



Before You Rent ...

What should a would-be landlord know before renting?

If you are thinking of becoming a landlord carefully research the legal obligations and responsibilities you'll assume once you've entered into a tenancy agreement. In addition to clearly understanding a landlord's legal rights and responsibilities, you must also realize the significant commitment you'll make when you rent to someone.

The first concern for landlords **should** be the condition of the rental unit. The landlord is responsible for ensuring the rental unit complies with health, safety, housing and maintenance standards which have been established to ensure rental units meet minimum standards.

If a tenant accepts a rental unit that is below standard, the landlord is responsible for making repairs to bring it up to standard. The landlord continues to be responsible for the compliance with health, safety, housing and maintenance standards after the tenant moves in.

What basic information should a landlord consider before renting?

- **Security of Tenure:** Landlords should realize that in Ontario tenants have security of tenure. This means that a landlord cannot end the rental agreement unless they have reason to do so as defined by the *Residential Tenancies Act*.
- **Setting the Rent:** Landlords are permitted to establish a new rent each time the rental unit becomes vacant. The "vacancy de-control" of a rental unit occurs **only** when a rental unit is vacated. When the unit is re-rented and a new rent is established, that rent becomes subject to the rent control provisions of the *Residential Tenancies Act*. It is advised that the new rent should reflect the property's market value at the time of listing.
- **Tenant Screening:** Landlords are assured the right to screen prospective tenants by utilizing accepted business practices such as requiring income information, credit checks, credit references, rental history, guarantees or other accepted business practices as prescribed in the regulations of the *Ontario Human Rights Code*. In order for landlords to protect themselves from claims of income discrimination, it is advised for landlords to ask for more than just income information when screening tenants.
- **Discrimination:** The *Ontario Human Rights Code* also impacts landlord and tenant relationships as it establishes the following: *Every person has the right to equal treatment*

with respect to the occupancy of accommodation without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, handicap or the receipt of public assistance. For more information on landlord and tenant rights and responsibilities in the rental housing sector, see the Ontario Human Rights Commission's Policy on Human Rights and Rental Housing. This policy and other OHRC information are available on-line at:
<http://www.ohrc.on.ca/en/policy-human-rights-and-rental-housing>

- **Rental Deposits:** Landlords may require a prospective tenant to pay a deposit **before** entering into a tenancy agreement. The maximum amount a landlord may require as a deposit is the equivalent of the rent for one rent period (one month/one week). If the tenant is accepted the deposit is then applied as payment of rent for the last rent period before the tenancy ends (last month's rent deposit).
- **Tenant Information Package:** Landlords are required to provide an information package outlining basic rights and responsibilities and how to contact the Landlord and Tenant Board to each new tenant beginning January 31, 2007. The Tenant Information Package can be found at <http://www.sjto.gov.on.ca/documents/lrb/Brochures/Information%20for%20New%20Tenants.html> or obtained by contacting the Landlord and Tenant Board.
Effective July 21, 2020, landlords are no longer required to provide the Tenant Information Package, as long as they have used the Ontario Standard Form of Lease.
- **Interest on Deposits:** Landlords are required to pay interest on the rent deposit every twelve months at the rate equal to the annual rent increase guideline. For deposits that were held up until January 30, 2007 the interest rate would be 6 %. This website provides all the previous annual rent increases <https://www.ontario.ca/page/rent-increase-guideline>
- **Deposit Top-up:** Landlords may deduct from the interest due to the tenant the amount required to update the deposit held for last week/month's rent before paying the tenant interest.

If the landlord fails to pay interest on the deposit when due (annually) the tenant may deduct the amount of interest due from a future rent payment.

- **Receipts:** The landlord shall provide the tenant, free of charge and upon the tenant's request, a receipt for the payment of any rent, **rent deposit**, arrears of rent or any other amount paid to the landlord. Where such receipts are requested, the landlord should keep copies for his/her file. We also suggest that, when any payment is made in cash, the landlord provide a receipt and keep a copy.

- **Vital Services:** A landlord shall not at any time during a tenant's occupancy of the rental unit withhold or deliberately interfere with the reasonable supply of any vital service, care service or food that it is the landlord's obligation to provide. Vital services include fuel, hydro, gas, heat and hot or cold water. Landlords are required to provide heat in the rental unit from September 1- June 15 (refer to 516/06 sec 4(1)).

What are a landlord's rights with respect to screening tenants?

The *Residential Tenancies Act* gives landlords the right to screen prospective tenants using usual business practices as prescribed under the *Ontario Human Rights Code* and we strongly recommend landlords make full use of this provision and implement a tenant screening mechanism.

All landlords should implement a screening process that allows for the assessment of the prospective tenant's ability to live up to their responsibilities and obligations as established under the *Residential Tenancies Act*. It is necessary to screen prospective tenants to determine the individual "risk" factor for each applicant. Landlords should be looking for the tenant who shows the least risk of not paying the rent, causing damage or disturbances, impairment of safety, commit an illegal act, etc. Therefore, it is advisable for landlords to fully research the rental history of all prospective tenants.

What can a landlord ask a prospective tenant?

Landlords may use income information, credit checks, credit references, rental history, guarantors and other similar business practices to screen tenants as prescribed in the Regulations made under the *Ontario Human Rights Code*.

Landlords are encouraged to use a Rental Application. This ensures that the same information is collected from all prospective tenants. Typically, a Rental Application requires the prospective tenant to provide information related to employment, their current and previous landlords, banking information and, most importantly, to sign a clause authorizing the landlord to conduct a credit check. The landlord is not allowed to access the tenant's confidential credit information unless the prospective tenant provides written consent agreeing to allow a credit check. There are limited circumstances under which access to an individual's credit information may be gained; one of them is for the purpose of approving an application for rental accommodation. If a prospective tenant refuses to provide all the requested information (rental history and credit references) the landlord can then proceed to use the income information to determine eligibility.

A rental application must also comply with the *Personal Information Protection and Electronic Documents Act* (PIPEDA) which states that "the knowledge and the consent of the individual are required for the collection, use or disclosure of the personal information."

IMPORTANT: Landlords may only request income information if rental history, credit references and authorization to perform a credit check is also requested. Income information cannot be used as the sole reason to decline an application.

Why should I verify the information provided by the prospective tenant?

It is extremely important that landlords not only collect information from prospective tenants but also verify it! The screening process is pointless unless the landlord takes steps to verify that the information provided is accurate **before** accepting the applicant as a tenant. The landlord can verify much of the information him/herself by:

- a) double-checking names and addresses in the telephone book or the Internet (Canada 411);
- b) contacting the individuals listed on the rental application as employers, previous landlords and personal references;
- c) personally visiting the former landlord or employer; this is necessary in some instances when there is a discrepancy in telephone numbers and addresses.

It can be difficult for the small-scale landlord to gain access to credit related information, unless they are a member of a credit bureau or agency. Landlords often seek assistance from real estate agents to complete the credit related aspect of the screening process. Generally, a real estate firm will charge a small fee to access the information on file at the credit bureau. There are also private companies that offer this service specifically to landlords.

Why is it necessary to use such a rigid screening process?

If you are renting, you are operating a business. You owe it to yourself to manage your business effectively by using business practices that provide protection from potential losses. It is important that the landlord does not make a hasty decision to accept a prospective tenant. Professional tenants often target small-scale landlords because typically their screening process is less strict than larger landlords. The small-scale landlord is often anxious to find a tenant, is too trusting, and is willing to accept an applicant without requiring any paper work such as a rental application.

It is important to note that if a landlord accepts a tenant without screening and verifying information, the landlord cannot later terminate the rental agreement if they discover false information was provided in the application.

What are the provisions of the *Residential Tenancies Act* respecting tenancy agreements?

Highlights of the *Residential Tenancies Act* provisions that impact tenancy agreements include:

- The term or period of tenancy begins on the day the tenant is entitled to occupy the rental unit under the tenancy agreement. The tenancy agreement takes effect when the tenant is **entitled** to occupy the rental unit, whether or not the tenant actually occupies it.
- If the tenancy agreement is not in writing, the tenant must be provided with written notice of the legal name and address of the landlord for the purpose of giving notice or other documents. The landlord must provide the tenant with this information within 21 days

after the tenancy begins. If the landlord fails to provide the required information, the tenant's obligation to pay rent is suspended until the landlord complies.

- If the tenancy agreement is written, the legal name and address of the landlord must be set out in the agreement for the purpose of giving notice or other documents. The landlord shall give a copy of the agreement, signed by the landlord and the tenant, within 21 days after the tenant signs it and gives it to the landlord. If the landlord fails to deliver the tenancy agreement within 21 days the tenant's obligation to pay rent is suspended until the landlord provides the copy.
- All landlords renting in Ontario should be aware that the Province has introduced a new Standard Form of Lease which must be used for written residential tenancy agreements in Ontario which are entered into on April 30, 2018 and after. Get the new Standard Form of Lease at

<http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/FormDetail?OpenForm&ACT=RDR&TAB=PROFILE&SRCH=&ENV=WWE&TIT=2229E&NO=047-2229E>

Landlords should also be aware that the Standard Form of Lease has recently been amended and the new version must be used for residential tenancies entered into on or after March 1, 2021.

- An agreement to **terminate the tenancy**, entered into by the landlord and tenant at the time the tenancy is created or as a condition of the tenancy, is void.
- In situations where a tenancy agreement for a fixed term or period expires, and the tenant neither renews the agreement nor terminates the tenancy, the tenancy is deemed to be renewed on a monthly basis for fixed term tenancies or for another week, month, year or period for periodic tenancies.
- Tenancy agreement provisions that are inconsistent with the legislation or regulations are void. An example of this is a no-pet provision established in the tenancy agreement cannot be enforced.
- Landlords or tenancy agreements cannot require the tenant to provide post-dated cheques or other negotiable instruments for the payment of rent, or permit automatic debiting of the tenant's financial account or credit card. However if it is a preferred method of payment suggested by the tenant, then it is allowed.
- Landlords have the option of reserving certain rights in the tenancy agreement and must do so in order to retain these rights. The *Residential Tenancies Act* permits you to give 24 hours written notice and enter the rental unit for a reasonable reason specified in the tenancy agreement. Therefore, it is necessary to clearly identify the circumstances that you will require access to the rental unit, such as:
 - performing an annual maintenance inspection of the premises;
 - annual servicing of heating; air conditioning; and/ or other mechanical systems;
 - performing an end of tenancy inspection; or
 - inspection of the premises upon the renewal of the mortgage or insurance.

The **Residential Tenancies Act Fact Sheets** are intended to help landlords learn and understand their rights and responsibilities.
They provide general information not legal advice.

© Landlord's Self-Help Centre - 2021
www.landlordselfhelp.com