

## The Régie du logement

The Régie du logement is a court specialized in rendering which renders decisions in the area of residential leases. Its mission consists of reaching decisions in disputes it is apprised of through simple procedures governed by the fundamental rules of justice, to advise citizens of their rights and obligations under leases, and to attempt at reconciliation between owners and tenants.

### Type of complaints

#### Complaints reviewed by the Québec Ombudsman

Régie du logement						
Under investigation at April 1, 2007	Received	Investigated*				Under investigation at March 31, 2007
		Referred	Interrupted	Unsubstantiated	Substantiated	
2	144	-	53	37	23	4

\* Excluding complaints whose processing was interrupted or which were referred

Citizens' complaints with regard to the Régie du logement primarily concern the delays in obtaining a hearing and the decisions rendered. The Québec Ombudsman's interventions, however, are limited to problems concerning delays, since Régie decisions constitute judicial matters which we have no right to examine.

### Overview of the situation

#### The problem of delays

The housing crisis of the early 2000's significantly increased the workload of the Régie du logement, which resulted in a major increase in delays for hearings in front of the court as well as an important increase in pending cases.

Requests to the Régie peaked three years later, after which there were concrete signs that things were reverting back to normal. In 2006-2007, for example, an improved rental market enabled the Régie du logement to uphold its timeframes for cases involving unpaid rent. As regards civil cases in general, for which the timeframe to obtain a hearing had been steadily increasing over the past years, the Régie had set an objective of 18 months. Its subsequent efforts enabled it to decrease this average delay to 17.4 months.

The Régie stated the following in its 2006-2007 annual report :

*“ We have been focusing particular attention on processing older cases for several years now. This approach is beginning to have an impact, as the number of cases with a delay prior to a hearing of more than a year dropped from 3,830 in 2005-2006 to 3,532, an 8% decrease. Finally, in terms of rent fixing, the Régie improved its processing time by 1.1 months (in comparison to the previous year).<sup>18</sup> ”*

In the same report, the Régie concludes by stating the following :

*“ Despite encouraging figures, we are still operating in a difficult environment. The number of cases related to difficulties making rent payments, while 1% lower than 2005-2006 figures, are still significant: 42,651 new cases were introduced by the Régie in 2006-2007, representing slightly over half (57%) of the total cases in front of the court<sup>19</sup>. ”*

## Measures introduced or considered over the years

Since 2000, the Régie du logement has progressively implemented various administrative measures aimed at improving its services and reducing the delays to an initial hearing. These include :

- The addition of courtrooms to allow for a greater number of requests ;
- Computerization of the to improve management of cases roll call ;
- Hiring of two special court clerks whose adjudication tasks focus on rent fixing cases ;
- Addition of a tool on the Web site to enable citizens to track their cases ;
- Organization of court assignments for more complex cases, to enable latent cases to be reactivated.

Our observations lead us to conclude that the various administrative measures introduced over the years have not allowed the Régie du logement to definitely resolve the problem with regard to delays, which are still a fact of life at this time. Since 2001, a number of legislative solutions have been proposed, but in the end none were ever passed. For the sake of giving some examples, let us point out some legislative amendments previously considered :

- The creation of a new function, i.e. a court clerk empowered to render decisions in uncontested cases.
- The implementation of a new procedure granting special court clerks the authority to cancel residential leases for unpaid rent, which would avoid the need for traditional hearings in these instances.
- The awarding of additional power to special court clerks, enabling them to hear among others, contestations of lease adjustments, requests from a new tenant for lease fixing, and uncontested requests for deposit refunds.

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<sup>18</sup> 2006-2007 annual management report, Régie du logement, p. 24

<sup>19</sup> 2006-2007 annual management report, Régie du logement, p. 10.

The legislative amendments necessary for this option to be implemented were however set aside to introduce a relief plan for the decision-makers. Eight new decision-makers hence came on board, to notably compensate for the planned early retirement of numerous of their colleagues over the next three years.

## Ombudsman follow-up and actions

While the Québec Ombudsman applauds the efforts made to find solutions within the existing legal framework, it notes that the measures taken thus far have only allowed for slowing down the growing delays. They did not generate any sustainable corrections. This is why in February 2008, the Québec Ombudsman held a work session with Régie du logement management to evaluate additional solutions aimed not only at clearing up the backlog of delays since fiscal 2000-2001 but aimed also, at ensuring that requests would henceforth be processed in a more reasonable timeframe.

To achieve the objectives in its 2005-2008 strategic plan<sup>20</sup>, the Régie du logement relied on either legislative amendments or on the addition of supplementary resources. Despite the introduction of the latter measure, the total number of decision-making positions will remain the same when the plan falls due namely 2010.

The Québec Ombudsman has doubts that this temporary measure will allow to adequately address the impressive number of requests that remain. It notes that despite the Régie du logement having introduced all of the corrective measures available to it over the last few years, the problem with regard to the delays for obtaining a hearing are still present and that the objectives vis-à-vis reducing these delays still represent a significant effort.

## 2007-2008 recommendations

Given the high volume of requests submitted to the Régie du logement ;

Given that the most frequently-heard cases involve requests for lease cancellation due to non-payment ;

Given the administrative measures introduced by the Régie over the past few years ;

Given that the new relief plan for decision-makers is only a temporary measure ;

Given that despite the measures introduced, improvement vis-à-vis the delays at the Régie du logement is not as speedy as originally anticipated ;

Given that a modification of the current legal framework would enable the Régie to free up its decision-makers to hear other types of cases in a more timely fashion ;

Given that such a measure would be in line with the government's objectives regarding regulatory and administrative streamlining ;

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<sup>20</sup> Intervention orientation 1.1 : To hear current cases according to the delays in force for 2006-2007.

#### THE QUÉBEC OMBUDSMAN RECOMMENDS :

That the legal framework under which the Régie du logement addresses cases involving the non-payment of rent be modified so as to incorporate a new procedure for improving the availability of decision-makers in this area while jointly hearing all cases within a reasonable timeframe.

That measures are taken to ensure that these changes are designed so as to respect the fundamental rights of all of the parties, particularly with regard to procedures involving lease cancellation and the eviction of a tenant.

## Comments from the agency

The following statement from the Régie du logement was issued by its President :

“The Ombudsperson and the Régie du logement share a common concern, namely that the Régie continue to enhance its performance and processes in order to meet the expectations and objectives of its mission, and this within a strenuous financial context characterized by limited overall growth over the past decade.

The Régie du logement is aware of its ongoing problem vis-à-vis the management of delays, despite the obvious improvements ensuing from the implementation of its temporary relief plan for decision-makers in 2007. Concrete measures designed to complement those already introduced over the last few years must be considered so as to implement solutions - viable over the short term - and thus resolve problematic issues related to the management of delays in waiting, notably more so in civil cases.

These delays must be permanently shortened to timeframes that are more satisfactory while continuing to adhere to the regulations governing the Régie’s adjudication mission. It bears noting that a waiting period for civil cases is to a certain extent a normal part of such a court’s activities.

Shortening the delays for civil case hearings is dependent on new cases not peaking to an overly high degree. Statistics for the period from 2000 to 2004 confirm such an upward trend, with the number of new cases increasing from 70,330 to 85,694. Since then, this figure has been dropping slightly, with new cases standing at 76,036 for fiscal 2007-2008.

With this in mind, we must immediately consider other methods, particularly as concerns the handling of requests regarding the non-payment of rent and lease cancellation on these grounds. By taking new measures where these cases account for a high percentage of the hearings presided by decision-makers, the latter would have more time to devote to the other civil cases that are piling up.

From this perspective and within the limit of his mandate as well as with the due restraint required to ensure his court's judicial autonomy, the President of the Régie du logement undertakes to cooperate with government agencies, if they so wish, and to participate in all projects aimed at finding a permanent solution to the problem of delays vis-à-vis civil cases to be heard by our court. Both the administrative and legal solutions put forth over the last few years could well serve as a starting point."