

NB ACORN

State of Disrepair

THE TENANTS' CASE FOR LANDLORD REGISTRATION IN NEW BRUNSWICK



Introduction



NB ACORN (Association of Community Organizations for Reform Now) is an independent organization of low-to-moderate income families. ACORN believes that social and economic justice can best be achieved with a province-wide membership who are invested in their organization and focused on building community power for change. Since our inception in 2021, NB ACORN's membership has continually prioritized unaffordable, substandard, and precarious housing as problems that need a range of legislated policy solutions.

In New Brunswick, ACORN is widely known for its rent cap and anti-renoviction campaign, but in cities across Canada, ACORN is also well known for its municipal campaigning for proactive enforcement of minimum property standards.

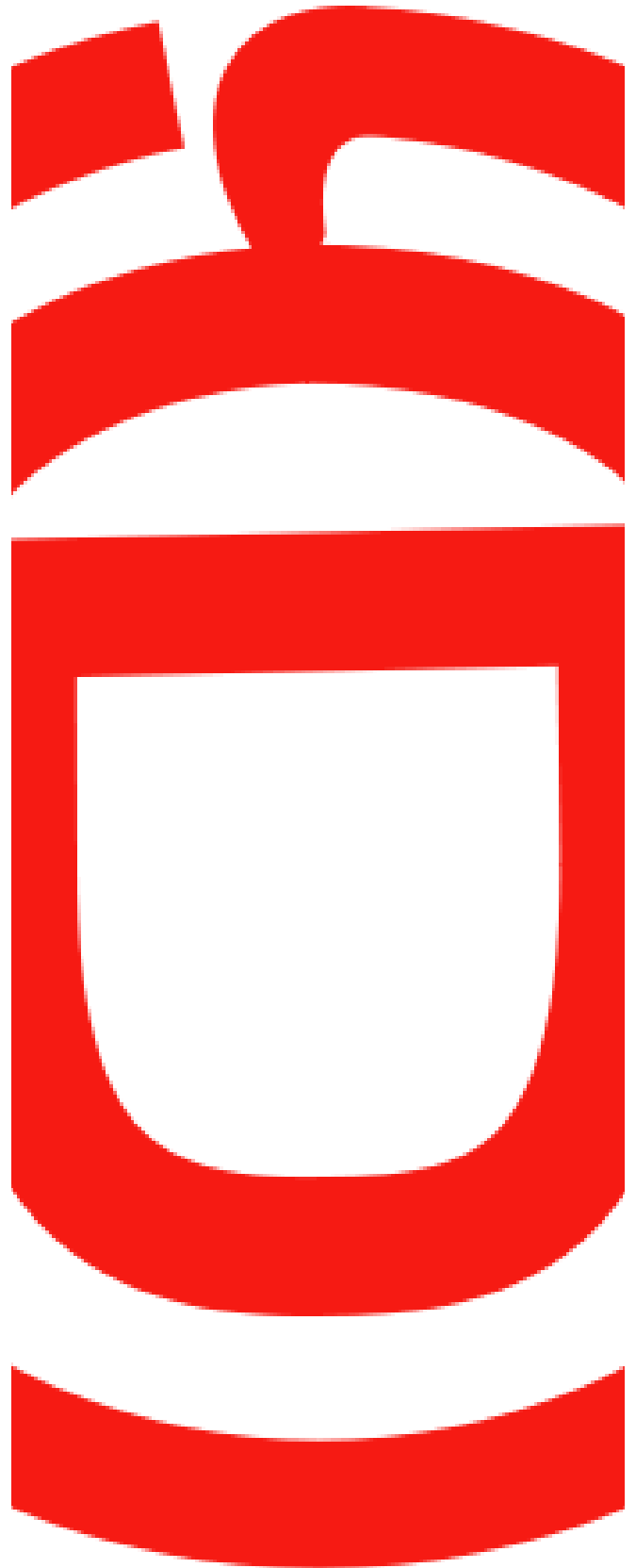


What are minimum property standards?

Sometimes called standards of maintenance or property standards, they are a group of regulations that set the bar for maintenance that landlords must provide when renting. Minimum property standards often include minimum temperatures for heat and hot water, standards for proper ventilation, working appliances, and basic common-sense upkeep of the apartment units such as replacing broken or missing floors tiles and fitting/securing closet doors.

In New Brunswick, the Residential Property Maintenance and Occupancy Code acts as optional province-wide minimum property standards that municipalities can choose to enforce.

In Moncton, the bylaw that enforces the residential property maintenance and occupancy code is bylaw Z-507. This law gives the city some basic tools to force the landlord to comply but is complaint-based (can only be triggered by tenants making complaints). Financial penalties are in place for the city to use as a stick to get compliance from a landlord, and the city has the power to go into buildings and do needed repairs and charge the landlord.



What are minimum property standards?

The Residential Tenant Tribunal (RTT), recently renamed the Landlord and Tenant Relations Office, deals with the lease agreement between landlords and tenants as laid out in the Residential Tenancy Act (RTA). However, the RTA is vague and short when it comes to property standards. Therefore, rent increases, non-payment of rent, and applications to renovate and displace tenants are the typical cases that come before the RTT.

There is no adequate mechanism for the RTT to effectively deal with substandard maintenance issues in apartments. While the RTT could force landlords to compensate tenants for lack of repairs, forcing the landlord to actually do the repair is not something the RTT has the power to do.

What are minimum property standards?

Without complaints, a complaint-based system of enforcement is doomed to failure. Complaint-based property standard enforcement is based on the assumption that tenants understand the property standard laws, know how to file complaints, have the time and resources to file complaints, and have landlords that will not retaliate against a tenant for making the complaints. Unfortunately, none of these are realities in New Brunswick. Tenants are unaware of the laws and system, lack the time needed to go through the processes of making complaints, and are generally scared that landlords will retaliate if they do make complaints.

Our survey shows that only a small number of tenants know about the existing provincial minimum property standards and the municipal complaint-based bylaws that enforce the standards. Cities like Moncton are unlikely to be inspecting many units under their current complaint-based systems, not because of a lack of substandard rental housing but because their tenants don't use the system.

Proactive enforcement

Proactive enforcement ensures that Inspections happen on a regular basis instead of being triggered by complaints. Inspectors have power to access common areas in the buildings (hallway, lobby, stairwell), the mechanical areas (elevator and boiler rooms), as well as the exterior of the building (including the roof) to ensure the building is in compliance.

Inspectors also perform basic outreach to tenants, asking if problems exist inside their units, and if there are, can inspect inside units. The outreach can be done through letters, fliers, door knocking, and in larger buildings tabling in the lobby of the building for an afternoon. The proactive nature of the outreach protects tenants from reprisals simply because they are being invited to make complaints and it is more than likely that more than one tenant will do so.

ACORN has helped influence cities across the country to either create or strengthen existing minimum property maintenance standards. The cities of Toronto, Mississauga, Ottawa, Hamilton, and Surrey have all done this in recent years.

**Stronger
minimum
property
standards
needed**

Closest to home, ACORN worked with the city to expand By-law M-200, the Respecting Standards for Residential Occupancies, in the Halifax Regional Municipality to include more substandard conditions that tenants face.

In New Brunswick, a large number of substandard conditions in rental housing are not covered by the residential property maintenance and occupancy code, such as the following:

- Appliance maintenance
 - Closet doors
 - Kitchen cabinets and countertops
-

What is landlord registration?

By giving regulatory powers and enforcement tools to bylaw departments, landlord registration would enable the cities to properly deal with the not insignificant number of scofflaw landlords who do not keep their buildings up to legal standards.

Main components of a landlord registration system:

1. A nominal per unit fee (\$1 per month) charged to landlords would be dedicated by the municipality to expand the ranks of bylaw officers. This cost recovery would take the full burden of the program off of the tax base.
2. Every landlord would register their apartment buildings and provide the city with basic information on the building such as maintenance plans, number of tenants, and the landlord's name and contact info.
3. Regular proactive inspections of buildings would be carried out to check for compliance.
4. Tenant and landlord outreach would take place so that both parties understand the system and how it works for them.
5. Swift penalties would result for landlords who are non-compliant.



But..... what if?

Will landlords be able to pass costs onto tenants?

Landlords are raising rents in New Brunswick. Most landlords raise rents to the highest levels legally allowed. This will continue with or without enforcing livability standards in apartments. If the landlords pass on the per unit fee of \$1 a month, that would amount to an average increase of less than 0.02%.

Why do the 'good' landlords need to be registered?

Landlords who keep their buildings up to code would benefit from landlord licensing. The system would show that many landlords do keep their building in good repair. Likewise, it would reveal slumlords who force tenants to live in substandard conditions as being violators.

Apartment buildings all need to be treated the same for the system to work. The only way to know if a building is bad is through proactive inspections of all buildings just as provincial health officials don't only inspect restaurants that are known to be bad; all restaurants get inspected to ensure public safety. It should be no different for rental housing.



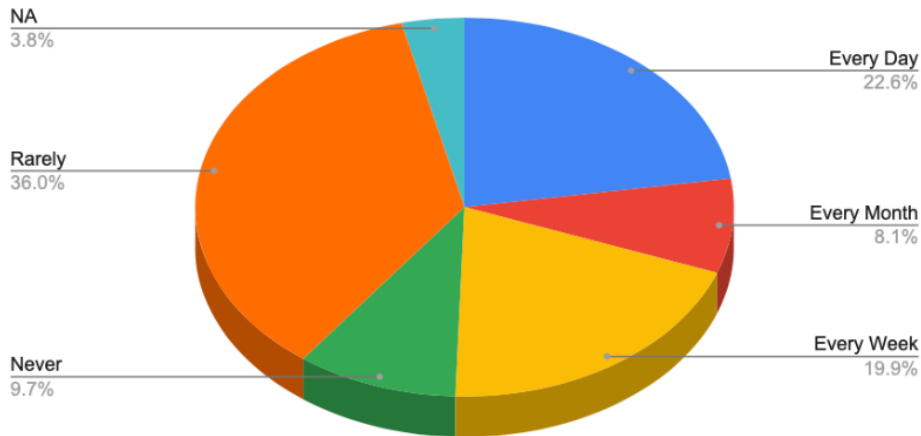
NB ACORN Housing Maintenance Survey Results

The survey was conducted over the summer and early fall of 2023 and had 188 tenant respondents. Questions focussed on housing maintenance issues, landlord and tenant relations, and the level of understanding tenants have of existing systems of property standards enforcement in New Brunswick.



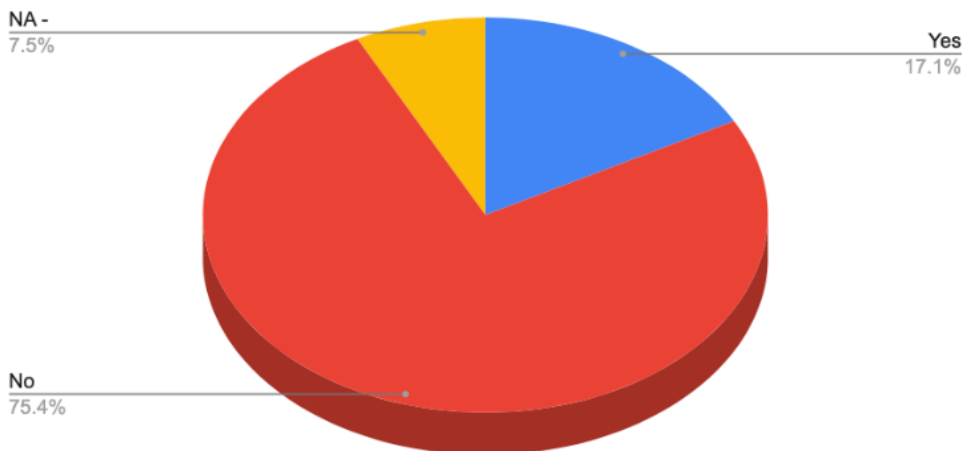
Unwanted guests

How often do you see insects in your unit?



42%
SEE INSECT IN
UNIT AT LEAST
ONCE A WEEK

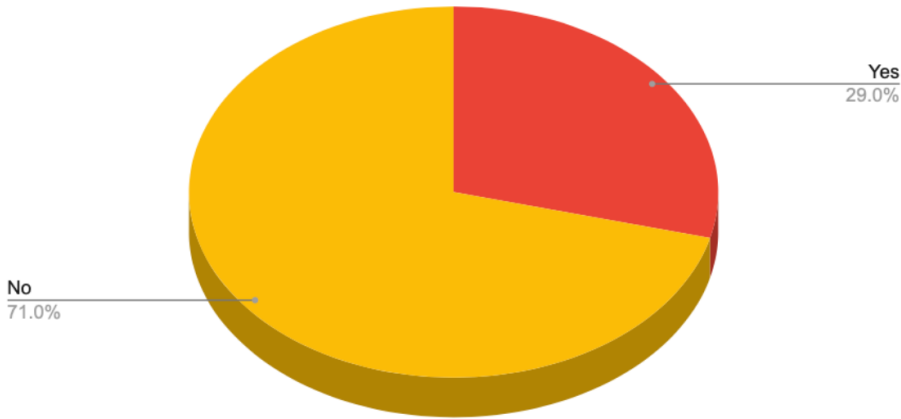
Have you seen vermin inside your apartment in the last month?



17%
HAVE SEEN
VERMIN IN PAST
MONTH

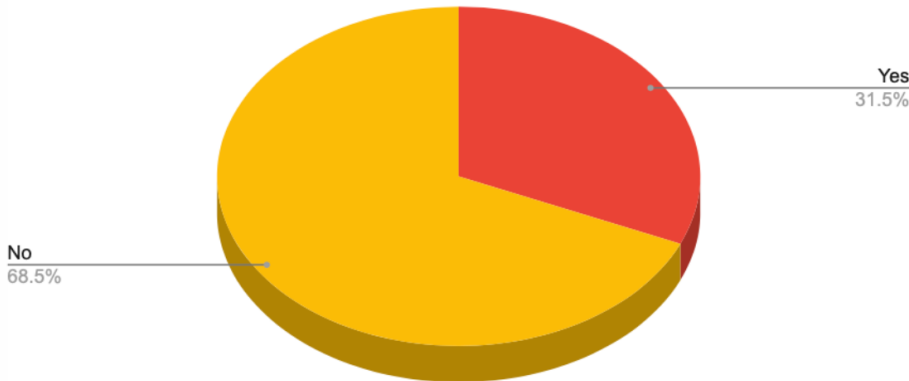
Tenants pay for heating

Do you use space heaters in your apartment?



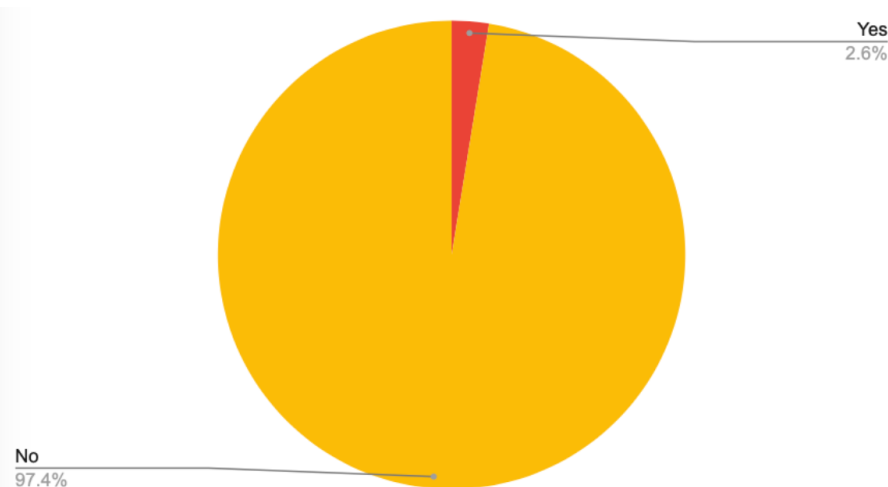
Tenants who have heat included in their rent are far more likely to have heat levels that fall below the legally required 22 degrees minimum when compared to tenants who pay for their own heat.

Heat is included in rent and I use space heaters.



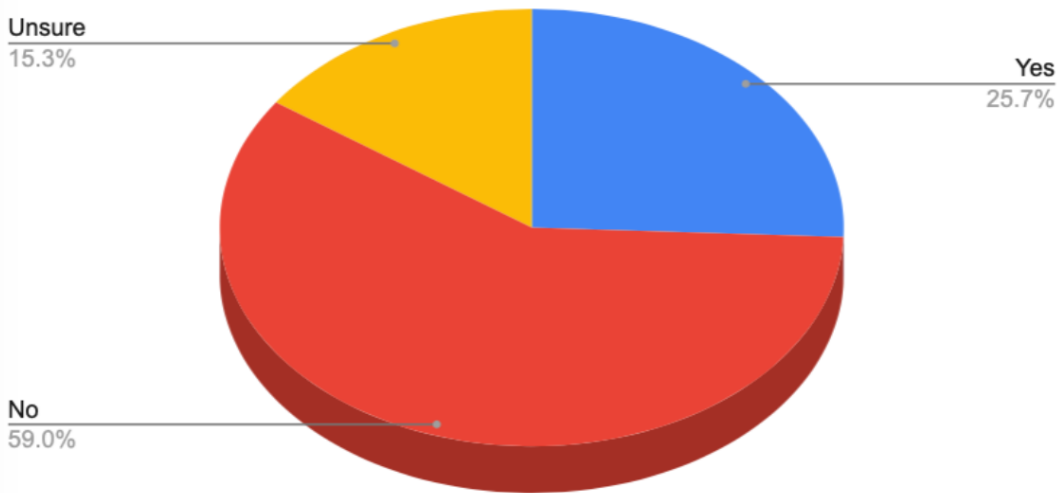
This illustrates the need for tighter regulatory enforcement on landlords. When left with the option of saving money or properly heating their tenants' apartments, too often landlords choose the money. Properly heating tenants' homes should not be an option.

Heat is not included in rent and I use space heaters.



Questions about mould

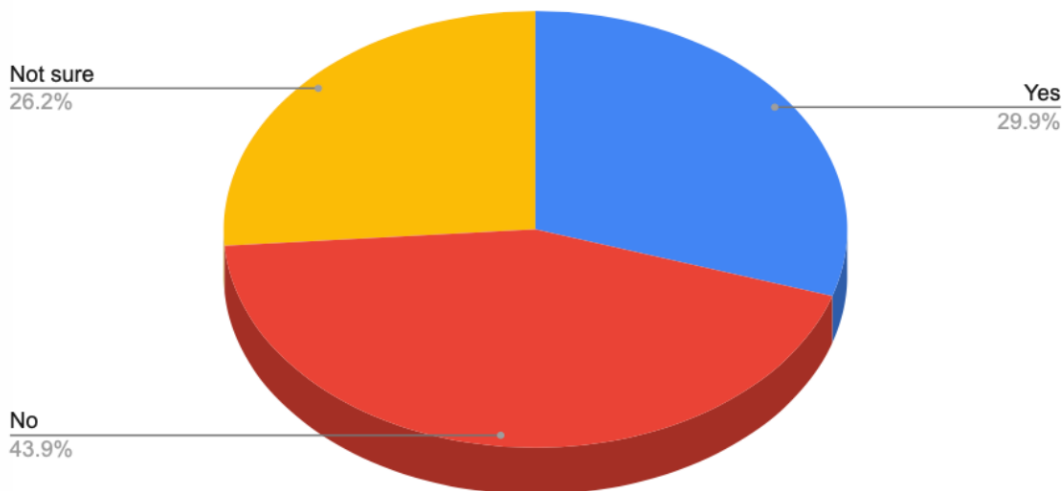
Do you have water damage in your apartment that is not being fixed?



29%
**HAVE MOULD ISSUES
IN THEIR UNITS**

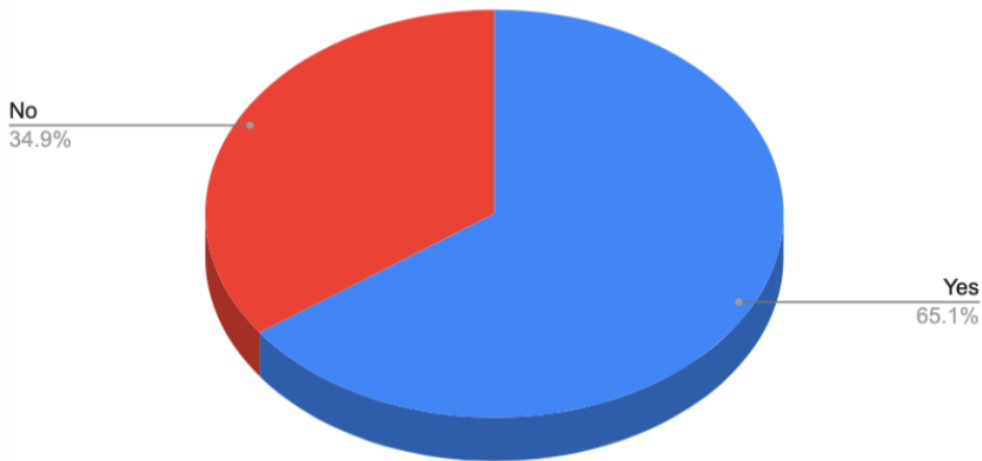
Mold is currently not covered by the minimum property standards in New Brunswick. NB ACORN is advocating for minimum property standards and a landlord registration system that would make mold remediation a clear responsibility of a landlord.

Do you have mold in your apartment?



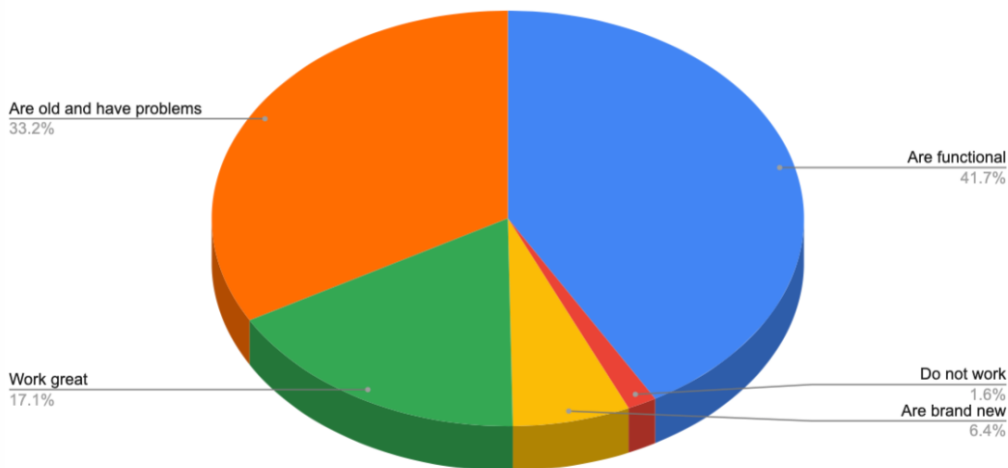
One in three tenants have real issues

Are the common areas in your building kept clean?



34%
SAID THAT COMMON
AREAS ARE NOT
KEPT CLEAN

What is the condition of your appliances?



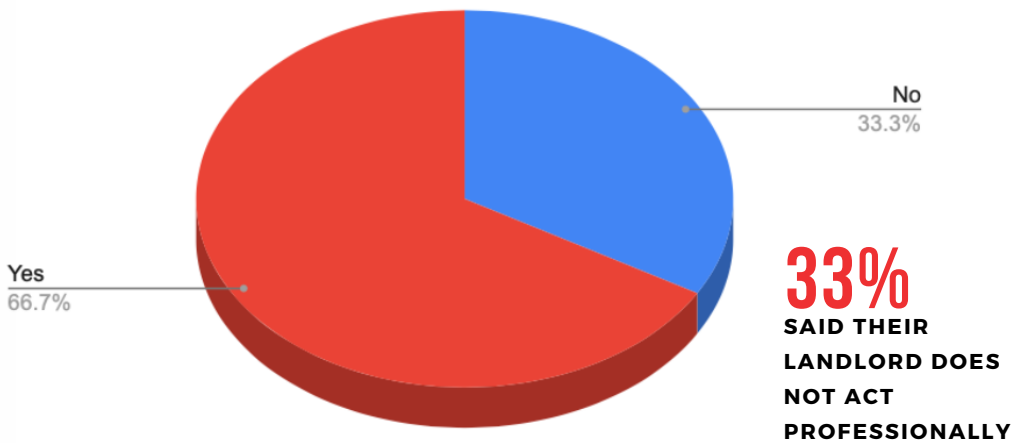
33%
SAID THAT THEIR
APPLIANCES HAVE
PROBLEMS OR DO NOT
WORK

Appliances are not covered by the minimum property standards in New Brunswick. This means that if tenants have issues with their kitchen appliances, they have little recourse to get them fixed by the landlord if the landlord is absent or refuses.

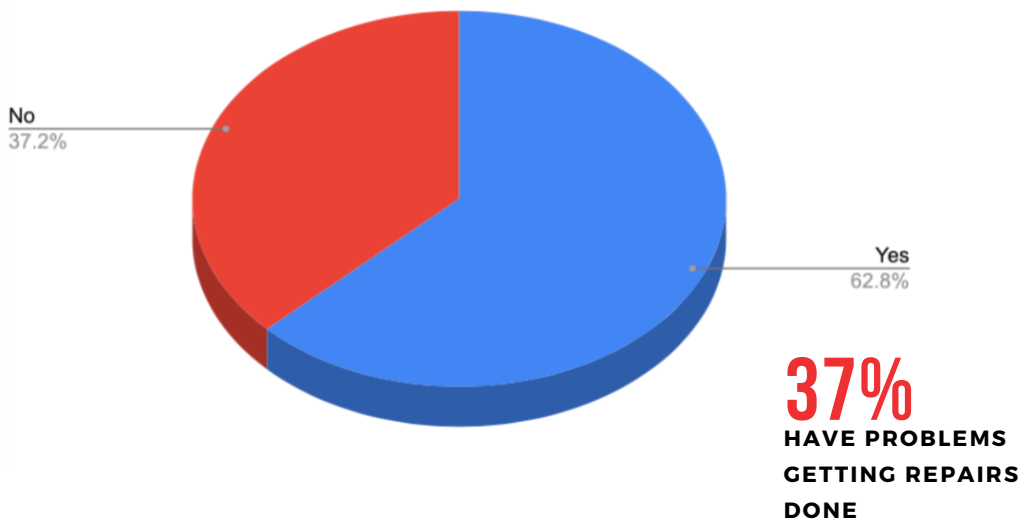


One in three tenants have real issues

Does your landlord or building manager act professionally?



Do you have problems getting repairs done?



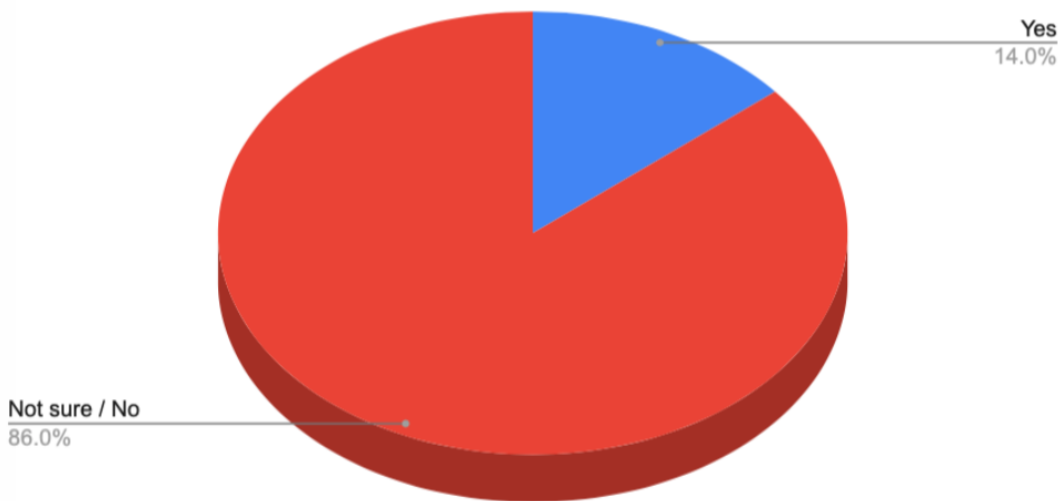
If a few bad apples spoil the bunch, what does one in three bad landlords do to the rental housing stock in New Brunswick?

It is good to see that the majority of New Brunswick tenants get repairs done in a timely manner, have appliances that work, have landlords or property managers that act professionally, and have their common areas kept clean. This certainly gives some solace to landlord advocates, who always point out that there are good landlords.

That said, one in three tenants does not get repairs done in a timely manner, does not have appliances that work, does not have landlords or property managers that act professionally, and does not have their common areas kept cleaned. One in three is not an insignificant number and shows that there is a systemic issue with landlords not living up to the legal requirements in New Brunswick.

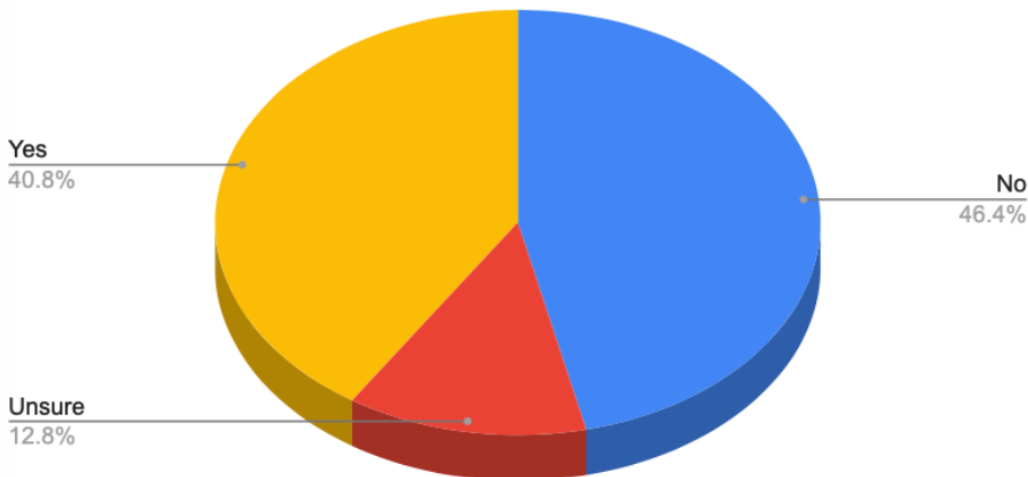
The current system doesn't work

Do you know of any bylaws in your city that set minimum standards for health and safety in apartments?



14%
KNOW PROPERTY
STANDARDS EXIST

Do you feel threatened or fear reprisals when requesting things from your building manager or landlord?



41%
FEAR RETALIATION
BY LANDLORDS WHEN
ASKING FOR REPAIRS

The current system doesn't work

Tenants are unaware of the property standards that are in place. This is a massive problem for a system that is completely complaint-based. In fact, the results of our survey imply that of the 14% who responded that they did know about the current standards, many were confusing minimum property standards with the Residential Tenancy Act. This means that the number of tenants aware of their rights when it comes to property standards is likely less than 14%.

The power imbalance between tenants and landlords exacerbates the problems with a complaint-based enforcement system of property standards. Why? Because tenants are scared of losing the housing they have and therefore do not want to rock the boat.

Moderate income tenants can afford to move and pay more rent if they are displaced, but understandably, do not want to. That said, despite the fact that moving is stressful (and expensive), [NB ACORN's Renters at Risk report](#) detailed 81.4% of New Brunswick tenants had moved between 2016 and 2021.

For low-income tenants, housing is acutely precarious. If forced to move, low-income tenants are at a high risk of being completely unhoused.

MONCTON TENANT

**“WE RECEIVED A
THREATENING
LETTER TAPED TO
OUR CAR DRIVERS’
MIRROR WITH
THREATENING
WORDS TELLING US
HE WAS GOING TO
HAVE OUR CAR
TOWED.”**



The current system doesn't work

While tenants' fear of being retaliated against by their landlords if they make property standards complaints is not proof retaliation will take place, the evidence suggests that tenants who do complain are at risk. Further, there are no laws in New Brunswick that protect tenants from landlord harassment.

The current system for property standards as well as the enforcement system in New Brunswick is woefully flawed, and, in fact, largely absent. The cities of Moncton, Saint John, Dieppe, Bathurst, and Fredericton have bylaws that attempt to enforce the provincial residential property maintenance and occupancy code. By having enacted these bylaws, they are admitting they have a responsibility to protect residents, yet the laws they have in place lack the proper enforcement protocols that would make them effective.

HEALTHY HOMES PLATFORM

Landlord Registration in all municipalities that includes:

- Cost recovery through a per-unit fee of \$1 per month charged to landlords,
 - Regular proactive inspections of buildings to check for compliance,
 - Tenant and landlord outreach and education so both parties understand their rights and responsibilities,
 - Mandatory building maintenance plans provided to the city by landlords,
 - Swift penalties for the landlords who are non-compliant.
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