / dk / na

T2

Standard order

T6

Void

AGI

Extend / shorten time

Hearing evidence

Side agreement

Adjournment

Mediation

Consent order

Repayment plan

s.78

Jurisdiction at small claims

s.83

Illegal lockout

s.82

Other emergency matters

Sheriff 72 hours

Enforcement at small claims court

Review

Set aside

Other (specify)

---



ii. Advice took more than 20 mins

Y       N

I see that today Tenant Duty Counsel provided legal advice on (*mention all that apply from above*).

iv. Did you understand the advice that was provided?

Y       N       refuse / dk / na

Please explain:

v. When you were in (hearing / mediation / negotiation) did you follow the advice TDC provided?

Y       N       refuse / dk / na

vi. (*If answer to v is Y*) Did it work out?

Y       N       refuse / dk / na

Please explain:

---

vii. (*If answer to v is N*) What did you do differently, and why?

---

---

viii. Did that work out?

Y       N       refuse / dk / na

37. i. Brief services

No brief services provided  refuse / dk / na

Research *Specify*

---

Third party advocacy *Specify*

---

Other brief services *Specify*

---

38. Document preparation

i. *(fill in below from intake notes, or ask tenant)* Did Tenant Duty Counsel prepare documents for you, or help you prepare documents?

No documents prepared *(skip to 39)*  refuse / dk / na

Side agreement

Settlement or consent

Coop response form

Extend / shorten time

Set aside

Motion to void

T2

Referral letter

T6

Payment plan

Review request

Demand letter

Submissions

Other *Specify*

---

*(OR, if info available from case notes)* I see that today Tenant Duty Counsel helped you prepare *[answer from above]*.

ii. Do you believe these document(s) helped your case?

Y       N       refuse / dk / na

Please explain:

---

39. Representation

i. (fill in from intake notes, or ask tenant) Did Tenant Duty Counsel come into your negotiation, hearing or mediation with you?

No representation (skip to 40)  refuse / dk / na

Negotiation *Specify*

---

---

Mediation *Specify*

---

---

Adjournment *Specify*

---

---

Set aside motion *Specify*

---

---

Review *Specify*

---

---

Consent order *Specify*

---

---

S83 argument *Specify*

---

---

Full hearing *Specify*

---

---

Other *Specify*

---

I see that today, Tenant Duty Counsel represented you in [answer from above].

ii. Did you feel that the representation TDC provided to you was effective?

Y       N       refuse / dk / na

Please explain:

---

iii. Did you feel that TDC was acting in your best interests?

Y       N       refuse / dk / na

Please explain:

---

iv. Did you agree with the approach TDC took in representing you?

Y       N       refuse / dk / na

Please explain:

---

40. i. Besides what we have already discussed, did Tenant Duty Counsel assist you in any other way today?

Y       N       refuse / dk / na

Please explain:

---

41. Besides the legal assistance that TDC provides, is there any other kind of assistance or service that would be helpful to you in dealing with your housing problems?

Y       N       refuse / dk / na

*(if Y) What kind of service?*

42. Please rate your overall experience with Tenant Duty Counsel today. I am going to read some statements, and for each statement please tell me whether you strongly agree, agree, neither agree nor disagree, disagree, or strongly disagree.

*Read list of options after each statement and circle appropriate number.*

Do you ...

1. strongly agree
2. agree
3. neither agree nor disagree
4. disagree
5. strongly disagree

i. You are pleased that you chose to access TDC services today.

1      2      3      4      5

ii. You believe TDC understood your problem.

1      2      3      4      5

iii. You did not understand everything TDC told you.

1 2 3 4 5

iv. You felt that TDC cared about your case.

1 2 3 4 5

v. There were services you needed that TDC did not provide today.

1 2 3 4 5

vi. Overall you were satisfied with the services you received from TDC today.

1 2 3 4 5

43. Finally, do you have any recommendations for how the Tenant Duty Counsel Program could serve tenants better?

Thank you for taking the time to respond to all of these questions! The information you have provided is going to make a real difference to help improve the services available to tenants. *(If Tim Horton's gift card was not presented when completing consent letter)* Here is a small token of thanks and appreciation for your time.

Here is a list of agencies and programs. I know Tenant Duty Counsel has already provided you with referrals to \_\_\_\_\_ - did you need any additional referrals or information before you go? *Provide referral list and highlight any services relating to tenant's requests. Reiterate services TDC has referred to and, if appropriate, underline importance of following up, e.g. with legal clinic if case has been adjourned.*

## SECTION F: INTERVIEWER NOTES

To be completed after interview.

[ ] Release signed

- Informed consent letter reviewed and copy provided to tenant
- Referrals reviewed
- Gift card provided

Did you provide any additional information or referrals to the tenant? If so, please specify:

Was there anything that may have affected the information the tenant provided? (For example, was upset, in a rush?)

Are there any questions / sections you were unable to complete because the information was not available from the intake form or case notes?

Is there anything else of note?

## APPENDIX B: INTERVIEW & FOCUS GROUP GUIDES

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### TDC Focus Group / Interview Guide

#### 1. Local practices (5 minutes)

*[Clarify from previous discussions, or ask]*

a. How are TDC services delivered here? (e.g. specialist TDC or clinic lawyers, rotation or consistent, connected with clinic or not)

- 

b. What would you say are the advantages of that model, from the point of view of TDC, tenants, and clinics?

- 

c. What disadvantages are there, if any?

- 

#### 2. Facilities and resources (5 minutes)

a. How would you rate the adequacy of the facilities and resources you have for tenant services at LTB (e.g. space, technology)?

- 

b. Any recommendations for improving facilities and resources?

- 

#### 3. Tenant awareness of and access to TDC services (10 minutes)

a. How do tenants at LTB know TDC is available?

- 

b. Do you think all tenants are aware of TDC availability?

-



c. Any recommendations for improving client awareness of services?

- 

d. Why might unrepresented tenants who are aware of the service decide not to access TDC services?

- 

e. Are there any changes that could make TDC services more accessible / desirable for these tenants?

- 

#### 4. Tenant needs (TDC, Community services) (10 minutes)

a. When the tenants you serve go before the LTB, what types of information and support do they require?

- 

b. In what ways does the TDCP meet those needs?

- 

c. What changes to TDC services, or additional services, if any, would you recommend to better meet tenants' needs?

- 

#### 5. Effectiveness of TDCP - benefits to tenants (30 minutes)

a. At this TDC site, in what proportion of cases do you provide summary advice, brief services, and representation? How do you define these three categories? How do you decide what level of service to offer? Does this differ between TDCs?

- 

b. How would you say TDC ADVICE affects tenants' access to justice? Are there different results in side agreements, mediation, and hearings?

-

c. How would you say TDC BRIEF SERVICES e.g. document prep affects tenants' access to justice? Are there different results in side agreements, mediation, and hearings?

- 

d. How would you say TDC REPRESENTATION affects tenants' access to justice? Are there different results in side agreements, mediation, and hearings?

- 

e. Are there specific types of cases where you think particular TDC services are more beneficial? Less beneficial?

- 

f. Are there specific types / groups of tenants whose needs are particularly well-served by TDCP? Less well-served?

- 

*[If time allows and these questions have not been addressed above]*

g. Can you tell me about a specific case or type of case where TDC services did not appear to make a difference for tenants?

- 

h. Can you tell me about a specific case / type of case where TDC services made an important difference for a tenant?

- 

## 6. Access to justice at LTB

a. Are there procedural issues or other problems at the LTB that you believe are affecting tenants' access to justice?

- 

- 

## 7. Visioning (20 minutes)

a. Can you tell me about a key challenge or problem you have encountered in the course of your work as TDC, and what solutions you have found for addressing it?

- 

b. If you could design an ideal system for supporting tenants at LTB, what would it look like?

- 

c. What would be needed to move the existing system closer to this vision?

-

## Community Focus Group Guide

### Interaction with LTB, TDC and legal clinic

1. How often do tenants you serve come before the landlord and tenant board?

- 

2. How often does your organization interact with or refer to TDC?

- 

### Issues facing tenants

Tenants come to the LTB in connection with issues in two general areas. The first is eviction, either due to rental arrears or for other reasons such as landlords claiming the unit for their own use, or alleging that tenants are damaging the property or creating disturbances for other tenants. The second is when tenants bring applications to the Board regarding unit conditions and disrepair, or violations of their rights by the landlord.

I'd like to hear more about how the tenants you serve are affected by these issues, and the kinds of assistance they require.

2. First, eviction - for arrears in rent or for other reasons.

a. How does this issue affect the tenants you serve, and are any groups particularly affected?

- 

b. What kinds of assistance - legal or other - do they require with this issue?

- 

3. Disrepair, unit conditions, or violations of their rights.

a. How does this issue affect the tenants you serve, and are any groups particularly affected?

- 

b. What kinds of assistance do they require?

- 

### Services from TDC and clinic

4. When tenants you work with have been before the LTB, what is the impact on them before, during and after the process?

- 

5. How have the services provided by TDC and the clinic responded to their needs? Examples?

- 

5. How often have these services helped prevent eviction, and in what ways?

- 

6. How often have these services helped tenants improve their housing situation? In what ways?

- 

7. Are there any recommendations you would make for improving the services provided by TDC?

- 

8. If you could design a perfect system for supporting tenants at the LTB, what would it look like?

-

## **LTB Member & Mediator Interview Guide**

### **1. Background**

How long have you been a member / mediator?

What LTB sites do you attend?

- 

### **2. Benefits or challenges to LTB**

What do you consider to be the benefits of TDCP to LTB?

- 

In your experience, are there any drawbacks or challenges the TDC program poses for the Board?

- 

Do you have any recommendations for addressing these?

- 

### **3. Benefits to tenants**

In your experience, how do TDC services - including advice, brief services, and representation - affect tenants' access to justice in LTB proceedings?

- 

Besides the affect on access to justice, in your opinion are there any other kinds of benefits to tenants from TDC services?

- 

In your experience, are there specific types of cases in which TDC services appear particularly beneficial to tenants?

- 

Are there any types of cases in which, in your experience, TDC services appear less beneficial to tenants?

- 

Are there specific types / groups of tenants whose needs are particularly well-served by TDCP? Less well-served?

- 

### **4. Promising practices**

Each TDCP site has evolved its own ways of meeting tenants' needs in its local context, with the resources available.

(For adjudicators / mediators who travel) Have you noticed any differences in the ways the TDCP operates in the LTB sites you serve? Can you describe these differences?

- 

Have you noticed any practices that seem to work particularly well for facilitating the LTB process?

- 

Have you noticed any that seem to work particularly well for obtaining positive outcomes for tenants?

- 
- 

General recommendations for improving TDCP?

- 

Anything else you would like me to know?

-

## APPENDIX C: DATA TABLES

### 1. Intake data

#### a. Surveys Completed

	Completed survey N	Release only N	Total sample N
Toronto South	54	28	82
Toronto North	36	17	53
Ottawa	38	15	53
Hamilton	19	5	24
TOTAL	147	65	212

#### b. Tenant Demographics

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Gender</b>		
Female	54	53
Male	44	45
Other	1	2
<b>Racial identity</b>		
Racialized	44	
Black	19	
Indigenous	6	
<b>Immigration</b>		
Born outside Canada	33	
<b>Years in Canada</b>		
0 - <5	3	
5 - 10	4	
> 10	25	
<b>Primary language</b>		
English	79	
French	4	
French & English	4	
Other	13	
<b>Age</b>		
Median age (years)	38 years	
< 25	9	
25 - 39	46	
40 - 64	43	
65 +	2	

#### c. Vulnerability

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Need for accommodation</b>		
TDC has identified need for		



accommodation on intake form <sup>†</sup>		
Disability		3
Language	0	0
Literacy or numeracy	0	0
Violence or abuse	0	0
Other*		1
<b>Disability</b>		
Tenant identifies that they or a person in their household have a disability	38	
Physical	9	
Mental health / cognitive	29	
Multiple	4	
<b>Discrimination</b>		
Tenant has faced housing discrimination	49	
Financial**	40	
Protected grounds***	32	
Race	9	
Social assistance	7	
Disability	4	
Gender	4	
Children	3	
Ethnicity	2	
Age (youth)	2	
Sexual orientation	2	
Aboriginal status	1	
<b>Homelessness</b>		
Tenant has experienced homelessness	63	
Ever visibly homeless****	36	
Ever hidden homeless*****	62	

<sup>†</sup> This category only available on intake forms at Toronto North and Toronto South

\* Support person

\*\* "Have you ever had a landlord refuse to rent you a place because your income was too low, you didn't have a job, or you had bad credit?"

\*\*\* "Have you ever had a landlord refuse to rent you a place, and you believe it was for a discriminatory reason?" (Followed by list of protected grounds - tenant could select more than one)

\*\*\*\* Tenant responded yes to one or both of the following questions:

"Have you ever had no place of your own and had to sleep at a shelter for more than one night?" (31%) "Have you ever had no place of your own and had to sleep outside, in a vehicle, abandoned building, or other place not meant for people to live in, for more than one night?" (24%)

\*\*\*\*\* Tenant responded yes to one or more of the following questions:

"Have you ever had no place of your own and had to sleep at someone else's home for more than one night?" (48%)

"Have you ever had your own place but could not stay there because it wasn't safe for you?" (43%)

"Have you ever had your own place but were told by a child welfare agency that it was not adequate for your child / children?" (8%)

#### d. Households

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Persons in household (adults + children)</b>		
1	37	38
2	30	30

3		22	20
4		6	7
5 +		5	5
<b>Children</b>			
Households with children		39	36
1 child	24		19
2 children	8		9
3 children	3		5
4 - 5 children	4		3
Families with infants < 1 year		7	
Families with children 1 - 5 years		10	
Families with children 5 - 18 years		27	
Families with adult children 19 - 25 years		5	
<b>Family structure</b>			
Tenant is parent of children in household		36	
Couple-parent family	16		
Single parent sole custody	17		
Single parent shared custody	4		

#### e. Rental Unit

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Landlord type</b>		
Private	88	88
Public	11	12
Cooperative	2	1
<b>Unit type</b>		
Apartment in high-rise	42	
Apartment in low-rise*	28	
Whole house	13	
Second suite*	9	
Rooming house	3	
Condo rental	2	
<b>Unit size</b>		
Bachelor or room	6	
1 bedroom	39	
2 bedroom	36	
3 bedroom	13	
4 bedroom	4	
5+ bedroom	2	
<b>Length of occupancy</b>		
Median	24 months	24 months
Range	1 month - 23 years	0 months - 23 years
<b>Length of occupancy categories**</b>		
Less than 1 year	27	26
1 year - less than 3 years	31	31
3 years - less than 5 years	15	16
5 years or more	28	28
Tenant has moved out of unit	13	11

\* It is likely that these two categories were conflated in many surveys. Categories in survey were: "Apartment in multi-unit building less than five storeys" and "Second suite (basement, part of house, over store)."

\*\* Occupancy information missing from 29 cases of total sample. Percentages based on 183 cases for which occupancy information was available.

## f. Rent

	Completed survey % (N = 147)	Total sample % (N = 212)
Median rent	\$959.44	\$998.12
Rent range	\$109.00 - \$6,695.00	\$85.00 - \$6,695.00
<b>Rent categories*</b>		
Under \$500	12	11
\$500 - \$749	12	11
\$750 - \$999	30	29
\$1000 - \$1249	22	21
\$1250 - \$1499	12	14
\$1500 - \$1999	10	13
\$2000 +	2	2

\*Rent data missing for 21 cases in Total Sample. Percentages based on 191 cases for which rent information was available.

## g. Income

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Source of income</b>		
<b>Main source of income</b>		
Employment	44	
Ontario Works	22	
ODSP	15	
EI	6	
CPP	3	
Student loans	3	
Has more than 1 source of income	37	
Any income from employment*	53	
Any income from income security programs**	59	
Any income from private sources***	16	
<b>Income</b>		
Median monthly household income	\$2000.000	
Household monthly income range	\$200 - \$10,000	
<b>Monthly household income (%)</b>		
Under \$1000	12	
\$1000 - \$1999	32	
\$2000 - \$2999	31	
\$3000 - \$3999	12	
\$4000 +	12	
Households below LICO	72	

\* As primary or other source of income

\*\* Includes OW, ODSP, EI, Workers Compensation, CPP, veterans benefit, child benefit, OSAP

\*\*\*Includes private pension, private benefits, savings, child support

## h. Rent to income ratio

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Percentage of monthly income spent on rent*</b>		
Less than 30%	19	
30% - 49%	34	
50% - 69%	29	
70% +	18	
Severely rent-burdened (paying 50% or more)	47	

\*24 cases (17%) could not be included in the calculation because of incomplete information or confounding factors (e.g. households with multiple adult roommates). Percentages based on 120 cases.

## i. Subsidy

	Completed survey % (N = 147)	Total sample % (N = 212)
No subsidy	89	
In subsidized social housing	5	
In subsidized co-op unit	1	
In private unit with rent subsidy	3	
Other	2	

## j. Arrears

	Completed survey % (N = 147)	Total sample % (N = 212)
Case involves rent arrears	72	72

## k. Debt

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Tenant has the following kinds of debt owing*</b>		
Rent arrears	71	
Credit card	37	
Student loan	29	
Utilities, cable, phone, internet, etc	24	
Car loan	14	
Payday loan	10	
Personal	10	
Bank loan	9	

\* 31 respondents did not answer this question. Percentages based on 113 responses.

## 2. Case Information

### a. Case information

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Originating application</b>		
Landlord applications	89	88
L1	67	67
L2	20	17
L Other	11	10
Tenant applications	11	11
T6	8	7
T2	6	6
T Other	4	3
<b>Notices</b>		
N4	26	29
N5	6	6
N6	1	1
N7	3	3
N8	4	3
N12	4	2
Sheriff's notice	1	1
<b>Previous orders</b>		
Consent	5	4
Contested	8	8
Uncontested	1	1
Ex parte	1	1
<b>Other problems</b>		
Other problems with housing situation	58	

### b. LTB Process

	Completed survey % (N = 147)	Total sample % (N = 212)
Tenant's matter is on today's docket	98	97
<b>Processes tenant was involved with today*</b>		
Full hearing	44	
Mediation	32	
Side negotiation	27	
Adjournment request	14	
Motion for set aside	5	
<b>Was case decided today?</b>		
Been decided	69	
Ongoing	20	
Waiting for result	11	
<b>How was case decided?*</b>		
Full hearing	34	
Mediation	26	
Side negotiation	19	
Adjournment request	16	
Motion for set aside	3	

\* Numbers add up to more than 100% because some tenants involved in multiple processes

\*\* Terminal process that led to outcome of today's matter (including adjournment as outcome).  
Information not available for 10 cases; percentages based on 134 cases.

### c. Cases involving arrears

	Completed survey % (N = 147)	Total sample % (N = 212)
Case involves L1 or L9 arrears (% of total)*	65 (N = 94)	61 (N = 129)
Did TDC assist to negotiate payment plan	55 (52 / 94)	
<b>How did TDC assist?</b>		
Summary advice	73 (69 / 94)	
Completed documents	5 (5 / 94)	
Represented in hearing	3 (3 / 94)	
Referral	3 (3 / 94)	
Represented in side negotiation	2 (2 / 94)	
<b>Payment period ordered / decided**</b>		
0 - 11 days	29	
12 - 29 days	14	
30 - 59 days	23	
60 - 89 days	6	
90 + days	28	
<b>Impact of TDC intervention***</b>		
Increased repayment period	55	
Other improvement to plan	12	
Eviction taken off table	7	
No improvement to plan	11	
<b>Tenant's ability to fulfill payment plan</b>		
Tenant expects to be able to fulfill payment plan ****	89	
To fulfill the plan tenant will need to ... *****		
Borrow money	62	
Sacrifice extras (e.g. trips)	49	
Sacrifice basic needs (e.g. groceries)	42	
Take on extra work	40	
Skip other payments (e.g. utilities)	36	
Withdraw from savings	22	
Sell belongings	13	

\* Percentages reported on this table are based on cases involving arrears only. N = 94 for completed survey, 129 for whole sample.

\*\* Percentages based on 65 cases for which this information was available.

\*\*\* Percentages based on 61 cases for which information was available.

\*\*\*\* Percentage based on 56 cases for which responses were provided.

\*\*\*\*\* Percentages based on 45 cases for which responses were provided.

### d. Cases involving amounts claimed by landlord

	Completed survey % (N = 147)	Total sample % (N = 212)
Cases involving arrears, costs, damages or other amounts claimed by landlord (%)	65 (N = 95)	

of total)		
Arrears		93 (88 / 95)
Filing fees		52 (49 / 95)
Damages		7 (7 / 95)
<b>Total amount claimed</b>		
Mean		\$2853
Median		\$2190
Range		\$170 - \$13,370
<b>Total amount categories</b>		
Less than \$500		10 (9 / 91)
\$500 - \$999		4 (4 / 91)
\$1000 - \$2999		53 (48 / 91)
\$3000 +		33 (30 / 91)
<b>How did TDC assist?</b>		
Summary advice		99 (92 / 93)
Completed documents		13 (12 / 93)
Represented in hearing		3 (3 / 93)
Referral		5 (5 / 93)
Represented in side negotiation		2 (2 / 93)
<b>Total amount awarded*</b>		
Mean		\$2,672
Median		\$1,741
Range		\$0 - \$13,370
<b>Total amount categories</b>		
Less than \$500		14
\$500 - \$999		7
\$1000 - \$2999		49
\$3000 +		30
<b>Amount rewarded is</b>		
Same as claimed		75
Reduced		25
<b>Impact of TDC intervention**</b>		
No impact on amount awarded		74
Reduced arrears awarded		11
Filing fee waived		7
Reduced costs awarded		3
Reduced damages		1

\* Amounts and percentages based on 70 cases for which information was available.

\*\* Percentages based on 72 cases for which information was available.

### e. Cases involving eviction

	Completed survey % (N = 147)	Total sample % (N = 212)
Cases involving eviction*	32 (N = 46)	
Persistent late payment**	33 (15 / 46)	
Repayment agreement not fulfilled**	24 (11 / 46)	
Tenant behaviour**	24 (11 / 46)	
Landlord's own use**	9 (4 / 46)	
Other reason**	20 (9 / 46)	
<b>Does tenant wish to stay</b>		
No	27	

Yes	73
<b>How did TDC assist?</b>	
Summary advice	98 (44 / 45)
Completed documents	11 (5 / 45)
Referral	5 (2 / 45)
Representation (in hearing, mediation or side negotiation)	0
<b>Decision***</b>	
No eviction	37
Voidable eviction order	28
Non-voidable eviction order	12
No decision yet	23
<b>How difficult will / would it be to find a new place ****</b>	
Not at all difficult	9
A little difficult	5
Difficult	16
Very difficult	71
<b>If tenant could not find another place by eviction date, they would *****</b>	
Stay with family or friends	28
Don't know	28
Ask for more time	20
Stay in a shelter	15
Other <sup>+</sup>	20

\* Percentages in table based on 46 cases involving eviction unless otherwise indicated.

\*\* Amounts add up to more than 100% because more than one response permitted.

\*\*\* Percentages based on 43 cases for which information was available.

\*\*\*\* Percentages based on 44 cases for which response was provided

\*\*\*\*\* Percentages based on 40 cases for which response was provided

<sup>+</sup> Responses include: ask housing help, hotel, street, vehicle, commit suicide.

## f. Cases involving tenant applications

	Completed survey % (N = 147)	Total sample % (N = 212)
Cases involving tenant applications*	17 (N = 25)	
Order for repairs**	48 (12 / 25)	
Monetary award**	44 (11 / 25)	
Landlord harassment**	20 (5 / 25)	
Other tenant application**	20 (5 / 25)	
<b>How did TDC assist***</b>		
Summary advice	95	
Completed documents	10	
Referral	0	
Representation (in hearing, mediation or side negotiation)	0	
<b>TDC impact INCONCLUSIVE</b>		
<b>Impact of the problem for tenant</b>		
<b>How long have you been dealing with these problems?</b>		
Less than 1 month	0 / 16	



1 month to less than 3 months	5 / 16
3 months to less than 6 months	4 / 16
6 months to less than 1 year	1 / 16
1 year or more	6 / 16
Tenant rates problem as having moderate or severe impact on following aspects of life:	
Comfort and convenience in home	18 / 18
Tenant's or children's safety	11 / 14
Tenant's or children's well-being	11 / 13
Tenant's or children's health	7 / 13
Other aspects of daily life	15 / 16

\* Includes tenant applications as originating applications, or T2 and / or T6 filed in context of L1  
\*\* Amounts add up to more than 100% because more than one response permitted.  
\*\*\* Percentages based on 21 cases for which information was available

### g. Cases involving adjournment

	Completed survey % (N = 147)	Total sample % (N = 212)
Cases involving adjournment	20 (29 / 147)	
Purpose of adjournment		
To obtain representation	10 / 28	
Clinic	9	
Private	1	
To obtain documents / evidence	11 / 28	
Accommodation required	1 / 28	
Adjudicator adjourned	4 / 28	
At landlord's request	1 / 28	
To make rent adjustment	1 / 28	
Give tenant time to catch up in rent	1 / 28	
Address OW clerical error	1 / 28	
TDC assisted tenant to obtain adjournment	19 / 28	

## 3. TDC Services

### a. Previous TDC services

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Previous legal advice</b>		
Tenant has previously received legal advice about this matter	24	21
TDC	15	
Legal clinic	10	
Other*	4	
<b>Previous meeting with TDC about this matter</b>		
Once	11	

More than once	7	
<b>Previous TDC services on this matter</b>		
Advice	16	
Document preparation	10	
Referral	9	
Representation	1	

\* Responses include Housing Help, LAO, Tenant Hotline, paralegal, and college legal service.

## b. Awareness of and access to TDC

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Awareness of TDC services</b>		
<b>When did tenant first learn about TDC</b>		
Today	53	
Before today	47	
<b>How did tenant find out about TDC?</b>		
Commissionaire	20	
Approached by TDC or students	12	
LTB counter staff	12	
Mediator or adjudicator	9	
Sign	9	
Announcements in hearing room	7	
Legal clinic	4	
Landlord or landlord's agent	4	
Online	4	
Notice of hearing	2	
Other*	11	
<b>Wait time</b>		
<b>How long did tenant wait to see TDC today</b>		
Less than 10 minutes	42	
10 - 19 minutes	27	
20 - 39 minutes	21	
40 - 59 minutes	3	
60 + minutes	8	
<b>Did the wait time pose a problem for tenant</b>		
No	95	
Yes	5	

\*Includes previous LTB experiences, other services, overhearing or being told by another tenant at LTB, family or friends, and mistakenly signing up for TDC when tenant intended to sign up for mediation.

## c. TDC services today

	Completed survey % (N = 147)	Total sample % (N = 212)
<b>Advice</b>		
TDC provided advice	94	94
What advice did TDC provide?		

Hearing evidence	57	
Mediation	50	
s 83	45	
Repayment plan	31	
s 78	28	
T2	27	
Standard order	26	
Adjournment	24	
Sherriff 72 hours	23	
T6	21	
s 82	16	
Tenant understood advice	96	
Tenant followed advice in hearing / mediation	76	
Advice worked out	81 / 92 (88%)	
Advice took more than 20 minutes*	27	31
<b>Referral</b>		
TDC provided referral	42	39
Legal clinic	26	
Rent bank	10	
LTB mediation	7	
Property inspector	5	
Other**	5	
Tenant plans to contact at least 1 referral in immediate future	25 / 54 (46%)	
<b>Document preparation</b>		
TDC prepared documents	17	15
Payment plan	8	
Submissions	3	
Tenant believes documents helped	15 / 18 (83%)	
<b>Materials provided</b>		
TDC provided materials	10	8
Tenant found materials helpful	9 / 11 (82%)	
<b>Representation</b>		
TDC provided representation	8	6
Negotiation	3	
Adjournment	3	
Mediation	2	
Set aside	1	
Tenant believed representation was effective	11 / 11 (100%)	

\* Based on 117 cases in Completed Survey group, and 164 cases in Whole Sample group.

\*\* Includes health unit, Ontario Works, fire marshall, Legal Aid Ontario, police, food bank, CERA, human rights tribunal (1 or 2 tenants referred to each)

## 4. Tenant Satisfaction

### a. Tenant expectations

Completed survey % (N = 147)

Total sample % (N = 212)

Types of assistance tenant expected from

TDC*	
Advice	95
Representation in hearing	10
Representation in negotiating with landlord	8
Document preparation	8
Representation in mediation	5
Referral	4
Other brief services	3
Did not know what to expect	6
Other kinds of assistance	12
Did service turn out as tenant expected?	
No	15
Yes	85
Rate service compared to expectation	
Not as good / less than expected	7
As expected	49
Better / more than expected	44

\* Percentages add up to more than 100 because multiple responses permitted

## b. Satisfaction

	Completed survey % (N = 147)	Total sample % (N = 212)
Average satisfaction rating*		
Commissionaire	1.55	
Adjudicator	1.73	
LTB counter staff	1.78	
Mediator	1.94	
Landlord's representative	2.63	
Landlord	3.75	
Outcome of the day		
How satisfied is tenant with outcome**		
Very satisfied	34	
Satisfied	31	
Neutral	24	
Unsatisfied	8	
Very unsatisfied	4	
Did things today work out the way tenant expected		
No	36	
Yes	64	
Satisfaction with TDC***		
1. I believe TDC understood my problem	95	
2. I understood everything TDC told me	87	
3. I felt that TDC cared about my case	80	
4. TDC provided all the services I needed	83	
5. Overall I was satisfied with services of TDC	92	
6. I am pleased that I chose to access TDC	96	
Satisfaction scale - average score for all items		
Satisfied (1 to <2.6)	91	

Neutral (2.6 to 3.4)	7
Unsatisfied (3.5 to 5)	2

\* The lower the average satisfaction rating, the more satisfied tenants are as a group. Question: "Rate how you were treated by people you encountered here today." Scale: 1 = very satisfied, 2 = satisfied, 3 = neutral, 4 = unsatisfied, 5 = very unsatisfied.

\*\* Question: "How satisfied are you with the result of what happened today at the LTB?"

\*\*\* Percentage of tenants who "agree" or "strongly agree" with statement. Items 2 and 4 were stated in the opposite on the survey to guard against response bias (actual statements were "I did not understand everything TDC told me" and "There were services I needed that TDC did not provide today")

## APPENDIX D: GLOSSARY OF ACRONYMS, FORMS, AND TERMS

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### Acronyms

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<b>ACTO</b>	Advocacy Centre for Tenants Ontario
<b>DSSAB</b>	District Social Services Administration Board - A board created by the Province of Ontario to administer social services in Northern jurisdictions, similar to a municipality or region.
<b>HSF</b>	Housing Stabilization Fund - Funds created by some municipalities, regions, or DSSABs, to replace the former provincially-funded Community Start-Up and Maintenance Benefit.
<b>LTB</b>	Landlord and Tenant Board
<b>ODSP</b>	Ontario Disability Support Plan - Ontario's income security program for adults with disabilities.
<b>OW</b>	Ontario Works - Ontario's income security program for adults without disabilities, also known as "social assistance" or "welfare."
<b>RTA</b>	Residential Tenancies Act, Ontario's law to regulate rental housing. Replaced the Tenant Protection Act in 2007.
<b>TDC</b>	Tenant Duty Counsel - the person who provides Tenant Duty Counsel services.
<b>TDCP</b>	Tenant Duty Counsel Program

### Landlord and Tenant Board Forms \*

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<b>A1</b>	An application to the LTB by a landlord claiming that the RTA does not apply to their agreement with a tenant.
<b>L1</b>	An application to the LTB by a landlord to evict a tenant for non-payment of rent and to collect rent the tenant owes.
<b>L2</b>	An application to the LTB by a landlord to end a tenancy and evict a tenant on the basis of prohibited conduct, such as persistent late payment of rent, interfering with other tenants' enjoyment of their unit, and / or causing damage to a unit.
<b>L9</b>	An application to the LTB by a landlord to collect rent a tenant owes.
<b>N5</b>	A notice served to a tenant by a landlord to end the tenancy for interfering with others, damage or overcrowding in the unit.
<b>N6</b>	A notice served to a tenant by a landlord to end the tenancy for illegal acts or misrepresenting income in a rent-geared-to-income rental unit.

- N7            A notice served to a tenant by a landlord to end the tenancy for causing serious problems in the rental unit or residential complex.
- T2            An application to the LTB by a tenant about tenant rights.
- T6            An application to the LTB by a tenant about maintenance.

\*Note that the above are the forms named in the report. A complete list of applications, notices and other LTB forms can be found at <http://www.sjto.gov.on.ca/ltb/forms/>

## Terms

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- Above-guideline increase (AGI)** The provincial government establishes an annual guideline for as-of-right rent increases, typically in the range of two percent. Landlords may apply for a rent increase above the guideline amount under specific circumstances, such as to cover costs for major upgrades to a rental unit.
- Adjudicator / Member** A representative of the Landlord and Tenant Board whose role is to adjudicate cases before the LTB and issue a decision.
- Commissionaire** Security personnel employed by a contracted private firm to provide security services at the LTB.
- Docket**            The daily list of cases to be heard at the LTB. The docket identifies the address of the unit named in the case, and the principal application in the case, but does not name the landlord or tenant.
- Mediator**            A representative of the Landlord and Tenant Board whose role is to provide impartial mediation to assist landlords and tenants to arrive at a mutual agreement without a hearing.
- Side negotiation**    Negotiation at the LTB between tenants and landlords (or landlord representatives) without the assistance of a mediator.
- Standard order**        An order commonly issued in applications for eviction due to arrears (L1 applications) that requires the tenant to pay the full amount of arrears within 11 days of the order, or vacate the unit.
- Voidable eviction order** An order issued by the LTB requiring a tenant to vacate a unit on a specified day unless certain conditions are fulfilled before the deadline, in which case the order becomes void.