

For Immediate Release

Permanent Online Landlord and Tenant Board Hearings Are Having Devastating Consequences

Toronto, ON – June 14, 2021 – A new report released by [the Advocacy Centre for Tenants Ontario](#) (ACTO) titled [Digital Evictions: The Landlord and Tenant Board's experiment in online hearings](#) highlights the dangers of a growing digital divide that prevents many low-income tenants from having meaningful participation in their digital hearings. The [decision by Tribunals Ontario](#) to make digital hearings at the Landlord and Tenant Board (LTB) the default, post-pandemic, will make it even more difficult for low-income tenants across Ontario to access justice and stay housed.

The growing digital divide

Observational data from LTB online hearings conducted throughout the province from March to May, 2021 found that there was a disparity in attendance at these online hearings - 86.5% of landlords (or their representative) were present, whereas only 44.6% of tenants were present. Fewer tenants are attending digital hearings compared to in-person hearings. Noticeably absent from the digital proceedings are tenants with mental health issues, low literacy, or English as a second language. There was also a significant difference in mode of participation, with landlords participating mostly via video, and the majority of tenants participating by phone, making it extremely difficult to navigate the hearing.

At almost 70% of hearings observed, Adjudicators failed to ask why the tenant was not present. Hearings were often conducted in the tenant's absence, likely resulting in an eviction order. With the moratorium on eviction enforcement lifted as of June 2nd, 2021, there is a possibility that tenants could be evicted without ever knowing that there was a proceeding against them.

"We continue to hear from Tenant Duty Counsel Program lawyers and community clinic legal workers that tenants are having a difficult time accessing and participating in the digital hearings," says Tracy Heffernan, Provincial Director, Tenant Duty Counsel Program at ACTO. "Low-income tenants often don't have the technology needed to fully participate in a hearing that could last several hours. As a result, many are excluded from participating in their own hearings, with no opportunity to share their evidence or explain their circumstances, leading to eviction by default."

A reversal of the digital-by-default decision needed

The LTB has provided no data-driven evidence to support their decision to make digital hearings permanent, post-pandemic. As our observational data demonstrates, digital hearings have grave implications for access to justice, particularly for low-income tenants. A one-size-fits-all approach won't work: in-person hearings should be once again made the default post-pandemic, with the option of digital hearings for tenants who prefer them.

"The unilateral decision to proceed with a digital-by-default rather than a digital-by-choice approach is very concerning to us," says Douglas Kwan, the Director of Advocacy and Legal Services at ACTO. "The LTB has presented no evidence to the public to support the contention that this improves their ability to provide quality dispute resolution services for Ontarians. Nor did they consult with any of the users who appear before the LTB prior to announcing this approach last Fall. In the absence of such evidence and consultation, this decision feels hostile to tenants. It raises more questions than answers around transparency, accountability, and access to justice for tenants across Ontario."

About Advocacy Centre for Tenants Ontario

The Advocacy Centre for Tenants Ontario (ACTO) is a specialty community legal clinic with a province-wide mandate to advance and protect the interests of tenants living on lower incomes. ACTO specializes in housing issues related to tenants. The clinic also coordinates the Tenant Duty Counsel Program (TDCP) across Ontario, which provides legal information and assistance to self-represented tenants appearing at the Landlord and Tenant Board.

For more information including interviews with ACTO representatives:

Genrys Goodchild
Communications and Public Affairs Specialist, (ACTO)
goodchg@lao.on.ca
416.597.5855 ext. 5170