



TENANT RIGHTS & EXTREME WEATHER EVENTS

AN ANALYSIS OF INDOOR TEMPERATURE
REQUIREMENTS IN US AND CANADIAN
LANDLORD-TENANT LAW

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Tenant Rights & Extreme Weather Events: An Analysis of Indoor Temperature Requirements in U.S. and Canadian Landlord-Tenant Law

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Abstract:

In June and July of 2021, a fatal heat wave engulfed the northwest coast of North America. There is extensive scientific evidence that extreme weather patterns like heat waves are increasing in both frequency and severity due to climate change; however, insufficient attention has been dedicated to exploring the intersections of landlord-tenant law, housing justice, and climate change. Throughout most of Canada, heat is considered a “vital service” that landlords are required to provide in almost all circumstances, although provinces structure these policies in slightly different ways. There is no policy at the provincial level that guarantees a tenant’s right to air conditioning or sufficiently cool living spaces. An analysis of the current state of Residential Tenancy Legislation in British Columbia reveals that legislation does not include virtually any provisions to protect tenants from periods of extreme temperature. Institutionalised injustices stemming from the socioeconomic and political conditions of the 1950’s have also isolated tenant communities such that attempts at mass mobilisation and community-led action have been largely unsuccessful. This suggests that B.C. would benefit from a collectivisation of individual organisations’ housing-rights activism, and a push for the Residential Tenancy Branch to amend laws such that they protect tenants from extreme weather events.

The city of Toronto has, since 2001, required that landlords maintain an indoor maximum temperature of 26°C from June 2 to September 14, only in residential rental properties in which AC is already installed. The city has been considering extending this maximum temperature requirement to all rental properties—a policy that is supported by the Board of Health, the City Council tenants’ issues committee, advocacy organisations, and tenants themselves. The primary barriers to a minimum temperature provision identified in this research are: 1) the capacity of building and city-wide electrical infrastructure, 2) the cost of air conditioning or heat pump installation and the concern that these costs will be borne by tenants, 3) resistance from a segment of landlords, and 4) municipal government bureaucracy and delays. Similar issues exist in Oregon, where the lack of maximum temperature limits and cooling requirements for housing, inadequate funding, and overall lack of awareness about the heatwave have all contributed to the increased risks faced by tenants during the heatwave. The Senate Bill 1536 that was proposed in response to these issues can help ensure tenants' access to portable cooling devices during extreme heat events, provide financial assistance for the purchase and installation of cooling devices, improve tenants’ access to community cooling spaces, and increase tenants' rights to cooling facilities in new rental units. The bill can also serve as a useful reference for British Columbia as the province works toward improving tenants' rights and protection during extreme heat events.

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1. INTRODUCTION

Throughout late June to early July of 2021, a heatwave occurred in British Columbia, resulting in nearly 600 deaths province-wide and causing temperatures in one municipality to reach a national all-time high of 49.6°C¹. Scientists estimate that this heat dome was made 150 times more likely by climate change.² This heat wave disproportionately impacted a number of communities, including renters, low-income people, people with disabilities, and seniors. Municipal and provincial plans for climate change mitigation and emergency response in North America have failed to take into account how the consequences of climate change, particularly extreme weather events, manifest in the housing sector—especially for those who are unstably housed or those living in substandard housing where amenities such as air conditioning (AC), ventilation, insulation, heating, and plumbing are low quality or nonexistent. While renters’ experiences during the 2021 heatwave received some coverage in the press, thus far very little academic research has been devoted to understanding the structural barriers tenants face during extreme weather events, the intersecting forms of oppression that create heightened vulnerabilities for certain tenant demographics, the policies that exist already to protect renters in extreme weather conditions, and the barriers to successfully enforcing these policies.

Given this gap in the current state of academic research on the evolution of tenant rights in the context of climate change and extreme weather events, the following report aims to: [1] summarise the current state of temperature-related tenant rights in Canada, [2] evaluate the effectiveness of regional residential tenancy legislation in protecting tenants, and [3] use local case studies from British Columbia, Toronto, and Oregon to analyse different legal adaptations to residential tenancy agreements in preparation for extreme weather events.

Considering the centrality of various forms of social, political and economic power and oppression to this research, it is important to preface our report with a discussion of our positionality as researchers. We are three undergraduate students who are settlers on the unceded territory of the xwməθkwəy̓əm (Musqueam), Skwxwú7mesh (Squamish), Stó:lō and Səlilwətaʔ/Selilwitulh (Tsleil-Waututh) Nations. Although our report lacks a comprehensive analysis of how colonial power structures operate within the housing sector, the housing injustices that we seek to study are deeply intertwined with the ongoing processes of dispossession, privatisation, and commodification of land that characterise settler colonialism in North America.³ As students who are also renters, we bring to this research our own personal experiences as tenants who have faced exploitative landlords and who struggled during the heatwave last summer.

The research summarised in this report was conducted as part of the Climate Justice Research Collaborative (CJRC) at the University of British Columbia. The research team was composed of three undergraduate students, one graduate student mentor, and a supervising professor from the UBC Centre for Climate Justice. The aim of the CJRC program is to provide cohorts of undergraduate students with the opportunity and skillset to conduct interdisciplinary research in collaboration with a community partner organisation. This report is intended to benefit British Columbia’s Tenant Resource and Advisory Centre (TRAC) by providing insight into the implications of extreme weather events and climate change on tenant rights, such that TRAC may be equipped to support tenants and advocate to local and provincial governments accordingly.

¹ Tiffany Crawford, S. B. (2021, July 1). *B.C. Heat Wave Update for June 30: Chief coroner reports hundreds died from heat over past five days: Wildfire takes control of Lytton*. vancouver.sun. Retrieved April 24, 2022, from <https://vancouver.sun.com/news/local-news/bc-heatwave-heres-the-latest-on-rising-temperatures-in-metro-vancouver>

² Philip, S. Y., Kew, S. F., van Oldenborgh, G. J., Anslow, F. S., Seneviratne, S. I., Vautard, R., ... & Otto, F. E. (2021). Rapid attribution analysis of the extraordinary heatwave on the Pacific Coast of the US and Canada June 2021. *Earth System Dynamics Discussions*, 1-34.

³ Blomley, N., & Right to Remain Collective. (2019). *Law and property relations: Contesting the ‘outlaw’ zone. Housing justice in unequal cities*, University of California, Los Angeles, CA.

2. HOUSING RIGHTS IN BRITISH COLUMBIA

a. The Current State of Residential Tenancy Laws in British Columbia

While the current state of BC Legislation surrounding extreme weather events caters very carefully to periods of extremely low temperatures, virtually no provisions are included in BC Tenancy Agreements to protect tenants from unsuitable conditions during periods of extreme heat. The recent heatwave in B.C., which reached temperatures of 49.6°C⁴, has therefore revealed a concerning gap in the protective legislation that tenancy agreements are meant to be. Within the Residential Tenancy Act of B.C., explicit requirements for units to have discrete cooling and heating systems is absent.⁵ Instead, regulations state that if a unit has a pre-existing service or facility that is “essential to the tenant’s use of the rental unit as a living accommodation...,” then a landlord may not essentially terminate or restrict the use of that service/facility.⁶ While this legislation shows promise of providing legal precedence for court cases regarding inadequate cooling systems in housing units, clarifications and definitions listed in the first few pages of the BC Residential Tenancy Act⁷ do not define services and facilities to explicitly include cooling systems.⁸ This has therefore resulted in minimising the necessary legal precedence required for tenants to prove unsuitable living conditions during periods of extreme heat.

City of Vancouver Standards of Maintenance By-Law No. 5462, clauses 18, 21.4, 21.9, 21.13, and 21.14⁹ all provide rather extensive requirements for heating system maintenance and adequate temperature standards in units via minimum temperatures.¹⁰ However, the by-laws do not include any specifications regarding maximum temperatures that units may legally reach, aside from the slight implication that ventilation systems capable of one full air change per hour—which are commonly considered to be at least adjacent in function to air-conditioning systems such that all air-conditioning equipment are considered ventilation units¹¹—are necessary and may not be replaced with heating systems.¹²

b. Case Studies of Tenant Experiences During Periods of Extreme Weather in British Columbia

In order to equip the general tenant population of British Columbia with the information necessary to support any legal claims for all damages caused by extreme weather events, and specifically extreme heat events, it can be beneficial for tenants to inform themselves about past Residential Tenancy Branch Court Decisions related to heat. This may allow tenants to strengthen their argument in small-claims court, and provide precedence for legal action in district court.

A review of all residential tenancy branch decisions related to extreme climates, heating and cooling systems, and all other temperature-related court cases has revealed a few commonly successful claims worth keeping in mind when preparing to file any sort of complaint regarding inadequate temperatures in housing units:

⁴ Tiffany Crawford, S. B. (2021, July 1). *B.C. Heat Wave Update for June 30: Chief coroner reports hundreds died from heat over past five days: Wildfire takes control of Lytton*. vancouver.sun. Retrieved April 24, 2022, from <https://vancouver.sun.com/news/local-news/bc-heatwave-heres-the-latest-on-rising-temperatures-in-metro-vancouver>

⁵ Residential Tenancy Branch, Lieutenant Governor in Council., *Residential Tenancy Act [SBC 2002] CHAPTER 78* (2000). Victoria; British Columbia, Residential Tenancy Branch.

⁶ Residential Tenancy Branch, Lieutenant Governor in Council., *Residential Tenancy Act [SBC 2002] CHAPTER 78*, Part 2 — Residential Tenancies — Rights and Obligations, Division 4 — During a Tenancy, 27. Terminating or Restricting Services or Facilities (2000). Victoria; British Columbia, Residential Tenancy Branch.

⁷ Residential Tenancy Branch, Lieutenant Governor in Council., *Residential Tenancy Act [SBC 2002] CHAPTER 78*, Part 1 — Introductory Provisions, Division 1 — General, 1. Definitions (2000). Victoria; British Columbia, Residential Tenancy Branch.

⁸ Residential Tenancy Branch, Lieutenant Governor in Council., *Residential Tenancy Act [SBC 2002] CHAPTER 78*, Part 1 — Introductory Provisions, Division 1 — General, 1. Definitions (2000). Victoria; British Columbia, Residential Tenancy Branch.

⁹ Council of the City of Vancouver, & Henry, R., Standards of maintenance by-law no. 5462 (2014). Vancouver; City of Vancouver.

¹⁰ See Appendix A to read full length City of Vancouver Standards of Maintenance By-Law 5462, clauses 18, 21.4, 21.9, 21.13, and 21.14.

¹¹ Council of the City of Vancouver, & Henry, R., Standards of maintenance by-law no. 5462, 7. Exterior Walls, 20. Natural Light and Ventilation, 21. Maintenance standards for Lodging Houses (2014). Vancouver; City of Vancouver.

¹² See Appendix A to read full length City of Vancouver Standards of Maintenance By-Law 5462 clause 21.9.

[1] Inadequate control of heating/cooling unit's thermostats across the entire housing unit, leading to some areas being distinctly too hot or too cold compared to other areas and units, which includes the following Residential Tenancy Branch Decisions¹³:

[1.1] 032016_6211 Tenant complained that the rental unit was not heated adequately and lacked control of heat settings in the unit such that the growth of mold was unavoidable. Final judgement stated that the tenant did not have enough proof for the balance of probabilities that the tenant suffered actual losses due to lack of heating.¹⁴

[1.2] 072014_2375 Tenant argued that the heating system needed repairs, and that they had no control over the heating system itself such that it needs to be upgraded.¹⁵ Final judgement awarded monetary compensation to the tenant for their loss of enjoyment of the rental unit.

[1.3] 082014_1063 Tenancy agreement stated that all utilities would be provided for a unit, but the landlord failed to inform tenants of the lack of a thermostat in the basement suite needed to control natural gas furnaces. The tenant stated that the only source of heat was a plug-in heater, and was in a good position to receive a monetary reprieve for their discomfort in the unit, but the decision was dismissed due to a bureaucratic issue regarding the tenant writing the wrong forwarding address on a legal form.¹⁶

[1.4] 07214_4240 Tenant received \$100.00 compensation for their unit's temperature being inadequately controlled and distributed evenly across the unit such that indoor house plants could not survive and had to be thrown away.¹⁷

[1.5] 122010_1417 - Tenant had complained that the unit's HVAC system was not functioning properly, and that utilities provided included a heating system but no air conditioning system. Tenant further complained that there was only a single heat control system in the rental unit, which was placed adjacent to a hot water system that caused temperatures to vary greatly across the unit. Tenant's application was dismissed only on the basis of repairs being minimal and inconveniences in this specific case being relatively minor.¹⁸

[2] Lack of tenant control over temperature regulation systems in their individual unit such that landlords must be called on to reset temperature regulation systems to the desired temperature

¹³ All Residential Tenancy Branch decisions were retrieved by accessing the ww2.bc.gov.ca page via route: Home < British Columbians and Our Government < Services & policies for government < Service experience and digital delivery < web standards and guides < Enhanced Search Manual. Key search terms and phrases included combinations of the words "heat", "heat-wave", "heat dome", "temperature", "thermostat", "cold", and "weather". Search was also constrained to all cases post-2002, as the last major revisions to applicable sections of the B.C. Residential Tenancy Act were approved in November of 2002.

¹⁴ Decision 032016_6211, *A matter regarding David Burr LTD. and [tenant name suppressed to protect privacy]*, Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch March 9, 2016).

¹⁵ Decision 072014_2375, [No Title], Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch August 18, 2014).

¹⁶ Decision 082014_1063, [No Title], Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch August 29, 2014).

¹⁷ Decision 082014_1063, *A matter regarding AQUARIUS APTS. LTD. and [tenant name suppressed to protect privacy]*, Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch July 17, 2014).

¹⁸ Decision122010_1417, [No Title], Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch 2010).

anytime a tenant has a complaint, which includes the following Residential Tenancy Branch Decisions:

[2.1] 032012_1566 Landlord had placed a lock-box on the thermostat in December of the year this claim was filed, and tenants reported varying temperatures between the upper and lower levels of their unit. Tenants also provided proof that the thermostat located in their unit controlled the entire upper and lower units, but the cost of heating was placed only on those living in the unit containing the locked thermostat. Final judgement warranted a \$1350.00 one-time rent reduction plus an additional \$100.00 reduction in rent per month that the landlord fails to remove the lock-box on the thermostat.¹⁹

[2.2] 062014_2429 Landlord's agent had turned off the heating in the building for 15 days, leading 34 tenants to be generally happy with the level of heating provided in the building, and other tenants to be too hot in the summer. Final decision suggested the two parties solve this conflict internally. There is some indication that there was tenant dissatisfaction at not being able to control the amount of heating supplied to individual housing units.²⁰

[3] Landlord failure to correct overheating issues in rental units, often forcing tenants to move out of the unit itself and search for new housing accommodations, which includes the following Residential Tenancy Branch Decisions:

[3.1] 032013_1000 Landlord failed to correct an overheating problem in the rental unit, which led to people moving out of the unit itself. The landlord failed to deal with the heating problem in the rental unit in a timely manner and damages in the amount of \$250.00 were issued.²¹

[3.2] 012010_1000 Tenants requested monetary compensation for being forced to move out of their unit on short notice. Tenants claimed \$5000 dollars for the pain of moving into a non-air-conditioned accommodation during a heatwave, and the final decision found the tenants to be entitled to a one-time total payment of \$7500.00.²²

[4] and lack of architectural and structural suitability of housing units to account for periods of extreme heat such as:

[4.1] lack of building-wide and centralised ventilation systems capable of removing smog, toxic fumes, excess moisture, and excess insect infestation which includes the following Residential Tenancy Branch Decisions:

¹⁹ Decision 032012_1566, [No Title], Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch March, 2012).

²⁰ Decision 062014_2429, *A matter regarding Hardy Enterprises Limited and [tenant name suppressed to protect privacy]*, Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch June 30, 2014).

²¹ Decision 032013_1000 *A matter regarding HK Pacific Holdings Ltd. and [tenant name suppressed to protect privacy]*, Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch March 21, 2013).

²² Decision 012010_1000, [No Title], Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch January 4, 2010).

[4.1a] 082016_6393 Tenant complained about smoky air and toxic air during the heatwave such that the tenant couldn't even open a window due to the strong smell. The tenant's application was dismissed due to a lack of tangible proof.²³

[4.1b] 092015_6388 Temperature inside the unit was 36 degrees celsius or more, such that tenants were overheating. Tenants requested rent back for the month of July due to a breach of the tenancy agreement where they had no heat in winter and no ventilation during the heatwave. Final decision agreed with the tenants and ordered the landlord to return rent to the tenants for the month of July.²⁴

[4.1c] 032016_6922 Tenant complained about an invasion of flies and bees in their unit. Treatments occurred during the recent B.C. heatwave and the tenant was not allowed outside of the unit, leading to loss of enjoyment. The tenant requested \$225 for suffering from heat and more, but this claim was dismissed on account of the speed at which treatment occurred and minimal loss of enjoyment proven.²⁵

While these case studies are useful for both tenants and landlords in assessing their rights within residential tenancy agreements, there are a number of somewhat 'vague' aspects to almost every case study mentioned that make it difficult for parties to prepare themselves legally. For example, the majority of the tenant complaints and small courts claims rely on the ability of the tenant to prove a 'loss of enjoyment of the unit' due to a breach of a tenancy agreement by landlords or related parties. Cases in which tenants were not granted a final decision in their favour often failed to support evidence that proved loss of enjoyment of the unit to an extent that a judge could warrant any monetary or other appropriate reparations.

Not only this, but a number of small court claims tenants appear to be subject to unsuitable living conditions not necessarily because of a landlord's breach of their tenancy agreement, but because the building's structure and design inadequately distributes the efforts of heating and cooling systems equally to all renters in a building with multiple units. Essentially, it appears that multi-unit housing accommodations in British Columbia often have centralised heating systems that either can only be controlled by one thermostat which is inconveniently located or guarded, or only functions to heat buildings to at least the legal minimum temperature allowed in buildings and cannot adequately act as a cooling system during periods of extreme heat.

While landlords are somewhat responsible for providing additional heating or cooling units to ensure temperatures in units are at least above the minimum temperature allowed, the plethora of small court claims that reference lack of adequate cooling systems in buildings seems to be a function of building design flaws. Similar to the Residential Tenancy Agreement legislation, British Columbia Building Code 790, Part 9: Housing and Small Buildings, Division B: Acceptable Solutions, Section 9.33 only mandates that heating and cooling

²³ Decision 082016_6393, [No Title], Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch August 8, 2016).

²⁴ Decision 092015_6388, [No Title], Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch September 25, 2015).

²⁵ Decision 032016_6922, *A matter regarding The Capital Region Housing Corporation and [tenant name suppressed to protect privacy]*, Residential Tenancy Branch Office of Housing and Construction Standards, (B.C. Residential Tenancy Branch March 14, 2016).

systems must be able to function to heat the entire property to a minimum temperature, but include no maximum temperature or cooling-system specific requirements.²⁶

c. Current State of Activism Surrounding Climate Change and Housing Rights

There is no shortage of organisations in British Columbia that aim to advocate for tenant rights and educate the public on their rights as both landlords and tenants; these organisations include: [1] Tenants Resource and Advisory Centre (TRAC), [2] Victoria Tenant Action Group, [3] Vancouver Tenants Union, [4] Together Against Poverty Society, [5] Ready to Rent, [6] PovNet, and many more²⁷. While a number of them have been involved in and hosted educational events for tenant rights during periods of extreme weather, especially in the context of climate change, there seems to be a lack of interconnectedness between B.C. non-profit organisations such that a provincial housing right movement has never formed to its full potential. The last mass mobilisation of tenants to form a housing-rights movement occurred from 1968 to 1975, a full 54 years ago from its initiation, and was largely unsuccessful in obtaining collective rights for tenants²⁸.

Small legal disputes via class action lawsuits have been formulated since the 1968 movement, such as the 2018 attempt by 450 tenants of the Regent Hotel to join claims against the landlords as a class action. The British Columbia Court of Appeal (BCCA), however, rejected this attempted class action lawsuit, and required each individual tenant to file their claims separately in dispute resolution court at the Residential Tenancy Branch. This case, commonly referred to as the *Gates v. Sahota* dispute, metaphysically isolated individual tenants such that tenants are unable to effectively engage in “collective bargaining or take collective action against their landlords (such as withholding rent) for fear of breaching individual contractual obligations.”²⁹ Further adding to this injustice was the economic stagnation that British Columbia saw in the 1970s to 1980s, where rental vacancy rates were incredibly low, and poor or displaced peoples were cut off from accessing the housing market altogether. Economic stagnation caused the cost of housing to increase far more rapidly than average household incomes were rising, which effectively compounded the impact of already low rental vacancy rates and high rental costs to make the housing market inaccessible for all other than the upper class.³⁰ It can be argued that the state of affairs within the housing sector in British Columbia throughout the late 1900s provided a foundation for much of the systemic housing inequities seen today, suggesting that the current state of activism regarding tenant rights is continually suppressed by these systemic inequalities.

Tenant communities remained largely without collective bargaining rights until the formation of the Vancouver Tenants Union on April 29th, 2017, which further prompted British Columbia’s New Democratic Party government under Premier John Horgan to create the Rental Housing Task Force, which was responsible for surveying the state of tenant and landlord contracts in BC and proposing amendments to the Residential Tenancy Act.³¹ The Vancouver Tenants Union has been quite active over the past 5 years, with a number of active neighbourhood chapters in East Side, Fairview, Joyce-Collingwood, Mt. Pleasant, West End & Coal Harbour, and West Side Vancouver.

²⁶ B.C. HOUSING, *Design Guidelines and Construction Standards 2019*. B.C. Housing, British Columbia Provincial Government (2019).

²⁷ *Other tenant organizations*. TRAC. (2020, July 16). Retrieved April 24, 2022, from <https://tenants.bc.ca/other-tenant-organizations/>

²⁸ Jon, P. S. (2020). Tenant Organizing and the Campaign for Collective Bargaining Rights in British Columbia, 1968–75. *BC Studies — The British Columbian Quarterly*, No. 206., 31–32. <https://doi.org/https://doi.org/10.14288/bcs.v0i206.192318>

²⁹ Jon, P. S. (2020). Tenant Organizing and the Campaign for Collective Bargaining Rights in British Columbia, 1968–75. *BC Studies — The British Columbian Quarterly*, No. 206., 31–40. <https://doi.org/https://doi.org/10.14288/bcs.v0i206.192318>

³⁰ Gilbert, L. J. (1989). *Housing trends and the role of public policy in generating homelessness : a case study of Vancouver, British Columbia* (T). University of British Columbia. Retrieved from <https://open.library.ubc.ca/collections/ubctheses/831/items/1.0097903>

³¹ Jon, P. S. (2020). Tenant Organizing and the Campaign for Collective Bargaining Rights in British Columbia, 1968–75. *BC Studies — The British Columbian Quarterly*, No. 206., 57–58. <https://doi.org/https://doi.org/10.14288/bcs.v0i206.192318>

The collection of organisations in B.C. advocating for housing and tenant-rights all appear to be very active as individual units, and often work together to examine a variety of tenant-related issues in B.C. Despite this, it appears clear that the state of housing and tenant-right activism in B.C. would benefit from a broad, collective movement that pushes for a reevaluation of the current residential tenancy act and its inability to protect tenants from unsuitable living conditions as climate change alters environmental conditions drastically.

d. Key Takeaways & Conclusion

As has been demonstrated in the previous section, tenants in British Columbia are fighting a steep uphill battle, while facing a plethora of barriers to the successful reclamation of their rights as tenants. These barriers can be classified into three major categories:

[1] Within the legal housing system in B.C, there is a discrete lack of procedural justice for tenants who have reasonable complaints. Tenant dispute claims have repeatedly been negated in court due to the consideration of the tenants' evidence that they experienced a 'loss of enjoyment of their units as inadequate. Hundreds of court cases have been resolved in favour of landlords or rental agencies rather than tenants based solely on the lack of definitive proof of loss of enjoyment, a phrase that has remained incredibly vague and put tenants at a legal disadvantage for decades.

[2] The capitalocentric development of the housing market in B.C. and the subsequent structure of all official government housing agencies has undeniably perpetuated systemic issues of inequity across various social classes. This effectively results in the isolation of low-income, disadvantaged, and marginalised communities from the resources necessary to understand their rights as tenants and take legal action when those rights are being infringed upon.

[3] Lastly, the fragmentation of the tenant community within B.C. and the historical failures of previous housing-rights movements makes it difficult for organisations to call for mass mobilisation to form a community-led movement.

The first two issues are systemic, pervasive, and not easily remedied due to their implicit influence on almost all tenant-landlord and housing-related interactions. However, the fragmentation of tenant communities across B.C. is a much more approachable issue, and as such, it could be suggested that while housing-rights organisations push policymakers to revise residential tenancy legislation to account for extreme weather events due to climate change, they should also direct attention to fostering a greater sense of community between tenants beyond the city-specific tenant unions that have been formed.

3. TENANT PROTECTIONS IN EXTREME WEATHER IN CANADA

a. Overview of Existing Legislation Across Canada

Temperature-related protections for tenants are established in the provincial Residential Tenancy Act (RTA) and/or in municipal codes. Most provinces in Canada have established a minimum temperature threshold required for residential rental properties, although some either leave this regulation to the discretion of municipalities or simply specify that landlords must maintain a “habitable” indoor temperature and not compromise the health and safety of the tenant (see appendix B for more details). There are no maximum temperature provisions that exist at the provincial level in Canada, but three municipalities (Toronto,³² Mississauga³³, and Ajax³⁴) have a partial 26°C maximum temperature threshold in place. In all three of these cases, it applies only to buildings in which an AC system is already installed.

Regulations on indoor temperature for rental properties vary in structure. In some provinces, the regulation applies during only half of the year (e.g. Ontario). Some regulations differentiate between allowable temperatures during the night versus during the day (New Brunswick & Manitoba). Some mandates vary depending on outdoor temperature (e.g. Montreal, Saskatoon, Alberta). Although most laws and bylaws establish a specific temperature threshold, some simply state that the indoor temperature must be habitable or appropriate for a tenant’s health and safety (e.g. (Nova Scotia, Quebec, Northwest Territories, Nunavut, Saskatchewan, and Newfoundland & Labrador).

i. Limitations to existing temperature protections in Canada

With increasing incidence of out-of-season weather patterns, temperature requirements for rental properties that apply only within a certain date range may be inadequate to ensure the safety of tenants. Tenants and advocacy groups report that minimum temperature thresholds that only apply between June-September (e.g. in Ontario) create confusion and leave some tenants without sufficient protection during spring and fall months. The HVAC systems in large buildings often require a trained professional to adjust, so landlords will opt to leave heating on during the entirety of the six-month period when the minimum temperature provision is in effect, even when outdoor temperatures are high. This led to multiple instances (described in more detail in section b.i) in which tenants were exposed to hazardously high temperatures due to their inability to control their own heating systems or compel their landlord to make necessary adjustments.

It appears that the Residential Tenancy Act’s broader requirement that landlords provide safe living conditions for tenants, if not accompanied by a maximum temperature clause, does not apply to conditions of extreme heat. This is likely because excessive heat has not, until recently, been seen as a threat to tenants’ safety in Canada and because air conditioning is not specified as a service that landlords are required to provide.

ii. Barriers to Enforcing Temperature-Related Protections for Tenants

The minimum temperature requirement can be enforced by a city bylaw enforcement officer or through the local Residential Tenancy Branch (RTB).³⁵ Because a lack of heat may constitute an emergency, tenants in

³² City of Toronto, by-law No. 930-2000, The Property Standards Bylaw (2000). <https://www.toronto.ca/legdocs/bylaws/2000/law0930.pdf>

³³ City of Mississauga, by-law No. 0110-2018, Adequate Temperature By-law (2018). <https://www.mississauga.ca/wp-content/uploads/2019/06/29113946/Adequate-Temperature-By-law-0110-2018.pdf>

³⁴ Town of Ajax, By-Law Number 47-2017, Rented Dwelling Temperature By-law. (2017) <https://www.ajax.ca/Modules/bylaws/Bylaw/Download/67fb7537-3ba1-41f7-9636-79f70005a990>

³⁵ Davie, E. (2018). Halifax tenants fighting landlords over cold apartments have law on their side. *CBC*. <https://www.cbc.ca/news/canada/nova-scotia/cold-apartments-halifax-tenant-landlord-by-law-1.4502341>

some circumstances can front the cost of repairs and request compensation from their landlord after the fact.³⁶ Enforcement through the RTB tends to be slow, places a high burden of proof on the tenant, and requires the tenant to have significant time, money, and technological and legal literacy. Additionally, even in emergency situations, landlords are only required to prove that they are making “every effort” to fix the issue.³⁷ As such, there are numerous cases in which the minimum temperature requirement is insufficiently enforced.^{38,39,40} Tenants who are socially and politically marginalized (e.g. low-income, Indigenous, refugee, or undocumented tenants) often face more extreme forms of exploitation by landlords and may be less likely to report their landlords to the city or province.⁴¹ The lack of affordable housing in many Canadian cities means that renters are forced to accept substandard living conditions; many tenants report that, in such a tight rental market, they fear eviction as a repercussion for attempting to hold their landlord accountable for health and safety standards.⁴²

In the absence of a maximum temperature threshold that landlords are compelled to meet, tenants will often purchase mobile AC units themselves. In some provinces (e.g. Ontario and Quebec), however, it is legal for landlords to prohibit tenants from installing or running AC in the lease agreement.^{43,44} There is substantial anecdotal evidence, from multiple provinces, of landlords providing false information, using coercion, or harassing tenants (including attempted eviction, which occurred in Burnaby and Surrey during the 2021 heatwave⁴⁵) to prevent tenants from installing and running air conditioning in order to avoid bearing additional costs.⁴⁶ Most provincial landlord-tenant law does not establish clear protections for tenants in these situations.⁴⁷

b. A Case Study of Toronto’s Maximum Temperature Bylaw

i. *Existing Temperature-Related Provisions in Toronto Landlord-Tenant Law*

As one of three municipalities in the country that has implemented a partial maximum temperature requirement in residential rental properties, Toronto provides a useful case study for 1) evaluating existing legislation that guarantees tenants’ safety from extreme heat and 2) understanding the barriers to enacting more rigorous protections, including a maximum temperature provision that applies to all rental properties. Relative to

³⁶ Lalonde, M. (2018). Tenants struggle to get landlords to crank up the heat as mercury dives. *Montreal Gazette*. <https://montrealgazette.com/news/local-news/tenants-struggle-to-get-landlords-to-crank-up-the-heat-as-mercury-dives>

³⁷ CBC News staff. (2022). Montreal tenants without heat as landlord struggles to get parts during pandemic. *CBC*. <https://www.cbc.ca/news/canada/montreal/heat-montreal-building-cogir-landlord-1.6361816>

³⁸ O’Shea, S. (2019). Toronto tenant stuck with no heat, water in apartment amid bitter cold temperatures. *Global News*. <https://globalnews.ca/news/4873043/no-heat-water-toronto-apartment/>

³⁹ Shields, B. & Rowe, D. (2022). Two weeks later, some tenants remain without heat in bitter Montreal cold. *CTV News*. <https://montreal.ctvnews.ca/two-weeks-later-some-tenants-remain-without-heat-in-bitter-montreal-cold-1.5759095>

⁴⁰ Levy-McLaughlin, R. (2018). Toronto heat regulations are cold comfort when the landlord’s furnace fails. *The Globe & Mail*. <https://www.theglobeandmail.com/news/toronto/heat-regulations-are-cold-comfort-when-the-landlords-furnace-fails/article37509749/>

⁴¹ Warick, J. (2022). Apartment heating broken for 10 days, leaving Saskatoon refugee, Indigenous families chilled during cold snap. *CBC*. <https://www.cbc.ca/news/canada/saskatoon/refugee-indigenous-families-cold-snap-apartment-1.6308662>

⁴² Cohen, S. (2021). 'It's not OK.' *CBC*. <https://newsinteractives.cbc.ca/longform/landlords-game-living-with-northview>

⁴³ Sucar, D. (2019). Montreal’s seniors especially vulnerable during heat wave. *Montreal Gazette*. <https://montrealgazette.com/news/local-news/montreals-seniors-especially-vulnerable-during-heat-wave>

⁴⁴ McKeown, D. (2015). Reducing Health Risk from Extreme Heat in Apartment Buildings. Report No. HL5.5. *City of Toronto*. <https://www.toronto.ca/legdocs/mmis/2015/hl/bgrd/backgroundfile-81510.pdf>

⁴⁵ Campbell, C. (2021). Burnaby tenant 'lawyering up' after landlord's threats for using an air conditioner. *Vancouver Is Awesome*. <https://www.vancouverisawesome.com/local-news/burnaby-tenant-lawyering-up-after-landlords-threats-for-using-an-air-conditioner-3922769>

⁴⁶ Mullin, M. (2017). Are air conditioning fees for renters the new normal? *Canadian Broadcasting Corporation*. https://www.cbc.ca/news/canada/toronto/air-conditioning-fees-1.4231001?cmp=rss&utm_source=dlyr.it&utm_medium=twitter

⁴⁷ Steps to Justice (2018). What are the rules about air conditioners? *Steps to Justice*. <https://www.google.com/url?q=https://stepstojustice.ca/steps/housing-law/3-learn-rules-about-extra-rent-added-services/&sa=D&source=docs&ust=1650687879217959&uag=AOvVaw3UrVhKuCiXECyN-3HK3pUy>

Vancouver, Toronto has more days with extreme heat (>30°C) per year.⁴⁸ The percentage of buildings with air conditioning installed is also much higher in Toronto (~85%) than in Vancouver (~28%).⁴⁹

A bylaw (Municipal Code 629-38; bylaw no. 930-2000) has been in place in Toronto since 2000 that requires indoor temperature in rental properties to not exceed 26°C from June 2 to September 14. However, it only applies to buildings that already have an air conditioning system installed.⁵⁰ This law does not require that landlords install air conditioning, heat pumps, or any other cooling technology where it does not already exist. It does require landlords to maintain existing AC systems in good working condition.⁵¹

Since at least 2007, the municipal government has been considering a maximum temperature mandate that would apply to all residential rental units. As the frequency of severe heat waves across the continent increases, Toronto City Council faces increased pressure—both externally from tenant and climate advocacy groups (e.g. ACORN,⁵² CELA⁵³) and internally from particular councillors^{54,55}—to implement more stringent regulations on indoor heat. In 2007, the Toronto Board of Health formally recommended that a maximum temperature provision be added to city bylaws,⁵⁶ and in 2018 the Tenants Issues Committee of City Council approved a letter in support of a 26°C maximum temperature requirement in rental properties.⁵⁷ However, reports from Toronto Public Health (2017) and Municipal Licensing and Standards (2018) recommended against implementing the proposed bylaw at the time, for reasons discussed in more detail below.^{58,59} Public consultations completed by the Toronto Municipal Licensing and Standards division in 2015 and 2018 found that tenants and advocacy groups were generally in favour of a universal maximum temperature mandate for residential rental properties, while landlords were not, primarily due to cost concerns.⁶⁰ The city has yet to pass a bylaw requiring all residential landlords to provide cooling in summer months.

Unseasonably warm temperatures in September of 2017⁶¹ and May of 2018⁶² and 2021⁶³ sparked numerous complaints from tenants whose heating had already been turned on and were experiencing temperatures of upwards of 30°C in their apartments. This prompted the City of Toronto to reconsider the efficacy of

⁴⁸ Gower, S. Mee, C. & Campbell, M. (2011). Protecting Vulnerable People from Health Impacts of Extreme Heat. *Toronto Public Health*. http://www.climateontario.ca/doc/ORAC_Products/TPH/Protecting%20Vulnerable%20People%20from%20Health%20Impacts%20of%20Extreme%20Heat.pdf

⁴⁹ Statistics Canada. Table 38-10-0019-01 Air conditioners. DOI: <https://doi.org/10.25318/3810001901-eng>

⁵⁰ City of Toronto municipal code. No. 629, s. 38. Property Standards (2000). https://www.toronto.ca/legdocs/municode/1184_629.pdf

⁵¹ City of Toronto, by-law No. 930-2000, The Property Standards Bylaw (2000). <https://www.toronto.ca/legdocs/bylaws/2000/law0930.pdf>

⁵² Unknown (2021). NDP demands protections for renters living in hot apartments. *Ontario NDP*

. <https://www.ontariondp.ca/news/ndp-demands-protections-renters-living-hot-apartments>

⁵³ Wilson, J. & Carens-Nedelsky, D. (2015). ITEM HL8.5: Update on Extreme Heat and Maximum Indoor Temperature Standard for Multi-unit Residential Buildings. *Canadian Environmental Law Association*. https://cela.ca/wp-content/uploads/2019/07/1044_Presentation-to-Toronto-Board-of-Health-on-Maximum-Temperature_0.pdf

⁵⁴ Bell, J. (2021). ACT NOW: Keep renters safe & cool! Jessica Bell MPP. <https://www.jessicabellmpp.ca/keepcool>

⁵⁵ Wong-Tam, K. & Matlow, J. (2021). Taking Action to Protect Tenants from Extreme Heat. City Council Member Motion 35.19.

<https://www.toronto.ca/legdocs/mmis/2021/mm/bgrd/backgroundfile-169084.pdf>

⁵⁶ Toronto Board of Health (2007). Hot Weather Response Plan Update. Report No. LS 6.5 <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2007.LS6.5>

⁵⁷ Ting, D. (2018). Tenant Issues Committee. Municipal Licensing and Standards - Update on Heat in Apartments. TD7.2.

<https://www.toronto.ca/legdocs/mmis/2018/ex/bgrd/backgroundfile-112777.pdf>

⁵⁸ Yaffe, B. (2017). *Reducing Vulnerability to Extreme Heat in the Community and at Home*. Report No. HL19.5. City of Toronto Medical Officer of Health.

<https://www.toronto.ca/legdocs/mmis/2017/hl/bgrd/backgroundfile-103572.pdf>

⁵⁹ Cook, T. (2018). *Mitigating the Negative Impacts of Extreme Heat in Apartment Buildings*. Report No. LS25.1. City of Toronto Municipal Licensing and Standards.

<https://www.toronto.ca/legdocs/mmis/2018/ls/bgrd/backgroundfile-114428.pdf>

⁶⁰ Cook, T. (2018). *Mitigating the Negative Impacts of Extreme Heat in Apartment Buildings*. Report No. LS25.1. City of Toronto Municipal Licensing and Standards.

<https://www.toronto.ca/legdocs/mmis/2018/ls/bgrd/backgroundfile-114428.pdf>

⁶¹ Pagliaro, J. (2017). City to review rules for apartment temperatures after heat wave. *Toronto Star*.

https://www.thestar.com/news/city_hall/2017/10/04/city-to-review-rules-for-apartment-temperatures-after-heat-wave.html

⁶² Rayment, C. (2018). Too early to force landlords to put air conditioning on, says city. *Toronto Star*.

<https://www.thestar.com/news/gta/2018/05/28/too-early-to-force-landlords-to-put-air-conditioning-on-says-city.html>

⁶³ Lavery, I. (2021). 'We're all just so fed up': Toronto tenants already suffering from the heat because of city bylaw. *Toronto Star*.

<https://www.thestar.com/news/gta/2021/05/18/were-all-just-so-fed-up-toronto-tenants-already-suffering-from-the-heat-because-of-city-bylaw.html>

date-based mandates like bylaw no. 930.⁶⁴ The nearby city of Brampton did temporarily suspend the requirement that landlords provide adequate heat from September 15 to June 1 to encourage landlords to turn off heating to avoid exacerbating the impacts of the heatwave.⁶⁵

Last year Ontario passed a law requiring long-term care facilities to provide at least one communal air-conditioned space for residents.⁶⁶ The City of Toronto is exploring whether this model can be applied to all residential rental properties as a short-term solution to the dangers of extreme heat, particularly in cases where providing AC to all individual units would require substantial building retrofits and high costs.⁶⁷

The Toronto city government created a Heat Relief Work Group in 2019 that has mostly prioritised non-legal strategies for heatwave adaptation, including promoting the community cooling centre network, increasing tree cover and access to other forms of shade, and setting up a neighbour-to-neighbour check-in program for extreme weather events.⁶⁸

ii. Barriers to a universal maximum temperature mandate in Toronto

1. Legal & Regulatory Authority

The legal authority that would enable the city to mandate air conditioning in all rental properties is unclear. According to Toronto Public Health's 2011 report, municipal bylaws can only mandate or prohibit conditions in rental properties related to amenities that are deemed a vital service in the provincial Residential Tenancy Act (which does not include air conditioning).⁶⁹ However, other legal experts see this as a misinterpretation of the RTA, arguing that city bylaws do not have to be limited to the provision of vital services.⁷⁰ The Canadian Environmental Law Association's 2015 report identifies existing legislation that does provide the city with the necessary legal authority to enact a maximum temperature mandate (the *City of Toronto Act* from 2006 and the *Building Code Act* from 1992).⁷¹

Stakeholders are also divided on how to structure a maximum temperature mandate, given the aforementioned issues with minimum temperature requirements that only apply during half of the year. Although elected officials, city staff, tenant associations, and some landlords have suggested making both maximum and minimum thresholds apply during all months of the year, the 2018 Toronto MLS report recommended against shifting the specific dates established in bylaw 930 or the getting rid of the date-based structure altogether.⁷²

⁶⁴ Matlow, J. (2017). Protecting Toronto's Tenants from Extreme Heat. City Council Member Motion 32.50. <https://www.toronto.ca/legdocs/mmis/2017/mm/bgrd/backgroundfile-107593.pdf>

⁶⁵ Brown, N. (2017). City Council Just Suspended Brampton's Adequate Heat Bylaws. *Bramptonist*. <https://bramptonist.com/city-council-just-suspended-brampton-adequate-heat-bylaws/>

⁶⁶ DeClerq, K. (2021). Ont. long-term care homes now have air conditioning, but not all have AC in resident rooms. *CP24*. <https://www.cp24.com/news/ont-long-term-care-homes-now-have-air-conditioning-but-not-all-have-ac-in-resident-rooms-1.5445070?cache=walqrkeg%3Fclipid%3D104056>

⁶⁷ McKeown, D. (2015). Reducing Health Risk from Extreme Heat in Apartment Buildings. Report No. HL5.5. *City of Toronto*. <https://www.toronto.ca/legdocs/mmis/2015/hl/bgrd/backgroundfile-81510.pdf>

⁶⁸ de Villa, E. (2019). *Heat Relief Services Update Report*. Report No. HL3.05. City of Toronto Medical Officer of Health. <https://www.toronto.ca/legdocs/mmis/2019/hl/bgrd/backgroundfile-126531.pdf>

⁶⁹ Gower, S. Mee, C. & Campbell, M. (2011). Protecting Vulnerable People from Health Impacts of Extreme Heat. *Toronto Public Health*. http://www.climateontario.ca/doc/ORAC_Products/TPH/Protecting%20Vulnerable%20People%20from%20Health%20Impacts%20of%20Extreme%20Heat.pdf

⁷⁰ Wilson, J. & Carens-Nedelsky, D. (2015). ITEM HL8.5: Update on Extreme Heat and Maximum Indoor Temperature Standard for Multi-unit Residential Buildings. *Canadian Environmental Law Association*. https://cela.ca/wp-content/uploads/2019/07/1044_Presentation-to-Toronto-Board-of-Health-on-Maximum-Temperature_0.pdf

⁷¹ Wilson, J. & Carens-Nedelsky, D. (2015). ITEM HL8.5: Update on Extreme Heat and Maximum Indoor Temperature Standard for Multi-unit Residential Buildings. *Canadian Environmental Law Association*. https://cela.ca/wp-content/uploads/2019/07/1044_Presentation-to-Toronto-Board-of-Health-on-Maximum-Temperature_0.pdf

⁷² Cook, T. (2018). *Mitigating the Negative Impacts of Extreme Heat in Apartment Buildings*. Report No. LS25.1. City of Toronto Municipal Licensing and Standards. <https://www.toronto.ca/legdocs/mmis/2018/lb/bgrd/backgroundfile-114428.pdf>

2. Technical Barriers

The Toronto MLS report cites two separate but related potential practical barriers to a city-wide air conditioning mandate. The first is that a building's electrical infrastructure might not be able to accommodate increased demand, especially if each apartment uses individual mobile AC units.⁷³ This is of particular concern in older buildings with subpar electrical infrastructure, which are the very buildings that are less likely to have central AC installed.⁷⁴ Second, feasibility studies conducted in 2011 and 2018 report that the electrical grid of the city as a whole may not have the capacity for a significant increase in AC usage in summer months.⁷⁵

3. Municipal Bureaucracy

Over the course of more than a decade, City Council has requested numerous reports from Municipal Licensing and Standards, Toronto Public Health, the Medical Officer of Health, and the Tenant Issues Committee and has conducted multiple rounds of public consultation; however, these reports have yet to result in meaningful policy change. In their most recent motion requesting a new report on heat in rental properties (passed in 2021 in light of the destructive heatwave in British Columbia), Councillors Wong-Tam and Matlow reference delays on previous feasibility studies and consultations, likely due in part to the COVID-19 pandemic, as an explanation for inaction thus far.⁷⁶ Although there is some political will to get a universal maximum temperature requirement passed on the local level (as evidenced in the language of Wong-Tam and Matlow's 2021 motion), the pace of municipal bureaucracy is incommensurate with the urgency of the issue.

4. Cost

Some reports argue that requiring landlords to pay for the cost of installation would be an unfair cost burden, particularly on local "mom-and-pop" landlords.⁷⁷ The city of Toronto has thus far relied on optional financial incentives to encourage more landlords to install AC.⁷⁸ That said, landlord-tenant law compels landlords to pay for other building and maintenance costs, including heating; to extend this requirement to the context of extreme heat requires reframing our understanding of AC as a basic service that is necessary for tenant safety as opposed to an unnecessary luxury. Additionally, the trend toward increasing financialization of housing means that the real estate investment trusts and other corporate landlords that increasingly dominate the rental market have access to credit to absorb the costs of retrofits without significant financial burden.⁷⁹ There are also numerous government programs that are already in place that provide financial assistance to landlords for building retrofits, including AC installation.⁸⁰

City officials are concerned that the costs of requiring air conditioning in every rental property would be borne, in part, by tenants.⁸¹ First, even if the air conditioning installation costs are covered by the landlords or the

⁷³ Yaffe, B. (2017). *Reducing Vulnerability to Extreme Heat in the Community and at Home*. Report No. HL19.5. City of Toronto Medical Officer of Health. <https://www.toronto.ca/legdocs/mmis/2017/hl/berd/backgroundfile-103572.pdf>

⁷⁴ Gower, S. Mee, C. & Campbell, M. (2011). Protecting Vulnerable People from Health Impacts of Extreme Heat. *Toronto Public Health*. http://www.climateontario.ca/doc/ORAC_Products/TPH/Protecting%20Vulnerable%20People%20from%20Health%20Impacts%20of%20Extreme%20Heat.pdf

⁷⁵ Gower, S. Mee, C. & Campbell, M. (2011). Protecting Vulnerable People from Health Impacts of Extreme Heat. *Toronto Public Health*. http://www.climateontario.ca/doc/ORAC_Products/TPH/Protecting%20Vulnerable%20People%20from%20Health%20Impacts%20of%20Extreme%20Heat.pdf

⁷⁶ Wong-Tam, K. & Matlow, J. (2021). Taking Action to Protect Tenants from Extreme Heat. City Council Member Motion 35.19. <https://www.toronto.ca/legdocs/mmis/2021/mm/berd/backgroundfile-169084.pdf>

⁷⁷ Cook, T. (2018). *Mitigating the Negative Impacts of Extreme Heat in Apartment Buildings*. Report No. LS25.1. City of Toronto Municipal Licensing and Standards. <https://www.toronto.ca/legdocs/mmis/2018/ls/berd/backgroundfile-114428.pdf>

⁷⁸ McKeown, D. (2015). Reducing Health Risk from Extreme Heat in Apartment Buildings. Report No. HL5.5. *City of Toronto*. <https://www.toronto.ca/legdocs/mmis/2015/hl/berd/backgroundfile-81510.pdf>

⁷⁹ Zigman, P. & August, M. (2021). Above Guideline Rent Increases in the Age of Financialization. *Renovictions TO*. <https://renovictionsto.com/agi-report/RenovictionsTO-AGIRReport-Final.pdf>

⁸⁰ McKeown, D. (2015). Reducing Health Risk from Extreme Heat in Apartment Buildings. Report No. HL5.5. *City of Toronto*. <https://www.toronto.ca/legdocs/mmis/2015/hl/berd/backgroundfile-81510.pdf>

⁸¹ Yaffe, B. (2017). *Reducing Vulnerability to Extreme Heat in the Community and at Home*. Report No. HL19.5. City of Toronto Medical Officer of Health. <https://www.toronto.ca/legdocs/mmis/2017/hl/berd/backgroundfile-103572.pdf>

government, some tenants may opt not to run AC because they cannot afford a higher electricity bill.^{82,83} Second, current residential tenancy legislation makes it likely that tenants would bear some of the installation costs: landlords in Ontario who invest in building upgrades are able to apply for an above-guideline increase (AGI) of 3% per year for three consecutive years—resulting in an increase of 9% in total that is not necessarily reversed once landlords recoup the costs of their initial investment.⁸⁴ As a result of this policy, an AC mandate may lead to higher rental costs, thereby furthering housing insecurity and increasing tenant vulnerability during heatwaves.⁸⁵

Maximum temperature mandates are relatively new and rare, and there is insufficient research to substantiate these concerns or provide a comprehensive understanding of the actual economic impact of a maximum temperature provision on rental affordability. However, reports on above-guideline increases outside of the context of air conditioning suggest that AGIs can result in increased rates of displacement and gentrification.⁸⁶ Similarly, studies on low-carbon or green energy retrofits in various European cities show that renters bear some of the costs of upgrades, which can exacerbate housing insecurity. In Germany, for example, even in cases where a renter's electricity bill decreased, the increase in rent accompanying retrofits outweighed the savings in electricity costs.⁸⁷ In Sweden, even when landlords are formally prohibited from requesting an AGI after investing in decarbonizing buildings, landlords often combine sustainability retrofits with other upgrades in order to qualify for an AGI.⁸⁸ Bouzarovski et al. describe this process as “low-carbon gentrification” or “energetic gentrification,” arguing that energy retrofits, particularly in more affordable housing, become yet another strategy for capital accumulation by real estate interests like developers and investors.⁸⁹ Los Angeles-based organizations have recommended that the city require that energy retrofit subsidies for landlords be accompanied by explicit restrictions on rent increases and renovations.^{90,91}

c. Conclusions & Key Takeaways.

The City of Toronto has been considering a universal maximum temperature bylaw for rental properties for at least the past fifteen years, but the numerous reports, city council motions, and public consultations have yet to result in any meaningful changes to local bylaws. As this case study has shown, a maximum temperature bylaw has numerous practical barriers and requires a high level of political will.

The following bullet points outline key takeaways from the case study of Toronto that provide useful insight into the possibility of implementing a maximum temperature regulation in Vancouver:

[1] Given that electrical grid capacity appears to be a major concern in Toronto, it will likely be necessary to invest in energy-efficient options for AC that are less likely to cause a blackout. Only around 30% of

⁸² Lakhani, N. (2022). America's hottest city is nearly unlivable in summer. Can cooling technologies save it? *The Guardian*.

<https://www.theguardian.com/us-news/2022/jan/27/phoenix-arizona-hottest-city-cooling-technologies>

⁸³ Gower, S. Mee, C. & Campbell, M. (2011). Protecting Vulnerable People from Health Impacts of Extreme Heat. *Toronto Public Health*.

http://www.climateontario.ca/doc/ORAC_Products/TPH/Protecting%20Vulnerable%20People%20from%20Health%20Impacts%20of%20Extreme%20Heat.pdf

⁸⁴ Cook, T. (2018). *Mitigating the Negative Impacts of Extreme Heat in Apartment Buildings*. Report No. LS25.1. City of Toronto Municipal Licensing and Standards.

<https://www.toronto.ca/legdocs/mmis/2018/l/bgrd/backgroundfile-114428.pdf>

⁸⁵ ACORN staff. Tenant Engagement for maximizing co-benefits in energy and building retrofits. *ACORN Canada*.

https://acorncanada.org/sites/default/files/ACORN%20Tenant%20Engagement%20Report%20-%20Retrofits%20%281%29_0.pdf

⁸⁶ Zigman, P. & August, M. (2021). Above Guideline Rent Increases in the Age of Financialization. *Renovictions TO*.

<https://renovictionsto.com/agi-report/RenovictionsTO-AGIRreport-Final.pdf>

⁸⁷ Wolff, A., & Weber, I. (2017). Case Study: Analyzing the outcome of energetic retrofit from a tenant's point of view—who bears the costs. *Lokale Passung*, 19.

https://www.lokale-passung.de/wp-content/uploads/2018/10/WP_retrofit_Website.pdf

⁸⁸ von Platten, J., de Fine Licht, K., Mangold, M., & Mjörnell, K. (2021). Renovating on Unequal Premises: A Normative Framework for a Just Renovation Wave in Swedish Multifamily Housing. *Energies*, 14(19), 6054. <https://www.mdpi.com/1996-1073/14/19/6054>

⁸⁹ Bouzarovski, S., Frankowski, J., & Tirado Herrero, S. (2018). Low-carbon gentrification: when climate change encounters residential displacement. *International Journal of Urban and Regional Research*, 42(5), 845-863.

⁹⁰ Kirk, C. (2021). Los Angeles Building Decarbonization: Tenant Impact and Recommendations. *Strategic Actions for a Just Economy*.

https://www.saje.net/wp-content/uploads/2021/12/LA-Building-Decarb_Tenant-Impact-and-Recommendations_SAJE_December-2021-1.pdf

⁹¹ Jones, B. (2021). Los Angeles Building Decarbonization: Community Concerns, Employment Impacts, and Opportunities. *Inclusive Economics*.

<https://www.nrdc.org/sites/default/files/los-angeles-building-decarbonization-jobs-impacts-report-20211208.pdf>

households in Vancouver currently have air conditioning,⁹² so requiring AC in rental properties will likely result in a significant increase in electrical demand during summer months. Heat pumps may be a lower-energy option but are currently much more expensive than conventional AC.

[2] It will be important to couple any city- or province- wide air conditioning mandate with subsidy programs and/or a modification to the existing AGI policy to prevent renters from shouldering some of the installation costs. A possible example can be seen in Sweden, which has prohibited landlords from applying for an AGI in compensation for any decarbonization retrofits.⁹³ Although there is a lack of research thus far, a maximum temperature provision could risk becoming a new form of “green gentrification” that exacerbates housing instability in an already unaffordable city.

[3] Despite the existence of minimum temperature requirements in much of Canada, there are seemingly infinite stories of tenants who have been forced to live in their buildings without heat and other legally required services or utilities for weeks. The profit model of landlords relies on spending as little money as possible on the buildings they own, so they often go to great lengths to avoid paying for maintenance or upgrades. The SRO hotels in Vancouver are a stark example of the fact that the formal existence of tenant protections in provincial and local law does not necessarily guarantee tenants protection from hazardous living conditions. This inconsistency between law and reality is not simply a product of private landlord exploitation, but also of intentional government deregulation and neglect.

[3.a] Any future maximum temperature regulation should provide low-barrier pathways to enforcement for tenants and treat AC as a vital service requiring urgent action for maintenance. That said, if not accompanied by a more fundamental change in the balance of power between landlords and tenants, simply passing a new maximum temperature bylaw will likely be insufficient to ensure tenant safety during extreme heat events. An AC mandate should be one component of a more holistic approach to combating extreme heat that also includes natural cooling mechanisms like passive cooling in building design, increased tree and other shade cover, the creation of more reflective surfaces in the city built environment, a communal cooling centre network, neighbour-to-neighbour check-in programs, etc.

[4] The example of Toronto has made it clear that there are numerous practical and financial barriers to implementing a maximum temperature requirement in all rental properties. These are some shorter-term policy changes that are either being considered or have already been implemented in other cities and may serve as a useful and more politically feasible starting point in Vancouver:

[4.a] Mandating at least one communal cooling space in each rental property

[4.b] Making it illegal for landlords to prohibit tenants from installing and/or running AC in individual lease agreements

[4.c] A maximum temperature threshold that only applies to buildings in which air conditioning or heat pumps are already installed

[4.d] A requirement that all new buildings be built with AC and able to accommodate building-wide AC usage in summer months.

⁹² Statistics Canada. Table 38-10-0019-01 Air conditioners. DOI: <https://doi.org/10.25318/3810001901-eng>

⁹³ Bouzarovski, S., Frankowski, J., & Tirado Herrero, S. (2018). Low-carbon gentrification: when climate change encounters residential displacement. *International Journal of Urban and Regional Research*, 42(5), 845-863.

4. HOUSING RIGHTS IN THE UNITED STATES

Aside from the Western provinces of Canada, the 2021 heatwave had also affected the northwestern states of the United States, including Washington and Oregon. On June 28, 2021—the day Lytton, BC first broke the highest temperature record in Canada—Salem, Oregon also broke its 129-year record with a temperature of 47.2°C.⁹⁴ Just the day before, temperatures in Eugene and Downtown Portland hit 43.9°C and 43.3°C, respectively.⁹⁵ Given the similar climatic conditions in BC and Oregon during the heatwave, a comparative analysis of the circumstances surrounding heatwave preparedness between the two regions may reveal valuable insights into the changes required to face future heatwave events in BC.

Oregon was also chosen as our case study given the availability of Multnomah County’s preliminary analysis of heatwave-related deaths and the relatively wide coverage of the 2021 heatwave in the region. The preliminary analysis provides more context around the housing conditions of those who died during the heatwave, which can be used in conjunction with other stories from BC and Oregon to help us better understand the factors that had contributed to the heatwave-related deaths. Furthermore, the Oregon emergency heat relief bill that was derived from the heatwave may serve as a reference for future policy proposals in BC.

a. Context on Tenants’ Risks During the Heatwave in Oregon and BC

Tenants in BC and Oregon, especially those who are elderly or have disabilities, were one of the most vulnerable groups during the heatwave. In Multnomah County, where most of the 96 heat-related deaths in Oregon occurred,⁹⁶ 29 out of the 54 people who were confirmed to have died from the heatwave lived in multi-family dwellings, and all but 10 were 60 years or older.⁹⁷ Similarly, 91% of the 526 people who died in BC were above the age of 60,⁹⁸ and tenants were also more at risk of being impacted by the heatwave due to the lack of protection from the BC Residential Tenancy Act and the inadequacy of older building stock in maintaining cool temperatures during an extreme heat event.^{99,100,101} The following section will discuss the factors that have contributed to this increased risk experienced by tenants during the heatwave in more detail. The story of Jollene Brown – a Portland resident who died during the 2021 heatwave – further illustrates how these factors may interact and contribute to increasing the risks of heat-related deaths of tenants.¹⁰²

b. Factors that Increase Heatwave Risks for Tenants

i. *Lack of regulation on maximum temperature limits and cooling units requirement*

Similar to BC and other provinces in Canada, most states in the US do not have any state-wide mandates on cooling requirements for housing.¹⁰³ Only a few municipalities and counties, such as Montgomery County (Maryland),¹⁰⁴ Tempe (Arizona),¹⁰⁵ and Dallas (Texas),¹⁰⁶ have adopted cooling and maximum temperature requirements into their local regulations. In Oregon specifically, the Oregon Revised Statutes (ORS) 90.320 states

⁹⁴ Templeton, A. (2021, June 29). Perspective on the heat: The Northwest was hotter than the Mojave Desert. *OPB*. Retrieved from <https://www.opb.org>

⁹⁵ Templeton, A. (2021, June 29). Perspective on the heat: The Northwest was hotter than the Mojave Desert. *OPB*. Retrieved from <https://www.opb.org>

⁹⁶ Templeton, A., & Samayoa, M. (2021, August 10). Oregon medical examiner releases names of June heat wave victims. *OPB*. Retrieved from <https://www.opb.org>

⁹⁷ Multnomah County. (2021, June). *Preliminary review on excessive heat deaths*. Retrieved from the Multnomah County website: <https://www.multco.us>

⁹⁸ BC Coroners Services. (2021, November). Heat-related deaths in B.C. knowledge update. Retrieved from the Government of British Columbia website: <https://www2.gov.bc.ca>

⁹⁹ Mariam, B. (2021, June 25). B.C. heatwave raises 'red flag' of older Vancouver rental buildings with no AC. *CityNews*. Retrieved from <https://vancouver.citynews.ca/>

¹⁰⁰ Martins, N., & Bernando, M. (2021, July 28). B.C. chief coroner says air conditioning should be essential in homes, *CityNews*. Retrieved from <https://vancouver.citynews.ca/>

¹⁰¹ Vancouver City Planning Council. (2021, July). *Council members' motion: 5. Planning for extreme heat and air quality mitigation in Vancouver*. Retrieved from <https://council.vancouver.ca/20210720/documents/b5.pdf>

¹⁰² See Appendix C to read the full length of Jollene Brown’s story in Multnomah County’s Preliminary Review on Excessive Heat Deaths report.

¹⁰³ Khimm, S., & Eaton, J. (2021, August 20). As deadly heat waves spread, access to air conditioning becomes a lifesaving question. *NBC News*. Retrieved from <https://www.nbcnews.com>

¹⁰⁴ Montgomery County Government. (2020, April). *Air conditioning requirements in rental townhome or multi-family dwelling unit*. Retrieved from the Montgomery County Government website: <https://www3.montgomerycountymd.gov>

¹⁰⁵ Tempe city code. c. 21, s. 34. https://library.municode.com/az/tempe/codes/city_code?nodeId=CH21NUPREN_ARTIIREHOCO_DIV2REHOST_S21-34THEN

¹⁰⁶ City of Dallas. (n.d.). *Code compliance chapter 27 housing standards manual*. Retrieved from City of Dallas website: <https://dallascityhall.com>

that “A landlord shall at all times during the tenancy maintain the dwelling unit in a habitable condition”.¹⁰⁷ However, there was no specific mention of what temperature is considered “habitable” and landlords are only required to maintain “ventilating, air conditioning, and other facilities ... in good repair if supplied or required to be supplied by the landlord”.

This lack of heat-related regulations can be attributed to how extreme cold has historically been the more prominent cause of concern in the country.¹⁰⁸ Consequently, buildings are required to maintain a certain minimum temperature without any maximum temperature limits. More focus has also been directed toward ensuring a certain minimum temperature by equipping buildings with heating units, rather than preventing room temperature from exceeding a certain upper limit using cooling units.^{109,110}

ii. Inadequate indoor cooling units

Cooling units, such as fans, heat pumps, and air-conditioning, are necessary for maintaining a sufficiently cool indoor temperature and coping with the heatwave. However, buildings and housing in Pacific Northwest cities, such as Portland and Vancouver, are generally unequipped with air conditioning units, given their typically mild climate and average summer temperature that ranges between 12 and 24°C.^{111,112,113} It is also not required for cooling units to be installed in buildings and housing given the aforementioned lack of maximum temperature limits and cooling requirements. In Oregon, landlords might also be disincentivized from supplying air conditioners or other cooling units to avoid being responsible for their maintenance as mandated by ORS 90.320.

Considering all the above factors, the high heatwave-related death rate in BC may be attributed to the lack of air conditioning, given that only 33% of households in BC had some form of air conditioning in 2019.¹¹⁴ In Vancouver, where the highest number of deaths had occurred during the heatwave, the percentage of air-conditioned households is even lower at 28%.¹¹⁵ Lack of air conditioning was also cited as the main cause of death in Multnomah County, as all of those who died did not have central air conditioning in their homes or rental units, and those who did have a portable air-conditioning unit had their units unplugged or malfunctioned.¹¹⁶

To make matters worse, tenants who wanted to install air conditioning units in their own rooms may not be allowed to do so by their landlords or housing authorities due to fear of structural damage, power overloads, or liability issues.¹¹⁷ Potential structural damage is especially a concern for older buildings, as they were not designed with the addition of cooling units in mind.¹¹⁸ In August 2021, the mayor of Beaverton had to reach out to apartment complexes to allow tenants to install their own portable air-conditioning units as tenants were

¹⁰⁷ Oregon Revised Statutes. c. 90, s. 90.320. https://oregon.public.law/statutes/ors_90.320

¹⁰⁸ Khimm, S., & Eaton, J. (2021, August 20). As deadly heat waves spread, access to air conditioning becomes a lifesaving question. *NBC News*. Retrieved from <https://www.nbcnews.com>

¹⁰⁹ Barboza, T., & Vives, R. (2021, October 28). Poor neighborhoods bear the brunt of extreme heat. *Los Angeles Times*. Retrieved from <https://www.latimes.com>

¹¹⁰ National Conference of State Legislatures. (n.d.). District of Columbia landlord and tenant duties. Retrieved from the National Conference of State Legislatures website: <https://www.ncsl.org>

¹¹¹ Milman, O. (2021, July 22). ‘Nowhere is safe’: Heat shatters vision of Pacific north-west as climate refuge. *The Guardian*. Retrieved from <https://www.theguardian.com>

¹¹² NOAA National Centers for Environmental Information. (2022, April). *Climate at a glance: City time series*. Retrieved from the NOAA National Centers for Environmental Information website: <https://www.ncdc.noaa.gov>

¹¹³ NOAA National Centers for Environmental Information. (2022, April). *Past weather: Vancouver Harbour CS, BC CA (CA001108446)*. Retrieved from the NOAA National Centers for Environmental Information website: <https://www.ncei.noaa.gov>

¹¹⁴ Statistics Canada. Table 38-10-0019-01 Air conditioners. <https://doi.org/10.25318/3810001901-eng>

¹¹⁵ Statistics Canada. Table 38-10-0019-01 Air conditioners. <https://doi.org/10.25318/3810001901-eng>

¹¹⁶ Multnomah County. (2021, June). *Preliminary review on excessive heat deaths*. Retrieved from the Multnomah County website: <https://www.multco.us>

¹¹⁷ Khimm, S., & Eaton, J. (2021, August 20). As deadly heat waves spread, access to air conditioning becomes a lifesaving question. *NBC News*. Retrieved from <https://www.nbcnews.com>

¹¹⁸ Mariam, B. (2021, June 25). B.C. heatwave raises 'red flag' of older Vancouver rental buildings with no AC. *CityNews*. Retrieved from <https://vancouver.citynews.ca>

prohibited from doing so even when the heatwave warning was still in effect.¹¹⁹ Tenants living on the upper floors of Home Forward buildings, the largest affordable public housing provider in Oregon, were also banned from installing window air-conditioning units due to concerns over the units potentially falling onto others.¹²⁰ Similarly, a tenant in Surrey, BC was at risk of being evicted by his landlord after installing an air-conditioning unit without permission during the heatwave.¹²¹

With the restrictions on installations of air-conditioning units, tenants may turn toward using fans as their main cooling unit. The use of fans may also be considered ideal as fans are cheaper and more energy-efficient compared to air conditioning. BC Hydro, for instance, warned against the use of air conditioning during the heatwave and instead recommended the use of fans in order to reduce electricity bills and energy use.¹²² A few days before the heatwave started, Multnomah County also distributed fans to help families prepare for the heatwave.¹²³

However, it is still unclear whether fans should be used during extreme heat events. According to Health Canada, fan use can have a cooling effect at temperatures around 34-36°C, but might be counterproductive when temperatures are above 36°C.¹²⁴ Similarly, the World Health Organization, US Center for Disease Control, and Environmental Protection Agency discourage the use of fans when temperatures exceed 35°C.^{125,126} Fan use during high temperatures is discouraged because higher air velocity can accelerate the transfer of heat from the warm surrounding air into the body, thereby accelerating the increase in body temperature.¹²⁷ However, the effect of fan use might vary depending on age and health conditions. Healthy adults may benefit from using fans at temperatures above 35°C as fans can also promote body cooling through sweat production that helps counter the heat gain, but this benefit might be less evident in seniors who have reduced sweat-producing ability.^{128,129} The Multnomah County report also suggests that fans might not have been effective in maintaining cool temperatures for the elderly, as 52% of those who died only had access to fans in their homes or rental units.¹³⁰ Further research is therefore needed to better understand the effect of fan use at high temperatures, especially on seniors and other vulnerable groups.

Another measure commonly taken by cities to cope with the heatwave is the establishment of cooling spaces. For example, Multnomah County set up three 24/7 cooling centres and extended library hours until 8 pm to serve as additional cooling spaces in anticipation of the heatwave.¹³¹ The main issue with this measure is that

¹¹⁹ Vaughn, C. (2021, August 12). Beaverton's mayor asks landlords to ease up on AC rules. *Portland Tribune*. Retrieved from <https://pamplinmedia.com>

¹²⁰ Hayden, N. (2022, February 20). Home Forward will not purchase a/c for all residents despite heat wave deaths. *The Oregonian*. Retrieved from <https://www.oregonlive.com>

¹²¹ Bernardo, M., & Carey, C. (2021, June 28). Surrey man facing eviction after installing air conditioner without permission. *CityNews*. Retrieved from <https://vancouver.citynews.ca>

¹²² BC Hydro. (2021, June). *Keep your summer cool while keeping bills low*. Retrieved from BC Hydro website: <https://www.bchydro.com>

¹²³ Multnomah County [multco]. (2021, June 24). Watch: County program staff distributed fans to families in NE Portland's Cully neighborhood today in anticipation of this weekend's record-breaking heatwave [Tweet]. Retrieved from <https://twitter.com/multco>

¹²⁴ Health Canada. (2011). *Extreme Heat Events Guidelines: Technical Guide for Health Care Workers*. Water, Air and Climate Change Bureau, Healthy Environments and Consumer Safety Branch, Health Canada. Ottawa Ontario, 149.

¹²⁵ The US Environmental Protection Agency & Centers for Disease Control and Prevention. (2016, October). *Climate change and extreme heat: What you can do to prepare*. Retrieved from the US Centers for Disease Control and Prevention website: <https://www.cdc.gov>

¹²⁶ World Health Organization. (2011, January). *Public health advice on preventing health effects of heat*. Retrieved from the World Health Organization website: <https://www.who.int>

¹²⁷ Gagnon, D., Romero, S. A., Cramer, M. N., Kouda, K., Poh, P. Y. S., Ngo, H., ... Crandall, C. G. (2017). Age modulates physiological responses during fan use under extreme heat and humidity. *Medicine & Science in Sports & Exercise*, 49(11), 2333–2342. <https://doi.org/10.1249/mss.0000000000001348>

¹²⁸ Gagnon, D., Romero, S. A., Cramer, M. N., Kouda, K., Poh, P. Y. S., Ngo, H., ... Crandall, C. G. (2017). Age modulates physiological responses during fan use under extreme heat and humidity. *Medicine & Science in Sports & Exercise*, 49(11), 2333–2342. <https://doi.org/10.1249/mss.0000000000001348>

¹²⁹ Tartarini, F., Schiavon, S., Jay, O., Arens, E., & Huizenga, C. (2022). Application of Gagge's energy balance model to determine humidity-dependent temperature thresholds for healthy adults using electric fans during heatwaves. *Building and Environment*, 207, 108437. <https://doi.org/10.1016/j.buildenv.2021.108437>

¹³⁰ Multnomah County. (2021, June). *Preliminary review on excessive heat deaths*. Retrieved from the Multnomah County website: <https://www.multco.us>

¹³¹ Multnomah County. (2021, June). *County expands cooling centers, hours ahead of dangerous weekend heat*. Retrieved from the Multnomah County website:

cooling spaces can be inaccessible or difficult to reach, especially for the elderly and persons with disabilities, as they would have to brace through the outdoor heat. According to an interview of 31 BC residents by Human Rights Watch, members of vulnerable populations such as those who are elderly or have disabilities were not able to go to the cooling centres operated by local governments and First Nations due to the high outdoor temperatures and lack of transportation options to get to the centres.¹³² Residents might also have not been informed of additional transportation resources that can help them reach the cooling centres, as was the case with a Portland resident living in an affordable senior housing complex.¹³³ Relying on libraries as cooling spaces can also be problematic considering that they are not open at night, which is when most heatwave deaths occurred.¹³⁴ The issues surrounding public cooling spaces further highlight the importance of having indoor cooling units that can ensure sufficiently cool temperatures during extreme heat events in people’s own homes or rental units.

iii. Lack of funding

In the US, there are only a handful of funding programs available for home weatherization, heating or cooling unit replacement, and other energy-related costs. These include the federal Low-Income Housing Energy Assistance Program (LIHEAP),¹³⁵ the Environmental Protection Agency and the Department of Energy’s Energy Star Renewable Energy Tax Credit,¹³⁶ and the Internal Revenue Service’s Residential Energy Efficient Property Credit.¹³⁷ The longest-running program, the LIHEAP, had its funding cut from \$5.1 billion in 2009 to \$3.7 billion in 2021.¹³⁸ In addition, funding has mostly been directed toward weatherization for extreme cold events. The Energy Star and the IRS credit programs are also only applicable to homeowners and their principal residences, not to rental units.^{139,140} The lack of funding may, therefore, make it difficult for tenants and landlords to install cooling units or weatherize their rental units given the significant costs that are associated with these activities.¹⁴¹

iv. Lack of awareness around the impact and extent of the heatwave

All of the aforementioned factors might have stemmed from the overall lack of awareness about the extent of the heatwave and its impacts on the most vulnerable communities. This also demonstrates the consequences of climate change where “normal” conditions are no longer relevant to the circumstances today. According to Larisa Ikeda – a Portland resident who started the #StayCoolPDX campaign together with Sunrise Movement PDX to share information on the heatwave – other residents were not aware of how severe the heatwave was going to be,^{142,143} even after warnings of “record-breaking and dangerous heatwave” from the

<https://www.multco.us>

¹³² Human Rights Watch. (2021, October). *Canada: Disastrous impact of extreme heat*. Retrieved from the Human Rights Watch website: <https://www.hrw.org>

¹³³ Peel, S. (2021, July 3). Residents in apartments without air conditioning describe fear and frustration during heat wave. *Willamette Week*. Retrieved from <https://www.wweek.com>

¹³⁴ Templeton, A., & Samayoa, M. (2021, August 10). Oregon medical examiner releases names of June heat wave victims. *OPB*. Retrieved from <https://www.opb.org>

¹³⁵ Benefits.gov. (n.d.). *Low income home energy assistance program (LIHEAP)*. Retrieved from the Benefits.gov website: <https://www.benefits.gov>

¹³⁶ Energy Star. (n.d.). *Renewable energy tax credits*. Retrieved from the Energy Star website: https://www.energystar.gov_credits/renewable_energy_tax_credits

¹³⁷ Internal Revenue Service. (2022, Mar). *Energy incentives for individuals: Residential property updated questions and answers*. Retrieved from the Internal Revenue Service website: <https://www.irs.gov>

¹³⁸ Khimm, S., & Eaton, J. (2021, August 20). As deadly heat waves spread, access to air conditioning becomes a lifesaving question. *NBC News*. Retrieved from <https://www.nbcnews.com>

¹³⁹ Energy Star. (n.d.). *Renewable energy tax credits*. Retrieved from the Energy Star website: <https://www.energystar.gov>

¹⁴⁰ Internal Revenue Service. (2022, Mar). *Energy incentives for individuals: Residential property updated questions and answers*. Retrieved from the Internal Revenue Service website: <https://www.irs.gov>

¹⁴¹ Human Rights Watch. (2021, October). *Canada: Disastrous impact of extreme heat*. Retrieved from the Human Rights Watch website: <https://www.hrw.org>

¹⁴² Funes, Y. (2021, July 5). ‘Patterns of discrimination’: How redlining fueled the heat wave. *Atmos*. Retrieved from <https://atmos.earth>

¹⁴³ Larisa Ikeda [larisaikeda]. (2021, June 25). Urgent call to action [Tweet]. Retrieved from <https://twitter.com/larisaikeda>

National Weather Service Weather Prediction Center and local offices in Seattle and Portland.^{144,145,146} This suggests that better communication about the heatwave and its impacts is necessary to ensure that those who are most vulnerable are aware of the circumstances and can take adaptive measures against the heatwave.

c. Emergency Heat Relief Bill in Oregon

Two emergency heat relief bills—Senate Bill (SB) 1536 and House Bill (HB) 4058—were proposed by Senator Kayse Jama and Representative Pam Marsh in response to the heatwave, with SB 1536 focusing on renters' rights and HB 4058 focusing on emergency heat relief for communities.¹⁴⁷ The two legislators are part of the Emergency Heat Relief for Oregon coalition, which consists of Democrat and Republican legislators.¹⁴⁸ The coalition also includes numerous health, environmental, and housing organisations, such as the Oregon Health Equity Alliance, Community Alliance of Tenants, and Rogue Climate. The bills were proposed in the 81st Oregon Legislative Assembly on February 1, 2022, and the final SB 1536 was passed 49-9 in the House on March 3 and 22-3 in the Senate the day after.¹⁴⁹ The enrolled SB 1536 then created a 2022 Act that incorporates provisions from both SB 1536 and HB 4058.¹⁵⁰ A summary of the important points that came from the enrolled SB 1536 is provided below.¹⁵¹

i. *Portable cooling devices for tenant*

Section 2 of the 2022 Act allows tenants to install their own air conditioning units where possible by prohibiting landlords from banning or restricting the installation of portable cooling devices, except under special circumstances such as when their installation would damage the property or violate building codes. Restrictions that may be applied include ones that require tenants to take preventative measures against damage or liability risks, or ones that require tenants to remove their devices from October 1 to April 30, during which portable cooling devices may be deemed unnecessary. Laws on property development (ORS 94.779),¹⁵² condominiums (ORS 100.023),¹⁵³ and land use planning (ORS 197.772) were also amended to incorporate this new provision.¹⁵⁴

ii. *Air conditioner and air filter deployment program*

Sections 7 and 8 of the Act allocated \$5 million for Oregon Health Authority to distribute air conditioners and air purifiers to individuals who are eligible for medical assistance during an emergency. This provision can be useful for future emergency distribution during heatwave events, such as the one done by Multnomah County, as individuals with medical needs are not only limited to receiving fans, but also air conditioning units that are more effective in maintaining cool body temperatures.

¹⁴⁴ NWS Seattle [NWSSeattle]. (2021, June 22). Record watch - June 2021. As we head towards what may be a record-setting heat wave for the Pacific NW, here's a look at some of our record temperatures over the coming days, as well as the June and All-Time records. Many of these may fall this weekend into early next week. #wawx [Tweet]. Retrieved from <https://twitter.com/NWSSeattle>

¹⁴⁵ NWS Portland [NWSPortland]. (2021, June 25). How hot will it get this weekend? Well, Sunday is shaping up to be the hottest day with high temps soaring to an astonishing 105-110 degrees for the interior lowlands. Widespread highs at or above 100 degrees are likely on Saturday and Monday as well. Stay cool! #PNWHeatwave [Tweet]. Retrieved from <https://twitter.com/NWSPortland>

¹⁴⁶ NWS Weather Prediction Center [NWSWPC]. (2021, June 23). Record-breaking and dangerous heatwave coming to the West. Over 80 sites are forecast to break daily high temperature records starting this weekend. All-time June monthly records could also be broken in some locations in the Pacific Northwest. <https://weather.gov/safety/heat> [Tweet]. Retrieved from <https://twitter.com/NWSWPC>

¹⁴⁷ Emergency Heat Relief for Oregon. (n.d.). *Emergency heat relief for Oregonians bills*. Retrieved from the Emergency Heat Relief for Oregon website: <https://emergencyheatrelief.org>

¹⁴⁸ Emergency Heat Relief for Oregon. (n.d.). *Emergency heat relief supporters*. Retrieved from the Emergency Heat Relief for Oregon website: <https://emergencyheatrelief.org>

¹⁴⁹ Oregon State Legislature. (n.d.). *2022 regular session: SB 1536 enrolled*. Retrieved from the Oregon State Legislature Oregon Legislative Information website: <https://olis.oregonlegislature.gov>

¹⁵⁰ Enrolled Senate Bill 1536 (SB 1536-C). (2022). 81st Oregon legislative assembly – 2022 regular session. Retrieved from Legislative Information website: <https://olis.oregonlegislature.gov>

¹⁵¹ Unless otherwise noted, the descriptions provided in the following section are based on the Enrolled Senate Bill 1536 (SB 1536-C). The full length of the bill can be found in <https://olis.oregonlegislature.gov/liz/2022R1/Measures/Overview/SB1536>

¹⁵² Oregon Revised Statutes. c. 94, s. 94.779. https://oregon.public.law/statutes/ors_94.779

¹⁵³ Oregon Revised Statutes. c. 100, s. 100.023. https://oregon.public.law/statutes/ors_100.023

¹⁵⁴ Oregon Revised Statutes. c. 197, s. 197.772. https://oregon.public.law/statutes/ors_197.772

iii. Cooling requirements in new dwelling units

ORS 90.320, which requires landlords to maintain dwelling units in habitable conditions,¹⁵⁵ was amended under Section 11 to include additional cooling requirements for buildings that were issued a construction permit on or after April 1, 2024. The additions include the requirement for landlords to provide cooling facilities in at least one room within the dwelling unit and maintain the facilities in good working order. Under Section 12, ORS 90.730 was also amended to require rented spaces to have adequate electrical supply to meet heating and cooling needs. However, this requirement only applies to new floating homes and manufactured dwelling units that were connected to the electrical supply after the effective date of the Act, or to units with electrical supply that was updated on or after the effective date of the Act. It is also important to note that these amendments do not apply to older buildings and that the ORS 90.320 amendment still does not specify a maximum temperature limit for a dwelling unit to be considered “habitable”.

iv. Heat pump deployment and funding programs

The Act also established two programs that would provide financial assistance to cover the costs of heat pump purchase, installation, and related upgrades.

The first program is a heat pump deployment program that aims to provide financial assistance to “environmental justice communities”—such as communities of colour, low-income communities, Indigenous communities, seniors, and persons with disabilities¹⁵⁶—to cover the cost of purchasing and installing heat pumps. The program would also prioritise individuals who rely on high resistance heating and bulk fuel, such as wood, propane, and liquid petroleum, for their heating needs, and individuals without functioning cooling or heating appliances in their homes. In addition, a Heat Pump Deployment Fund of \$10 million will be directed toward the State Department of Energy for the administration of the program.

The second program is a heat pump rebates and grants program, which targets tenants and rental units. A budget of \$15 million will be allocated to the Residential Heat Pump Fund for the State Department of Energy to administer the program for landlords of rental units and tenants who live in manufactured dwelling units or recreational vehicles. The rebates are used to cover the purchases and installation costs of air-source or ground-source heat pumps, while grants are provided to help those who are eligible for the rebates to make the necessary upgrades for heat pump installations.

It is also worth noting that a separate ordinance was passed by the Portland City Council on December 1, 2021, to establish the Portland Clean Energy Community Benefits Fund (PCEF) Heat Response Program.¹⁵⁷ The PCEF program was also proposed as a response to the heatwave and aimed to distribute 15,000 heat pump/cooling units to low-income communities, communities of colour, and other vulnerable groups. Together with the new PCEF program, the 2022 Act would provide the much-needed additional funding to increase access to affordable heat pumps or cooling units, and improve Oregon’s preparedness for future heatwaves.

¹⁵⁵ Oregon Revised Statutes. c. 90, s. 90.320. https://oregon.public.law/statutes/ors_90.320

¹⁵⁶ Oregon Revised Statutes. c. 469a, s. 469a.400. https://www.oregonlegislature.gov/bills_laws/ors/ors469a.html

¹⁵⁷ Ordinance No. 190618. (2021). <https://www.portland.gov/council/documents/ordinance/passed/190618>

v. *Community and emergency cooling spaces*

Under Sections 24 and 25, \$2 million will be directed toward assisting landlords in the establishment and maintenance of community cooling spaces on or near the premises of rental properties during an extreme heat event. The cooling spaces must be able to maintain a temperature below 80°F (26.7°C). An additional \$2 million is also allocated under Sections 30 to 32 toward emergency warming or cooling centres during extreme cold or hot conditions. By increasing the number of cooling spaces that are located close to rental properties, the Act can make it easier for tenants to reach these spaces when their own units are not sufficiently cool during extreme heat events.

d. Conclusion and Key Takeaways

Stories and data from the 2021 heatwave in Oregon, particularly Multnomah County¹⁵⁸, have allowed us to gain insight into the different factors that have contributed to the increased risks for tenants during a heatwave, especially those that belong to vulnerable groups. In addition, comparisons between Oregon and BC have shown similarities in the factors that have contributed to the heatwave-related risks experienced by tenants in the two regions, further demonstrating the relevance of the Oregon example to BC.

Lack of cooling units in homes or rental units, a product of outdated regulations, historical climate, inadequate funding, and overall lack of awareness of the heatwave, presents itself as the main cause for the increased risks that tenants in BC and Oregon had faced during the 2021 heatwave. Air conditioning and heat pumps have become necessary for ensuring sufficiently cool temperatures during an extreme heat event, yet tenants might not have access to these cooling devices due to prohibitions by their landlords or high costs. Under these restrictions, tenants might resort to fans during extreme heat events, but their effectiveness under high temperatures is still uncertain, especially for seniors who have reduced ability in regulating their body temperatures. Additional measures such as cooling spaces and libraries also tend to exclude seniors and persons with disabilities, given the spaces' inaccessibility under conditions of high outdoor temperatures and limited transportation options. The lack of indoor cooling and inadequacies of public cooling spaces thus emphasise the need for future policies to increase tenants' access to cooling units to ensure sufficiently cool temperatures within their rental units during extreme heat events.

Given the similarities in BC and Oregon's housing conditions, future policies in BC that aim to improve tenants' rights during extreme heat events can turn to Oregon's Senate Bill 1536 for reference. Although the Act that arose from the bill does not tackle issues around the lack of maximum temperature limits or lack of cooling units in older buildings, it does address many of the other issues that had increased tenants' risks during the heatwave. The Act would ensure tenants' access to portable cooling devices where feasible, and provide financial assistance for landlords and tenants to purchase and install cooling devices within rental units while prioritising vulnerable communities. Additional funding directed toward establishing cooling spaces within the premises of rental properties can provide additional alternatives for tenants whose own units might not be cool enough during extreme heat events. Finally, the requirements for cooling facilities and adequate electrical supply in new rental units can pave the way for increased adaptability of Oregon's housing and protection of tenants' rights under future extreme heat events that are likely to become more frequent as a consequence of climate change.

¹⁵⁸ See Appendix C for a brief excerpt from a news article on Jollene Brown's experiences during a heatwave in Multnomah County.

5. LESSONS LEARNED

The previous sections' main takeaways and implications for both Canada and British Columbia housing policies are detailed in the following subsections in order to isolate the most important topics discussed across a wide breadth of housing-rights issues.

a. Housing Rights in British Columbia

The following list contains the primary arguments and takeaways from Section 2: Housing Rights in British Columbia:

[1] B.C. Residential Tenancy Legislation largely fails to consider the impacts of climate change on both tenants and landlords, such that no current measures require landlords to support tenants during periods of extreme heat and extreme cold, aside from ensuring rental units are able to maintain a minimum temperature.

[2] Reviewing and studying the outcomes of legal court claims with the Residential Tenancy Branch can allow tenants to equip themselves for submitting their own housing disputes and settling them successfully.

[3] There are three main temperature-related disputes that tenant complaints consistently fall under. Understanding how different cases proved 'loss of enjoyment' of their rental unit and the Residential Tenancy Branch court decision that was made regarding the tenant's claim can provide a strong background to building one's own claim. The three main types of complaints filed include:

[3.1] Inadequate control of heating/cooling unit's thermostats across the entire housing unit, leading to some areas being distinctly too hot or too cold compared to other areas and units,

[3.2] Lack of tenant control over temperature regulation systems in their individual unit such that landlords must be called on to reset temperature regulation systems to the desired temperature anytime a tenant has a complaint

[3.3] Landlord failure to correct overheating issues in rental units, often forcing tenants to move out of the unit itself and search for new housing accommodation.

[4] The socioeconomic and political environment in the mid-1900s has largely shaped the housing market in B.C. today, such that the onset of the housing-rights movement in the 1960's revealed the capitalist ideologies that have repeatedly isolated tenants and systemically provided institutional barriers to their mass mobilisation as a community of tenants.

[5] Despite the establishment of the Vancouver Tenant Union, housing-rights organisations could benefit from working with each other to engage in community-led activism on a much larger scale than the current plethora of small-scale city-specific movements.

b. Housing Policy Across Canada

The following list contains the primary arguments and takeaways from Section 3: Housing Rights in Canada:

[6] Current municipal legislation in Toronto requires all rental properties in which an air conditioning system is already installed to maintain a maximum indoor temperature of 26°C from June 2 to September 14. All rental properties are required to have heating systems and maintain a minimum indoor temperature of 21°C from September 15 to June 1.

[7] There is disagreement between various Toronto municipal government agencies on whether to implement a maximum temperature provision, although opinion may be shifting after the 2021 heatwave in BC. The Board of Health and the Toronto City Council tenants' issues committee formally support the bylaw, while Municipal Licensing & Standards and Toronto Public Health have recommended against the bylaw within the past five years. Tenants and advocacy groups, in general, support a maximum temperature threshold for rental properties, while landlords do not.

[8] Officials are concerned that requiring air conditioning in all rental properties will overload the electrical grid. It will therefore likely be necessary to invest in energy-efficient heat pumps and expand the existing electrical infrastructure to be able to cool the entire city safely.

[9] City officials and tenant advocacy groups are concerned that requiring AC in rental properties will allow landlords to raise rents above the inflationary rate. Any city or provincial maximum temperature threshold policy should include funding to support landlords with installation or retrofit costs. In order to avoid harming tenants with a policy meant to protect them, it may be necessary to change the rules for above-guideline increases.

[10] Any maximum temperature provision should provide low-barrier enforcement mechanisms that do not require tenants to have a significant amount of time, money, or technological literacy. Existing legal mandates for rental property indoor temperature are not always properly enforced; a maximum temperature bylaw should therefore be only one component of a more holistic adaptation strategy to extreme heat.

c. Housing Policy Across North America

The following list contains the primary arguments and takeaways from Section 4: Housing Rights in the United States:

[11] Inadequate indoor cooling units were the primary reason for the heat-related deaths of tenants in Oregon during the 2021 heatwave, which can be attributed to the lack of regulations on maximum temperature limits and cooling requirements in buildings and housing, lack of funding for home weatherization and cooling units installation, and an overall lack of awareness about the heatwave.

[12] The Oregon Senate Bill 1536 that was proposed in response to the heatwave aims to address the above factors by:

[12.1] Prohibiting landlords from banning the installation of portable cooling devices in rental units,

[12.2] Providing financial assistance for tenants and other vulnerable communities to purchase and install heat pump and air conditioning units,

[12.3] Promoting the establishment of cooling spaces within the premises of rental properties, and

[12.4] Requiring new rental units to be equipped with cooling facilities and electrical supply that is adequate for meeting heating or cooling needs.

[13] Given the similarities around tenants' rights and protection during extreme heat events in BC and Oregon, the Oregon Senate Bill 1536 may serve as a useful reference for future policy proposals in BC that aim to increase tenants' access to indoor cooling units and tenants' protection during extreme heat events.

d. Recommendations for British Columbia's Tenant-Rights Movement

The following list compiles the main takeaways from all sections and applies them to the context of British Columbia to suggest key actions for organisations and activists to take in order to strengthen the Tenant-Rights' Movement and create real change.

[14] Support legislative changes that would make it illegal for landlords to prohibit tenants from installing or running cooling devices in their rental units, especially during periods of extreme heat.

[15] Push for the requirements for all new buildings to be built with cooling units and equipped with the electrical infrastructure that can accommodate building-wide use of cooling units in the summer.

[16] Advocate for increased funding toward home weatherization and other costs related to the purchase and installation of cooling devices in rental units to reduce the financial burden that they impose on tenants.

[17] Create and utilise a holistic research approach on urban extreme heat and cold adaptations to benefit the entire provincial community as a whole and reduce the urgency for residential-tenancy legislative reform, such that tenants are not reliant on legislative changes that can often take relatively long periods of time to be implemented.

[18] Promote the establishment of at least one community cooling space on or near the premises of each rental property to improve the accessibility of these spaces to tenants during extreme heat events.

[19] Advocate for the inclusion of a maximum temperature limit for all rental properties in residential tenancy legislation.

6. NEXT STEPS AND CONCLUDING REMARKS

There is an apparent tension or contradiction in the existing residential tenancy legislation, which guarantees renters the right to "reasonable enjoyment" and safe living conditions but does not compel landlords to take action to keep their tenants safe from extreme heat. This may be because heatwaves are considered to fall

within the legal category of “acts of God” or *force majeure*—which refers to external circumstances outside of the control of either party that make it impossible to comply with one’s obligations in the lease agreement. However, some legal scholars argue that in certain situations, climate-induced disasters should not be considered *force majeure* because scientific and technological advancements have made these events relatively foreseeable.¹⁵⁹ Currently, though, it appears that the right to quiet enjoyment and safe rental conditions, if not accompanied by a specific clause mandating a maximum allowable temperature, does not protect tenants from conditions of extreme heat.

In British Columbia, specifically, a plethora of legal cases highlighted the burden of proof placed on the tenant in small claims court to prove that temperature-related conditions in a rental unit caused a distinct ‘loss of enjoyment of the unit’ on the magnitude of whatever monetary claims the tenant has asked for. It seems blatantly clear that within British Columbia legal proceedings, interpretations of what constitutes ‘loss of enjoyment’ are variable, such that tenants must come up with often ‘creative’ ways of demonstrating their discontent. This somewhat vague and variable terminology has become almost emblematic of the institutional structures that isolate tenants from sharing their experiences and forming a community that can be mobilised to strengthen the tenant-right’s movement in B.C. If mobilised, it would be beneficial for tenants to push the Residential Tenancy Branch to revise, rework, and release a discrete, clearly worded legal framework for what constitutes a ‘loss of enjoyment of a rental unit’. While the nature of this legal complication is inherently subjective in that what constitutes a loss of enjoyment for some may not constitute a loss of enjoyment for others, the increasing frequency of extreme weather events due to climate change calls for virtually any clarification of tenants’ legal temperature-related rights such that tenants do not find themselves at the mercy of vague and subjective legislation while suffering extreme weather conditions.

Tenant unions can play a crucial role in ensuring that renters are properly protected during extreme weather events. Because legal mandates alone, particularly when not rigorously enforced by local government agencies, appear to be insufficient in guaranteeing protection from unsafe living conditions for so many tenants, a more structural change in the power imbalance between landlords and tenants is necessary. Collective bargaining power would give tenants leverage to compel their landlords to invest in air conditioning, keep AC properly maintained, and provide safe alternatives if AC is broken for an extended period of time. It would also create a social network within individual buildings that would help keep tenants safe during extreme weather events; this is of particular importance because studies of the heatwaves in France 2004,¹⁶⁰ Chicago 1998¹⁶¹ and British Columbia 2021¹⁶² reveal that isolation was one of the primary risk factors for tenants who died from heat exposure. As such, city governments and advocacy organisations should consider collective bargaining rights for renters as a policy change worth pursuing in these discussions on extreme heat.

The scope of this report does not allow for an in-depth exploration of the implications of relying on an energy-intensive adaptation technology (air conditioning) that actually exacerbates the root cause of the issue (CO₂ emissions and climate change). It is an adaptation that benefits people who are stably housed, who have the social, political, and economic capital to afford higher electricity bills and to hold their landlords accountable, and who live within the political jurisdiction of this hypothetical bylaw.¹⁶³ People who are unhoused and who live

¹⁵⁹ Prindle, M. (2019). Landlords’ Responsibilities Under the Implied Warranty of Habitability and the Covenant of Quiet Enjoyment Extend to Hurricane-Caused Damage. 68 Am. U. L. Rev. F. 91.

¹⁶⁰ Keller, R. C. (2015). Fatal isolation: The devastating Paris heat wave of 2003. University of Chicago Press.

¹⁶¹ Klinenberg, E. (2015). Heat wave: A social autopsy of disaster in Chicago. University of Chicago press.

¹⁶² Unknown (2021). Canada: Disastrous Impact of Extreme Heat. *Human Rights Watch*. <https://www.hrw.org/news/2021/10/05/canada-disastrous-impact-extreme-heat#>

¹⁶³ Bolitho, A., & Miller, F. (2017). Heat as emergency, heat as chronic stress: Policy and institutional responses to vulnerability to extreme heat. *Local environment*, 22(6),

elsewhere, particularly in the Global South, are harmed by the increased CO₂ emissions of intensive AC usage without getting any of the safety benefits. As such, some see it as a maladaptive approach to combating climate change that exemplifies the tendencies of Western liberalism to prioritise the individual over the collective, the short-term over the long-term, and those with power and citizenship over those without it.¹⁶⁴ It is, in many ways, yet another example of how the Global North is able to adapt to climate change and continue profiting off of fossil fuel industries while exporting the life-threatening costs of climate change to people and places without structural power, in both the Global South and the Global North.

682-698.

¹⁶⁴ Hansen, A., Bi, P., Nitschke, M., Pisaniello, D., Newbury, J., & Kitson, A. (2011). Residential air-conditioning and climate change: voices of the vulnerable. *Health Promotion Journal of Australia*, 22(4), 13-15.

7. APPENDICES

a. Appendix A: Technical Legislature Referenced on Housing Rights in British Columbia

“[18.] HEATING SYSTEMS 18.1 (1) Heating systems shall be maintained in a safe and good working condition so as to be capable of safely attaining and maintaining an adequate temperature standard, free from fire and accident hazards, and in all residential accommodations capable of maintaining every room at a temperature of 72E Fahrenheit (22E Celsius) measured at a point 5 feet (1.52 m) from the floor.

[21.4] Every lodging house operator shall provide: (a) that, where this By-law requires plumbing fixtures to have hot water, such fixtures shall be connected to a service water heating facility which provides water at a temperature range of 120E to 140E Fahrenheit (49E - 60E Celsius) at all times at each fixture,

[21.13] Every lodging house operator shall maintain the accommodation: (a) free of extraneous moisture, (b) between the hours of 8:00 a.m. and 12:00 midnight, at a temperature not lower than 68E Fahrenheit (20E Celsius) measured 60 inches (1.52 m) from the floor in the centre of the room, and between the hours of 12:00 midnight and 8:00 a.m. at a temperature not lower than 62E Fahrenheit (16E Celsius) measured 60 inches (1.52 m) from the floor in the centre of each room.”

[21.9] A mechanical ventilating system capable of providing at least one complete air change per hour may be substituted for the natural ventilation required by Subsection 20 hereof, in kitchens and bathrooms, provided, however, that a forced-air heating system shall not constitute a mechanical ventilating system unless it is combined with a fresh and return air ventilating system.”

b. Appendix B: Minimum Rental Unit Temperature Requirements Across Canadian Provinces

Table 1: Minimum Temperature Requirements for Rental Properties Across Canadian Provinces

Province	Minimum temperature	Link to Legislature
Alberta	22° C (in conditions of extreme cold weather the minimum threshold is reduced to 16°C)	Alberta Minimum Temperature Requirements
Manitoba	21°C (from 7 AM - 11 PM); 18.3°C (from 11 PM - 7 AM)	Manitoba Minimum Temperature Requirements
Newfoundland & Labrador	Not mandated at the provincial level, aside from a broad requirement that properties be habitable and not compromise the tenant’s safety. Some municipalities (e.g. St. Johns) do establish a minimum temperature threshold.	Newfoundland & Labrador St. John Minimum Temperature Requirements
New Brunswick	21°C (from 7 AM - 11 PM); 18°C (from 11 PM - 7 AM)	New Brunswick Minimum Temperature Requirements
Northwest Territories	Heat is listed in the RTA as a vital service that landlords are required to provide, but no minimum indoor threshold is established.	Northwest Territory Minimum Temperature Requirements

Nunavut	Heat is listed in the RTA as a vital service that landlords are required to provide, but no minimum indoor threshold is established.	Nunavut Minimum Temperature Requirements
Nova Scotia	20-22°C (varies locally)	Nova Scotia Minimum Temperature Requirements Halifax Minimum Temperature Requirements
Ontario	20°C (from September 1st to June 15th annually)	Ontario Minimum Temperature Requirements
Prince Edward Island	18.3°C	Prince Edward Island Minimum Temperature Requirements
Quebec	Generally accepted as 21°C but not explicitly stated. Law requires that landlords maintain “adequate ambient air temp” or “habitable dwelling condition.” Some municipalities specify a set threshold.	Quebec Minimum Temperature Requirements Montreal Minimum Temperature Requirements
Saskatchewan	Not mandated at the provincial level, aside from a broad requirement that properties be habitable and not compromise the tenant’s safety. Specific services & utilities guaranteed are outlined in individual tenancy agreements. Some municipalities (e.g. Saskatoon) do establish a minimum temperature threshold.	Saskatchewan Minimum Temperature Requirements Saskatoon Minimum Temperature Requirements
Yukon	Landlord cannot allow low temperature to create a health or safety hazard or damage the building. There is no specific temperature required.	Yukon Minimum Temperature Requirements

c. Appendix C: Story from the Heatwave—Jollene Brown

The following is an excerpt from the Multnomah County’s Preliminary Review on Excessive Heat Deaths,¹⁶⁵ referenced in Section 4.

Jollene “Jolly” Brown lived alone, but she was just an eight-minute drive from her son Shane. Twice a week, he would come by her apartment, picking up groceries, helping with chores and taking his 67-year-old mother to her medical appointments.

Once a week, they would sit down for a meal and watch “The Masked Singer” on TV. Jolly Brown would talk during the show, and it drove Shane crazy. Now, he says, “all I want to do is hear her talking again.”

Shane last saw his mother Sunday night, June 27. He brought a swamp cooler over to help his mother, who had been in poor health and needed something to replace her broken air conditioner. The cooler didn’t work either. Jolly asked Shane to see if he could fix her air conditioner and bring it back.

¹⁶⁵ Multnomah County. (2021, June). *Preliminary review on excessive heat deaths*. Retrieved from the Multnomah County website: <https://www.multco.us>

The next morning, June 28, when Shane called to check in, she didn't pick up. He drove over and found her in her recliner, feet down as if she meant to stand up. Inside it was already 99.5 degrees.

"Maybe we need to get you a real air conditioner," Shane remembered telling his mother the night before. She shrugged it off. She said she would get through this heat wave, and then they could talk. After all, air conditioners were expensive and too heavy for an older person to carry.

"I'll be fine" she would say. "I'll get through it."

By then it was too late.

Shane said Jolly might have survived if she had taken up a friend's offer to stay with them during the worst of the heat. But she never wanted to impose, didn't want to be a bother. And she might have survived if she had a working air conditioner, her son said.

He said that's something to consider for those vulnerable older people without the means to buy a unit of their own.

"Especially people who aren't able to get to cooling spaces, or, like my mom, who didn't want to put people out, didn't want to be an inconvenience," he said.

Shane said Jolly kept to herself, struggling with her health and living on a meager income in her tiny studio apartment. But he said she never focused on her troubles. "She had this optimism that things would work out."

She loved things like rose gold and opals, and Dolly Parton and Patsy Cline. Her favorite birds were puffins. And she loved "American Idol." She had one overarching goal — to be a good mom.

"She was just genuinely one of the best people I have ever known," he said. "She had that capacity of love, and when I needed her, she was always there."