

**COMMERCIAL TENANCIES:
SECTION 17 OF *THE LANDLORD AND TENANT ACT* AND
SECTION 93 OF *THE REAL PROPERTY ACT***

EXECUTIVE SUMMARY

In this report, the Commission reviews two provisions concerning a landlord's right to re-enter leased commercial premises: section 17 of *The Landlord and Tenant Act* and section 93 of *The Real Property Act*.

Re-entry is a remedy available to landlords in circumstances where the tenant has committed a serious breach of a commercial tenancy agreement. It involves re-taking possession of the premises and thereby terminating the tenancy agreement.

Both Section 17 of *The Landlord and Tenant Act* and Section 93 of *The Real Property Act* imply a landlord's right to re-enter in every commercial lease agreement. These statutory implied terms will apply unless a lease agreement specifically provides for a right of re-entry, in which case the terms of the lease agreement will govern.

There are discrepancies between section 17 of *The Landlord and Tenant Act* and Section 93 of *The Real Property Act* in respect of both the scope and timing of the remedy of re-entry. This report makes recommendations to clarify and reconcile Manitoba's legislation in this regard. The Commission recommends the enactment of a single statutory implied term allowing a landlord to re-enter leased commercial premises if rent is unpaid for a period of 15 days or if a covenant is breached continuously for a period of 15 days.

The Commission also recommends some incidental changes to the legislation, with a view to improving its clarity and accessibility.