



# DURHAM COMMUNITY LEGAL CLINIC

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[www.durhamcommunitylegalclinic.ca](http://www.durhamcommunitylegalclinic.ca)



## Satellite Office Update

By Emily Robb, Paralegal

As of October 1, we are pleased to say that we have expanded our satellite office services. We will now be in Cannington on the 2<sup>nd</sup> and 4<sup>th</sup> Wednesday of the month from 1pm to 4pm. We will be located inside Nourish Community Hub, 16 York Street, Cannington. Nourish Community Hub's Mission:



*"We celebrate food as we bring the community together; to break bread, share ideas, and promote social change, within a collaborative place that allows people to exchange knowledge and resources."*

If you live in the Beaverton/Sunderland area, please call Emily at (905) 441-1752. We see people at this location by appointment only.

## ODSP Medical Review

By Cathy Duignan, Paralegal

Commencing May 2017, the Ministry divulged its new process for ODSP medical reviews. People on ODSP are regularly given review dates to make sure the ODSP client continues to meet the definition of a person with a disability under the *Ontario Disability Support Program Act*. Some medical conditions can and will improve and ODSP needs to be able to confirm who is still eligible.

A medical review will now consist of two forms. They are sent to those on ODSP to have their doctor

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**Disclaimer:** This newsletter provides general legal information for the benefit of our readers. Although we strive to ensure the accuracy of the information as of the date of printing, laws may change, and/or the application of these laws may vary in individual circumstances. For assurance that our information, and your interpretation of it, is appropriate to your particular situation, please obtain legal advice.

complete. The first form sets out the original medical conditions identified in the previous disability determination and asks whether there is improvement in the condition and whether the prognosis is "to improve" or unknown". If the answer to both is "NO", the review will not take place. If the answer to either question is "YES" the doctor will be required to complete a new Application for ODSP. If you are considered no longer eligible for ODSP based on the medical review, please contact the legal clinic for assistance and further information.

## Durham Community Legal Clinic (DCLC)

### Wrap Around Services (WAS)

*maintaining client-centered and ecological perspectives  
when supporting clients*

*By Colleen Archer and Enna McLeod-Stair  
Social Services Worker / MSW Student*

The WAS pilot project was implemented at DCLC in 2016. The goal of this program is to provide a holistic approach to supporting clients. The pilot project introduces social service professionals to work collaboratively with the existing legal team. Clients come to the Clinic to obtain assistance with their legal problems. The legal professionals are instrumental in identifying and referring clients that are presenting with additional concerns. This referral starts the process for the WAS team to provide brief services to address the variety of social issues that are creating distress for clients.

*“Careful attention is given to cultivating a safe and comfortable space for clients to share their stories.”*

As social workers and social service workers, an emphasis is placed on establishing a helping relationship with clients. The WAS team provides an opportunity to support the clients in addressing their concerns and meeting their goals. Careful attention is given to cultivating a safe and comfortable space for clients to share their stories. The client-centered and ecological perspectives are foundational in supporting clients. The client-centered approach embraces the idea that everyone has the capacity to develop and grow and sees demonstrating empathy, congruence and unconditional positive regard as essential in the helping relationship. The team

also recognizes the importance of considering the interconnectedness between people and their environment. The ecological approach recognizes the interrelationship between people and their environment. The holistic approach is manifested by the client-centered approach and the legal professional's ability to recognize the ecological factors that are impacting the client's ability to resolve their problems.

Exploring the interactions between all system levels (micro, mezzo and macro) is central in how the team approaches the work with clients. Focus is given to both the individual and social environment factors as playing a significant role in the challenges that the client is experiencing. The team recognizes the relational aspect of the person and their environment as equally maintaining and influencing each other. Consequently, they do not exist in isolation and must be considered as part of the pathway of care. This approach fosters resiliency and empowerment in clients. Developing an understanding of the intersecting factors is critical in facilitating best outcomes for our clients.



*Wrap Around Services continued on page 3*

## Our Services

- Tenant Rights
- Ontario Disability Support Program Benefits
- Canada Pension Plan Disability
- Canada Pension Plan Survivor Benefits
- Criminal Injuries Compensation Board
- Workplace Safety & Insurance Board and Workplace Safety & Insurance Appeals Tribunal
- Ontario Works
- Employment Insurance
- Employment Law
- Human Rights
- Immigration
- Senior Law
- Small Claims Court
- Consumer Law
- Domestic Violence Legal Aid Advice Referrals
- Wills & Powers of Attorney
- Commissioning and Notarizing of documents
- And more ...

## Other Services Include:

- Seminars, Pamphlets, Self-Help Kits, Referrals

Contact the Durham Community Legal Clinic if you have any questions or require advice in any of the above areas.

## Parlez-vous français?

By Cathy Duignan, Paralegal

Our Clinic has partnered with a French-speaking legal clinic in Cornwall to assist people with their legal issues in the French language. The Cornwall legal clinic can provide legal advice and possible representation in certain areas of law for low income residents of the Region of Durham.

In order to be connected with this service, please attend at our office or contact our office by phone for more information.

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 D'HIVER I L'ÉPOQUE VALET  
 RC **DO YOU SPEAK FRENCH?**  
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*Wrap Around Services* from page 2

## Social Work/Social Service Worker Services:

- To collaborate with legal staff to meet the legal and non-legal issues of clients
- To provide information to clients about community resources
- To refer clients to other community agencies
- To advocate for the best interests of our clients
- To assist clients in accessing much needed services / benefits
- To provide brief intervention / consultation / emotional support
- To provide brief case management / case coordination
- To provide increased access to justice among vulnerable clients
- To provide public education through outreach to community agencies
- To conduct psychosocial assessment as needed
- To provide training to clinic staff in social work related areas

## Employment Law Services

An employment lawyer is now available every Tuesday at the Durham Community Legal Clinic to assist with issues relating to wrongful dismissals, unpaid wages, severance, termination pay, and much more.



## Workplace Injury?

The Durham Community Legal Clinic assists injured workers with their claims at the Workplace Safety and Insurance Board. If you have experienced a workplace injury and have questions about your rights and entitlements call the Durham Community Legal Clinic.

## Significant increases to asset limits and gift exemptions for people who need provincial income support

*This article was written by and printed with permission by Nick Hill, Articling Student, Community Advocacy & Legal Centre (CALC)*

On September 1, 2017, there were significant increases to Ontario Works (OW) and Ontario Disability Support Program (ODSP) limits for assets and the income rules for gifts and compensation payments.

Assets are things that you own. OW and ODSP have rules about how much you can own and still get social assistance.

**The OW asset limit for one person is now \$10,000.** This is four times as high as the previous limit of \$2,500. This means a single person can have up to \$10,000 in their bank account and still get OW. **The limit for a couple is now \$15,000.**

**The ODSP asset limit for one person is now \$40,000.** This is eight times as high as the previous limit. **The limit for a**

### **couple is now \$50,000**

The amount that people can receive as a gift in any 12-month period, without reducing their benefits as income, went up as well, from \$6,000 to \$10,000. Gifts to purchase an exempt motor vehicle, a home, or to pay the first and last month's rent to secure housing will not reduce your benefits.



Some kinds of compensation (such as pain and suffering awards) up to a certain amount are also allowed. For people receiving OW the cap is now \$50,000 – double the previous amount. For people on ODSP the

previous cap of \$100,000 has been removed entirely. This means if you get money for pain and suffering from the Criminal Injuries Compensation Board or because of a motor vehicle accident, it is less likely to affect your social assistance income.

We have asked for the changes for a long time and these changes will increase income security for people receiving social assistance.

People will no longer be forced to get rid of all their assets so they qualify for social assistance. These changes for gifts will make it easier for people to help family members who receive social assistance.

If you need advice about how the OW or ODSP rules work, please contact us.

## Enforcement of Tenant Orders

*By Debra Knoke Alves, Paralegal*

Congratulations! You've won your Landlord and Tenant Board hearing. Now what?

What comes as a surprise to many is that the Landlord and Tenant Board, like many other Boards, do not enforce their own Orders. This means that although you are supposed to receive money from the landlord, it is up to you to take the next step of enforcing the Order.

It is suggested that shortly after you receive your decision, you write a demand letter to the landlord:

1. Ask that the landlord pay you all the money owed within 14 days.

*Enforcement of Tenant Orders continued on page 5*

**IT'S UP  
TO YOU!**

*Enforcement of Tenant Orders* from page 4

2. Give the landlord the address or method to send it to you.
3. Tell the landlord that if the money is not received within 14 days that you will take them to court.

### **They didn't pay, now what?**

The next step is enforcing the Order. This involves going the Small Claims court with the certified copy of the Landlord and Tenant Board Order. This Order is then registered with the court as if it were an Order of the Small Claims court.

### **What are the options for enforcement?**

There are several options available depending on how much information you have about the landlord (debtor).

1. **Examination Hearing** – You do not have information about where the landlord works (other than as a landlord), where they bank or if they own property. This is a hearing that will require the landlord to provide that information. You will need to fill out the following forms and serve the landlord:
  - Notice of Examination – 20H
  - Affidavit of Enforcement Request – 20P
  - Financial Information Form – 20I

Lastly, you will need to file with the court an Affidavit of Service – 8A to prove service of the above documents to the landlord.

2. **Garnishment** – If you have the banking information for the landlord, then you can request that the account be garnished. If you know where the landlord works then you can request that the employer garnish the wages.

Provide the Garnishee (bank or employer) with the following:

- Garnishees Statement – 20F

Provide the landlord with the following:

- Affidavit of Enforcement Request – 20P
- Notice of Garnishment – 20E

Lastly, file two Affidavit of Service forms – 8A with the court to prove that you have served both the landlord and the bank/employer.

3. **Writ of seizure and sale of land** – This will encumber the land presently owned or land that the landlord may purchase in the future where the writ is filed. There will need to be a separate writ for more than one location.

You can perform a search at the land registry or land titles office for properties owned in an area. This will have an additional fee.



Four months after filing the writ of seizure and sale of land with the court, you can go to the sheriff and ask to seize and sell the land but the sale cannot take place until six months after the writ was filed.

This is an expensive option and options 1 and 2 should be considered first.

4. **Writ of Seizure and sale of personal property** – You can ask the sheriff to seize and sell personal property belonging to the landlord at a public auction. If the landlord turns out not to have anything worth selling then you have already paid the fee for the writ.

This is an expensive option with no guarantees.

### What if I don't have the money to enforce the order?

The Small Claims court offers a fee waiver to low income individuals. The fee waiver is completed and filed at the same time as the initial filing of documents. The fee waiver can be applied to most filing fees.



## Free Legal Information Sessions to your Agency

We welcome the opportunity to visit community agencies to provide legal information to their staff in the areas of law covered by our Clinic. We will also provide legal information at your community event. Contact us if this is of interest to you.

## I was thrown in...BUT I SURVIVED!

*By Jasmine Hudson, Articling Student*

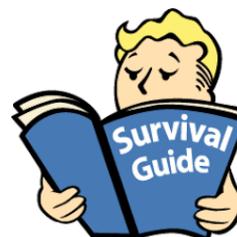
The first couple of weeks at DCLC I had the opportunity to sit in on client meetings, hearing preps and one ODSP hearing with a colleague. During the hearing I thought to myself, this does not seem so bad, I could do this.

I was able to sit through a few more of my colleagues' hearings. It was at this point where I observed their style and flow of how they did their hearings. I have since realized that, there is not a specific or particular way to do these hearings; you just find a way that is best for you and your clients and most of all it is about getting their story out because it is their hearing. We are just here to help!

I continue to adjust, modify and personalize my hearing style because every hearing and adjudicator is

a learning experience and every client is not the same and will have different circumstances.

My experience at the Clinic has truly helped me with my confidence, being able to speak in public and aid me in my litigation skills, create legal arguments and write submissions, hearing procedure, and most of all build client relationships while advocating on their behalf.



## Consumer Law

By Debra Knoke Alves, Paralegal

### Ministry of Government and Consumer Services – The

Ministry and other administrative authorities enforce a number of Ontario's consumer protection and public safety laws, investigate alleged violations and handle complaints.

In Ontario, your consumer rights are protected under the *Consumer Protection Act* and other legislation related to consumer transactions.

*Ontario's Consumer Protection Act, 2002* provides for fines of up to \$250,000 for corporations per charge and \$50,000 per charge for individuals convicted of offences. It also provides for jail terms of up to two years less a day for each offence for individuals.

The *Act* empowers the court to order offenders to pay compensation or make restitution to victims.

### News

On April 10, 2017 the Ministry of Government and Consumer Services made an announcement regarding changes to the *Legislation to protect consumers.*



The *Putting Consumers First Act* will:

- make it possible to ban unsolicited, door-to-door sales on prescribed household appliances such as water heaters, furnaces, air conditioners and water filters;
- strengthen consumer financial protections through new rules

for alternative financial services such as payday loans, including extended repayment periods and more time between loans, as well as expanded rules against unfair debt collection practices; and

- regulate the home inspection industry through mandatory licensing and proper qualifications for home inspectors, as well as minimum standards for contracts, home inspection reports, disclosures and the performance of home inspections.

For the latest consumer news and alerts, visit [www.ontario.ca](http://www.ontario.ca) and search for the Ministry of Government and Consumer Services.

For consumer law inquiries, contact the Durham Community Legal Clinic at (905) 728-7321.

## Changes to the *Residential Tenancies Act, 2006* (RTA)

By Shyla Oates-Pennell, Colette Myers & Danielle Scheffel, Paralegals

As of September 1<sup>st</sup>, 2017 there have been many changes made to the RTA by way of the *Rental Fairness Act, 2017*. One of the major changes is the change to section 48 of the RTA, which allows a landlord to, in good faith, evict a tenant if the landlord intends to move into the unit or if the landlord's spouse, child or parent intends to move into the unit. The eviction notice to be used in this situation by the landlord is an **N12: Notice to End your Tenancy Because the Landlord, a Purchaser or a Family Member Requires the Rental Unit**. This eviction notice requires that 60 days' notice be given to the tenant.

The changes to this section specify that a landlord must still provide the required 60 days' notice of termination, but that they must also provide the tenant with an amount equal to one month's rent. This amount must be paid to the tenant before the termination date on the notice, or the landlord may offer the tenant another rental unit that is acceptable to the tenant in lieu of paying the compensation.

As this is one of the most abused applications used by landlords to evict tenants in bad faith, there has

also been a change to state that the landlord, landlord's spouse, child or parents must intend to reside in the unit for 1 year or more.

If a tenant receives an N12 eviction notice from their landlord, they do not have to move out based on the notice. The landlord must still file an application with the Landlord and Tenant Board to get a hearing. At the hearing the landlord must prove that they have paid the tenant the amount equal to one month's rent and that they, in good faith, require the rental until for 1 year or more.

If a tenant finds out that the landlord evicted in bad faith using an N12 notice, the tenant may file a **T5: Tenant Application – Landlord Gave a Notice of Termination in Bad Faith**. This application can be used if the tenant discovers that the landlord, landlord's spouse, child or parents did not reside in the rental unit for one year or more, or maybe they never even moved into the unit. It can also be used if the tenant discovers that their unit is back up for rent within a year, or that the house is being sold. In any of these instances the tenant may ask that the Landlord and Tenant Board order the landlord to pay the difference in the tenant's rent for up to 12 months if the new rent is higher and they can request moving costs, as well as out of pocket expenses. The tenant may also ask that the landlord pay an administrative fine to the Board for acting in bad faith.

## Our Staff

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### Paralegals

Cathy Duignan

Emily Robb

Matthew Ferguson

Danielle Scheffel

Shyla Oates-Pennell

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Colette Myers

Erin Fergusson

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Jeremy Arnott

### Articling Student

Jasmine Hudson

### Social Work Student

Enna McLeod-Stair

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