



IMPLEMENTING THE RIGHT TO HOUSING IN CANADA

RENOVATIONS AND UPGRADING



Centre for Equality Rights in Accommodation
Centre pour les droits à l'égalité au logement



THE NATIONAL
RIGHT TO HOUSING
NETWORK

© Centre for Equality Rights in Accommodation (CERA) and National Right to Housing Network (NRHN)

CERA is Canada's leading non-profit organization working to advance the right to housing, and we've done so for 35 years. We advance the right to housing by serving renters to help them stay housed, providing education and training about housing rights, and advancing rights-based housing policy through research, policy development, advocacy and litigation.

NRHN is a group of over 350 key leaders, thinkers, subject matter experts and people with lived experience of housing precarity and homelessness, with a mission to fully realize the right to housing for all and eliminate homelessness in Canada.

March 2022

RENOVATIONS, UPGRADING AND SECURITY OF TENURE

In Canada, each province and territory has laws related to landlord and tenant relationships, some of which are meant to protect renters' security of tenure. Security of tenure is one of the main components of the [right to housing](#), a concept that is derived from international human rights law, which Canada is obligated to implement and protect as a signatory to various human rights law instruments including the International Covenant on Economic Social and Cultural Rights (ICESCR). [Security of tenure](#) means that renters should have legal protections against forced evictions, harassment, and other threats to their tenancies.

International human rights law says that renters should be [protected from evictions](#), and even in cases where evictions may be justified, the law makes it clear that they should only happen as a last resort. Furthermore, renters should be provided with procedural guarantees, such as the opportunity for genuine consultation, and legal remedies such as financial compensation.

This situation plays out when landlords want to renovate and upgrade renters' homes. This can pose a threat to renters' tenancies as landlords may seek to evict renters in order to carry out renovations while the homes are empty. There are laws in place to protect renters in this situation, however, these laws are not always followed by landlords, leading to what has commonly become known as "renovictions."

[Renoviction](#) is a term used by housing advocates to refer to an eviction where the landlord claims that a tenant needs to vacate a rental unit for major renovations.

LEGAL PROTECTIONS FOR RENTERS

Legal protections for renters vary from province to province. For example, in Ontario, the *Residential Tenancies Act* (RTA) governs the relationship between renters and landlords and includes [specific laws](#) that protect renters when their landlords seek an eviction based on renovations. The law states that landlords have to follow a process, which involves serving a renter with proper notice and giving them 120 days' notice to move out, as well as obtaining the necessary building permits for the renovation work. The landlord must also provide financial compensation to the renter or offer them another place to rent that is acceptable to them. The amount of compensation will depend on the number of units in a renter's building.



RECOURSES FOR RENTERS

Renters have a number of recourses in this process and [rights that they can exercise](#).

They can dispute a notice if they don't believe that the landlord intends to do the work. In doing so, they can stay in their home and wait for a possible hearing at the Landlord and Tenant Board (LTB), the legal body that governs disputes between landlords and renters in Ontario. At a hearing, initiated by the landlord's application, the landlord must prove their case for eviction. They must show that the home has to be empty for the renovation to take place, that they have the necessary permits required to do the work, and that they have compensated the renter accordingly. The renter can provide evidence that the landlord's notice is not valid, or that they did not fulfill their legal obligations.

Most importantly, if renters receive a notice of eviction based on renovations, they have [the right of first refusal](#), which means that they have the right to return to their home after it is renovated and to keep paying the same rent that they paid before. The renter can exercise this right by giving the landlord written notice that they intend to return to the home upon completion of the renovation, before leaving temporarily while the renovations are taking place. The right of first refusal is crucial for protecting renters' security of tenure and maintaining rental homes that are affordable.



[In British Columbia](#), landlords have to apply to the Residential Tenancies Branch (RTB) for pre-approval before starting an eviction process based on renovations. When they do, they must demonstrate that they have all the required permits for the work and prove that the home must be empty for the work to be completed. Renters still have the opportunity to dispute the eviction at the RTB and provide evidence that they do not need to be out of the home for the work to be completed.

[In Quebec](#), landlords are limited in when they can evict renters for the purpose of renovations or upgrading. They can only do so if they want to divide up the rental unit, demolish it, enlarge it, or change its use, for example by converting the space from residential to commercial. Landlords must go through a legal process and provide proper notice; they must also provide renters with financial compensation and reasonable moving expenses. However, the onus is on renters to dispute an eviction based on renovations or the amount of compensation by filing an application at the Tribunal administratif du logement (TAL).

[In Nova Scotia](#), in order to protect renters' tenancies during the COVID-19 pandemic, the province banned landlords from evicting renters on the basis of renovating their units.



TROUBLING TRENDS ACROSS CANADA

Despite the legal protections that are in place, there has been an increase in the number of “renovictions” [throughout Canada](#). In practice, landlords may not provide the proper notice or the financial compensation that they are required to give renters. Furthermore, as new landlords buy up rental homes, renters who may not be aware of their legal rights, such as the right of first refusal, can find themselves pushed out of their unit, while new landlords renovate their homes and rent them out again at a higher rate.



HOW RENOVITIONS ARE PLAYING OUT IN SOME PROVINCES



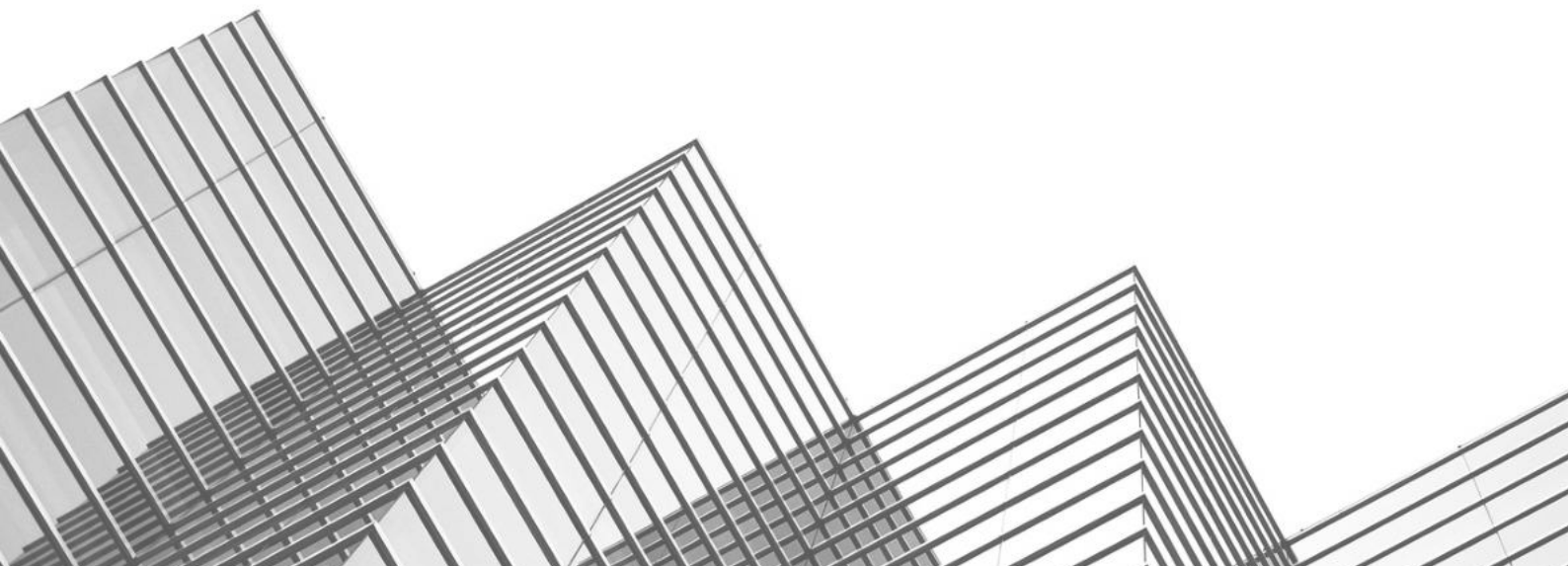
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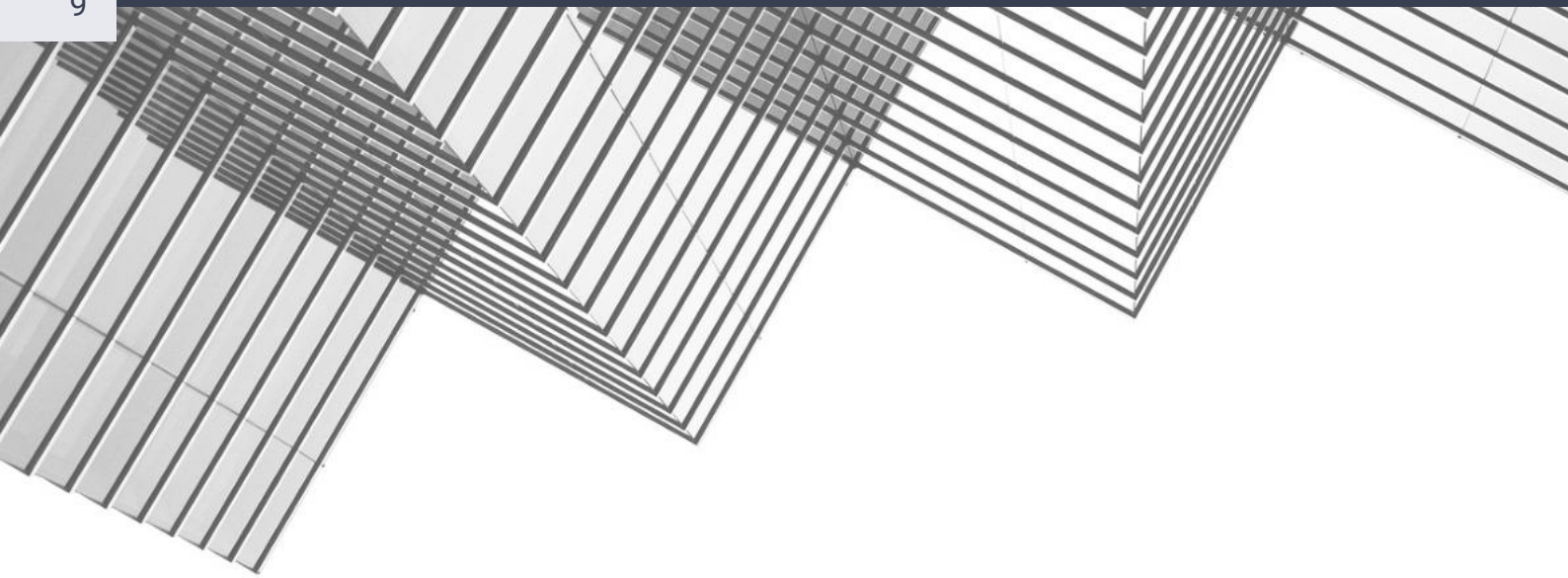
In Ontario, the Advocacy Centre for Tenants Ontario (ACTO) has tracked a [gradual increase](#) in these types of evictions between 2015 and 2019. Evictions based on renovations are one of the ways in which affordable housing stock is being eroded in Ontario.



QUEBEC

[In Montreal](#), advocates have seen an increase in calls from renters about renovictions, previously from 50-100 calls per year, to now hundreds of calls per year. Statistics from TAL show that requests from tenants to contest a notice to “subdivide, substantially enlarge or change the allocation of a dwelling” increased by 142 percent between the years 2018-19 and 2019-20, which is the highest increase seen over the past five years. This means that more and more landlords are initiating the eviction process based on renovations.





▶ PRINCE EDWARD ISLAND

In [Prince Edward Island](#), renters have also reported a rise in evictions based on renovations, which allow landlords to then rent out the units at higher rates with few protections available for renters. Once renters are evicted, many find themselves in financial hardship and with few affordable housing options.

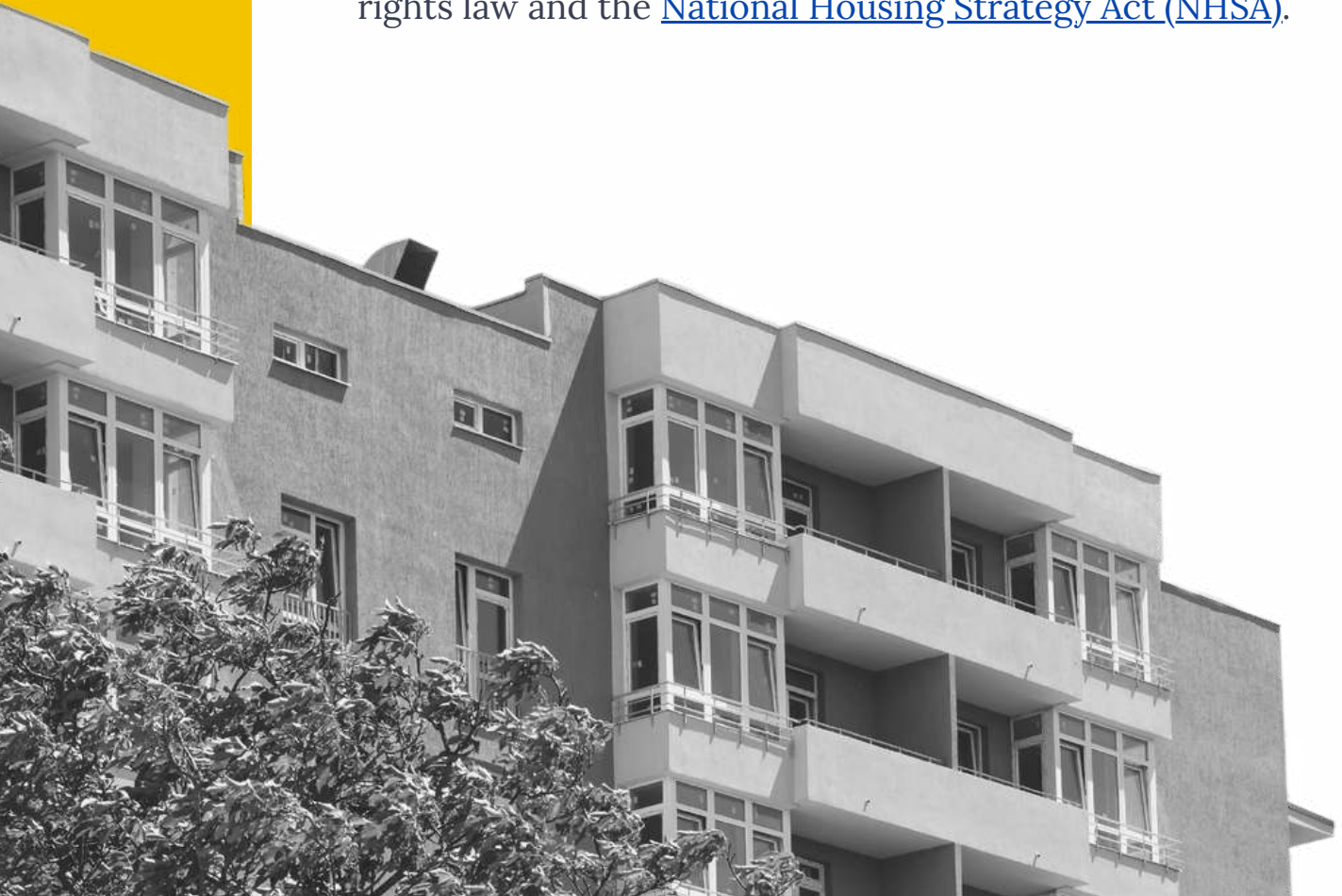
▶ BRITISH COLUMBIA

There are limited protections from “renovictions” available to renters at the municipal level. One example is in [New Westminster](#), British Columbia, where a municipal by-law was adopted in 2019 to better protect renters from “renovictions.” The by-law holds landlords of rental homes responsible for finding temporary accommodation for their renters if they need to leave a unit so that it can be renovated. It also requires landlords to send renters a written offer to move back into their unit after renovations are completed, or make an offer to them to rent another unit that is of [similar size, quality, and location](#) as the original unit at the same rate. If landlords do not comply with these requirements they could be fined, or risk losing their business licenses.

THE NEED FOR A RIGHT TO HOUSING APPROACH

It is crucial that renters are aware of their rights under provincial and municipal laws when it comes to evictions based on renovations, such as the right of first refusal under the RTA in Ontario. However, we have seen that despite the legal protections that are in place for renters, “renovictions” continue to be on the rise throughout Canada, which indicates that provincial protections may not be sufficient to protect renters’ security of tenure, as well as Canada’s affordable housing stock.

Renters must look beyond the provincial protections to start claiming their right to housing. We must hold the government accountable for its obligations to implement the right to adequate housing under international human rights law and the [National Housing Strategy Act \(NHSA\)](#).



THE NATIONAL HOUSING STRATEGY ACT (NHSA)

The NHSA was passed by the Canadian government in 2019 and recognized the right to adequate housing as a fundamental human right in international law and furthered Canada's commitment to progressively realizing that right over time. The NHSA requires that the government create mechanisms that will monitor Canada's implementation of the right to housing.

THESE MECHANISMS ARE:

- ① **Federal Housing Advocate**
- ② **National Housing Council**
- ③ **Review Panel**

Renters can claim their right to housing by using these mechanisms, specifically, through the [Federal Housing Advocate](#). The rise of “renovictions” throughout Canada is a systemic housing issue that the Federal Housing Advocate can investigate. The Federal Housing Advocate can receive [submissions on systemic housing issues](#) from renters, investigate these issues, and provide recommendations to the federal housing minister on what should be done about it.

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