



# Landlord's Self-Help Centre



## Serving Documents

Monday, April 14th at 6:00 pm

# Serving Documents

At this Town Hall Meeting we will:

- Learn about the rules for serving documents;
- Discuss the permitted methods for serving documents;
- Discuss how the rules vary for different types of documents;
- Explore common pitfalls; and
- Learn about proof of service requirements for the delivery of documents.

# Serving Notices or Documents

At some point during the tenancy a landlord will likely need to serve the tenant with a document or notice.

Documents typically served on a tenant will include:

- notice to enter the rental unit;
- notice of rent increase;
- notice of termination or other documents (Notice of Hearing and Landlord and Tenant Board Applications) related to the tenancy.



# The Residential Tenancies Act

The rules for the delivery of various notices and documents that a landlord may be required to serve a tenant are established by the *Residential Tenancies Act, 2006* (RTA or the Act).

The RTA outlines the rules that govern landlord and tenant relations, rights, responsibilities and obligations of landlords and tenants, and how disputes between them are to be resolved.



# Why are there rules for serving documents?

Important documents such as the notice to end the rental agreement, notice of rent increase or notice of intended entry must be served according to the rules.

Section 191 of the Residential Tenancies Act, 2006, outlines how a notice or document must be given. These rules define the process for the delivery of documents by both landlords and tenants.

It is essential that the service rules be followed particularly when a notice of termination or notice of rent increase is served, otherwise if served improperly they can be deemed null and void and require the process to start again.



# The Rules

# The Residential Tenancies Act

## Section 191

*According to section 191 of the RTA a notice or document may be given:*

- by handing it to the person;
- if the person is a landlord, by handing it to an employee of the landlord exercising authority in respect of the residential complex to which the notice or document relates;
- if the person is a tenant, subtenant or occupant, by handing it to an apparently adult person in the rental unit;

Continued ...

# Section 191 (continued)

- by leaving it in the mail box where mail is ordinarily delivered to the person;
- if there is no mail box, by leaving it at the place where mail is ordinarily delivered to the person;
- by sending it by mail to the last known address where the person resides or carries on business; or
- by any other means allowed in the Rules.



# Other Permitted Methods of Service

*Section 191(g) of the RTA also permits “any other means allowed by the Rules” for giving a notice to a tenant which are the following:*

- By courier to the tenant (deemed to be given on the next business day following the day it was given to the courier);
- By fax to the tenant where he/she carries on business or the tenant’s residence (deemed to be given on the date imprinted on the fax);
- By placing it under the door of the rental unit or through a mail slot in the door;

# Other Permitted Methods (continued)

- If serving a notice to a tenant under section 27 of the RTA (notice of entry) , by any permitted method of service or posting it on the door of the rental unit;
- If the document is an application or was created after the application was filed, by hand delivery, mail, courier or fax to the representative for a party; or
- If the document is an application or was created after the application was filed, by any method directed or permitted by the Board in writing.



# Methods of Service

# Handing the Document to the Person(s)

Usually, the best method to serve a document or notice to a tenant is by handing the document directly to the tenant.

Hand delivery requires the landlord to simply knock on the tenant's door and hand the notice or document to the tenant.

Potential pitfalls include:

- The tenant does not answer the door;
- The tenant refuses to accept any document; or
- The tenant denies receiving the document.

Note: Although not required, try to obtain the tenant's signature acknowledging receipt .



# Handing to an Apparently Adult Person in the Rental Unit

The tenant does not need to be home to accept delivery of the notice or document.

If the tenant is not present, the document may be handed to an apparently adult person who resides in the rental unit.

For example: The landlord is delivering a Notice of Rent Increase (Form N1) and the tenant is not at home. The landlord may give the notice to an **adult** who lives in the unit, such as the tenant's adult child.



# Leaving it in the Mail box or Where Mail is Ordinarily Delivered

A landlord can place a notice or document in the tenant's mail box, it is the tenant's obligation to check for mail regularly.

This is not the most direct method of service however it is acceptable under the RTA.

For example: If the tenant refuses to accept hand delivery of the notice or does not answer the door, the notice may be placed in the tenant's mail box.



**Note:** It is NOT proper service to put the notice BESIDE/ON TOP/OR UNDERNEATH the mailbox.

# Sending it by Mail to the Last Known Address Where the Tenant Resides or Carries on Business

If sending documents by mail you must include **5 extra days** to allow for delivery.

For example: If you are serving an N4 Notice to End a Tenancy Early for Non-payment of Rent by sending it by mail to your tenant, you must add five extra days to the termination date, instead of 14 days notice you must give a minimum of 19 days notice.

A notice or document given by **Xpresspost** is also deemed to be given by mail.



**Note:** We suggest sending documents or notices by ordinary mail, **not** by registered mail.

# Placing the Documents Under the Door of the Rental Unit or Through the Mail Slot

A common method of serving documents is sliding the notice or document under the door of the rental unit or through a mail slot in the door.

It is ***NOT*** sufficient to place the notice beside or near the door.





# When are other methods of service deemed valid?

A notice or document not given in accordance with section 191 of the RTA shall be deemed to have been validly given **if the Board is satisfied** that it came to the attention of the person for whom it was intended within the required time period.

**For example:** The tenant acknowledges in writing being served with the notice or document.



# Serving A Notice of Entry

Landlords are required to give 24 hours notice in writing according to s.27(1) of the RTA prior to entering the rental unit.

The Notice of Entry can be served by any permitted method of service or by posting it on the door of the rental unit.

**It is important to note that the notice of entry is the ONLY notice that can be posted on the door of the rental unit.**





# Common Pitfalls

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A tenant may deny receiving the notice, even where it is given using an appropriate method of service.

- The landlord may want to have a witness present when serving the tenant.
- A witness is an impartial third party and reduces the likelihood of a tenant successfully arguing they did not receive the document.



# Common Pitfalls

Sending a notice by fax is a recognized method of delivery pursuant to the Rules of Practice.

Sending a notice by email or text message is not an appropriate method of service.



Note: It is important not to confuse fax with email or text message



# Proof of Service

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If a landlord is required to file an Application to Terminate a Tenancy and Evict a Tenant at the Board s/he must also complete and file a ***Certificate of Service***.

The person who served the notice or document to the tenant is required to sign the Certificate of Service as proof of service.

This form is available at [www.ltb.gov.on.ca](http://www.ltb.gov.on.ca)

The form is titled "Certificate of Service" and is issued by the "Landlord and Tenant Board". It contains the following sections:

- Address of Rental Unit:** Fields for Unit/Apt./Suite, Street Address, Municipality (City, Town, etc.), and Postal Code.
- File Number (if applicable):** A field for entering the file number.
- Certification:** A section where the user certifies that on a specific date (dd/mm/yyyy), they gave a copy of the following document(s) to the following person(s):
  - Documents: Notice of Termination Form #, Application Form #, Notice of Hearing, Motion to Set Aside an Ex Parte Order, Request to Review an Order, or Other.
  - Person(s): the tenant, the landlord, or other.
- Method of Service:** A section where the user certifies the method of service:
  - more than one tenant, who is a party to the same application, on the same date and in the same way. (If checked, attach a list of names and addresses of the people you served.)
  - by the following method of service:
    - handing the document(s) to the person(s)
    - handing the document(s) to an authorized employee of the landlord.
    - handing the document(s) to an adult person in the tenant's rental unit.
    - leaving the document(s) in the mailbox, or place where mail is normally delivered.
    - placing the document(s) under the door of the rental unit or through a mail slot in the door.
    - sending the document(s) by courier to the person(s).
    - sending the document(s) by fax to fax number: \_\_\_\_\_
    - sending the document(s) by mail or Xpresspost to the last known address of the person(s), at: \_\_\_\_\_

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# Questions

# Resources

[www.landlordselfhelp.com](http://www.landlordselfhelp.com)

## **Sound Advice for Landlords: Podcast and Transcript**

[http://www.landlordselfhelp.com/sound\\_advice/scripts/serving\\_documents.htm](http://www.landlordselfhelp.com/sound_advice/scripts/serving_documents.htm)

## **Frequently Asked Questions (FAQs)**

[http://www.landlordselfhelp.com/education/forum\\_subcategories.asp?cat\\_id=1](http://www.landlordselfhelp.com/education/forum_subcategories.asp?cat_id=1)

[www.LTB.gov.on.ca](http://www.LTB.gov.on.ca)

## **Residential Tenancies Act, 2006**

[http://www.elaws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_06r17\\_e.htm](http://www.elaws.gov.on.ca/html/statutes/english/elaws_statutes_06r17_e.htm)

## **Rules of Practice**

[http://www.ltb.gov.on.ca/stdprodconsume/groups/csc/\\_ltb/documents/resource/ltb%20Amended%20Rules%20of%20Practice%20v2.1.pdf](http://www.ltb.gov.on.ca/stdprodconsume/groups/csc/_ltb/documents/resource/ltb%20Amended%20Rules%20of%20Practice%20v2.1.pdf)