



Terminating a Tenancy for Landlord's Own Use

The information offered is intended as general information, it is not legal advice.
If you need more information, please contact a legal service provider.

Overview



This Workshop will walk you through the termination process and address key topics such as:

- Good Faith Essentials and Timing of the Notice;
- N12 - Notice of Termination;
- the LTB Hearing and Presenting Your Case;
- Potential Pitfalls; and
- Bad Faith Offences and Penalties.



Landlord's Own Use

If the rental unit is required for the residential use by:



- The landlord;
- The landlord's spouse;
- A child or parent of the landlord or the landlord's spouse; or
- A person who will provide care services to the landlord, spouse/child or parent of the landlord.



Purchaser's Own Use

A landlord can give a notice of termination of the rental agreement on behalf of a purchaser if the rental unit is required for the residential use by:



- The purchaser;
- The purchaser's spouse;
- A child or parent of the purchaser or the purchaser's spouse; or
- A person who will provide care services to the landlord, spouse/child or parent of the landlord.



When to serve the N12

Landlord's Own Use

- ✓ The landlord or the landlord's immediate family member or a caregiver in good faith requires the rental unit for their own personal occupation; and
- ✓ The person moving in intends to live in the unit for at least one year.

Purchaser's Own Use

- ✓ The landlord has a signed purchase and sale agreement;
- ✓ The property contains three units or less; and
- ✓ The purchaser or the purchaser's immediate family member or a caregiver in good faith requires the rental unit for their own personal occupation.

***The rest of this presentation will focus on Landlord's own use exclusively.**

Do you have grounds?

Residential Tenancies Act, 2006



The *Residential Tenancies Act, 2006* (RTA) is the provincial statute that governs most residential rental agreements in Ontario. The RTA defines the rights and responsibilities of landlords and tenants.

The RTA includes provisions for the termination of a rental agreement when the landlord in good faith requires the unit for the landlord's own use or the residential use of an immediate family member.

The RTA defines who may occupy the rental unit.



Security of Tenure

All tenants have security of tenure which means that tenants are entitled to occupy the rental unit after the initial term specified in a rental agreement ends.

The tenancy may only be terminated when:

- The tenant decides to leave and gives notice to terminate the tenancy; or
- The landlord and tenant agree to terminate the tenancy; or
- The landlord gives notice to end the tenancy for a reason permitted under the RTA, and the tenant moves out, or if the tenant does not move out, the landlord applies to the Landlord and Tenant Board and obtains an eviction order.



Is your case strong enough?

When termination is sought for own use, suspicions are raised because this ground is commonly used inappropriately.

If thinking of giving an N12 notice, landlords should consider the following:

- When did the tenant move in and is it reasonable to give notice now?
- Have other suitable rental units recently become available?
- Will the unit be occupied as a primary residence for at least one year?
- Is there a history of problems with the tenant?
- Has another notice of termination been given to the tenant recently?*

If an application is filed with the Landlord and Tenant Board, landlords are assumed to be making this application in bad faith and have to convince the Board otherwise.

Alternate approaches to end a tenancy

If the N12 notice is not the most appropriate option for your situation, consider negotiating an end to the tenancy and document this agreement using the **N11-Agreement to End the Tenancy** with your tenant instead.

If the tenant refuses, you cannot evict them unless there are other grounds that allow you to serve a notice to terminate a tenancy.



See www.landlordselfhelp.com for more information on ways to end a tenancy.



Landlord's Own Use

The landlord can give a notice of termination of the rental agreement if the rental unit is required in **good faith** for the residential occupation by:



- The landlord;
- The landlord's spouse;
- A child or parent of the landlord or the landlord's spouse; or
- A person who will provide care services* to the landlord, spouse/child or parent of the landlord.



Landlord's Own Use

The landlord cannot give a notice of termination of the rental agreement if the rental unit is required for the residential use by:

- Members of the extended family such as brother or sister; cousin; aunt or uncle; grandparent; grandchild, etc.
- If the landlord is a corporation



Changes under the Rental Fairness Act, 2017

Amendments require landlords to meet additional requirements to terminate a tenancy for the landlord's or landlord's family's own use:

- Require written intention that the landlord or landlord's family will reside in the unit for at least one year
- Require the landlord to compensate the tenant one month's rent or offer the tenant another acceptable rental unit
- Only allow landlords who are individuals (rather than corporations) to use this ground for eviction
- Deem the landlord to have acted in bad faith if the landlord advertises or re-rents the unit for a higher rent within one year
 - The onus would be on the landlord to disprove bad faith at the LTB;
 - If the landlord cannot disprove bad faith, the LTB could order the landlord to provide additional compensation to the tenant

Good Faith

Good faith is having a genuine intention to occupy the rental unit for residential purposes.

Important: Landlords should not serve the N12 notice to a tenant simply because they are experiencing problems with the tenant, or want to raise the rent, and believe it is the easiest way to ask the tenant to leave.

A tenant can file a T5 application against a former landlord for bad faith within 12 months of the date they moved out.



Notice of Termination

N12- Notice to End your
Tenancy Because the
Landlord, a Purchaser or a
Family Member Requires the
Rental Unit



What is the N12 notice?



The Landlord and Tenant Board Form N12 is a notice to end the tenancy that can be given to the tenant if the rental unit is required for residential use by someone such as a landlord, purchaser, or caregiver.

Visit the Landlord and Tenant Board website at

<http://www.sjto.gov.on.ca/ltb/forms/> to download the most recent notice.

Landlords should take into consideration the length of time it will take to evict the tenant, which could be up to three months or longer.



Monthly Tenancy

A notice of termination for own use can be given at anytime, however the termination date must coincide with the day before the rent is due if the tenancy is on a month to month basis.

Be mindful of the due date for rent as this will affect the termination date.

For example, if rent is due on the 15th of the month and you give this notice to the tenant on June 20, 2019, the termination date on the form should be September 14, 2019.



Fixed-term Lease

A notice of termination for own use can be given at anytime, however the termination date must coincide with the end of the term if there is a fixed term lease agreement.



Example #1: Lease ending June 30, 2019

If rent is due on the 1st of the month and you provide this notice to your tenant(s) by the end of this month, the termination date on the notice will be August 31/19.

Example #2: Lease ending June 30, 2020

You have to honour the lease term and can serve this notice to the tenant by the end of next April for a termination date of June 30, 2020.



N12 Notice for Landlord's Own Use

Notice to End your Tenancy
Because the Landlord, a Purchaser or a Family Member Requires the Rental Unit
N12
(Disponible en français)

To: (Tenant's name) include all tenant names	From: (Landlord's name)
Address of the Rental Unit:	
This is a legal notice that could lead to you being evicted from your home.	
The following information is from your landlord	
I am giving you this notice because I want to end your tenancy. I want you to move out of your rental unit by the following termination date: / / 	

My Reason for Ending your Tenancy
I have shaded the circle next to my reason for ending your tenancy.

Reason 1: The following person intends to move into the rental unit and occupy it for at least one year:

<input type="checkbox"/> Me	<input type="checkbox"/> My spouse	<input type="checkbox"/> My child
<input type="checkbox"/> My parent	<input type="checkbox"/> My spouse's child	<input type="checkbox"/> My spouse's parent

Or **A person who provides or will provide care services to:**

<input type="checkbox"/> Me	<input type="checkbox"/> My spouse	<input type="checkbox"/> My child
<input type="checkbox"/> My parent	<input type="checkbox"/> My spouse's child	<input type="checkbox"/> My spouse's parent

Reason 2: I have signed an Agreement of Purchase and Sale of the rental unit and the following person intends to move into the rental unit:

<input type="checkbox"/> The purchaser	<input type="checkbox"/> The purchaser's spouse	<input type="checkbox"/> The purchaser's child
<input type="checkbox"/> The purchaser's parent	<input type="checkbox"/> The purchaser's spouse's child	<input type="checkbox"/> The purchaser's spouse's parent

Or **A person who provides or will provide care services to:**

<input type="checkbox"/> The purchaser	<input type="checkbox"/> The purchaser's spouse	<input type="checkbox"/> The purchaser's child
<input type="checkbox"/> The purchaser's parent	<input type="checkbox"/> The purchaser's spouse's child	<input type="checkbox"/> The purchaser's spouse's parent

OFFICE USE ONLY: File Number / /

Delivery Method: in Person Mail Courier Email Efile Fax FL

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Important Information from the Landlord and Tenant Board (LTB)

The termination date
The termination date the landlord sets out in this notice must be at least 60 days after the landlord gives you this notice.
Also, the termination date must be the last day of the rental period. For example, if you pay rent on the first of each month, the termination date must be the last day of a month.
Finally, if the tenancy is for a fixed term the termination date cannot be earlier than the last day of the fixed term. For example, if you signed a one-year lease, the termination date cannot be earlier than the last day of the one-year period set out in the lease.

Tenant is entitled to compensation or another unit
If the landlord is giving you this notice for Reason 1, then the landlord must:
• Pay you an amount equal to one month's rent by the termination date in this notice, or
• Offer you another rental unit that is acceptable to you.

A tenant can give 10 days' notice to end the tenancy
You can terminate the tenancy sooner than the date set out in this notice as long as you give the landlord at least 10 days' notice that you intend to move out of the rental unit. You must use the Landlord and Tenant Board's Form N9 Tenant's Notice to End the Tenancy to give your written notice to the landlord.

What if you disagree with the notice?
You do not have to move out if you disagree with what the landlord has put in this notice. However, the landlord can apply to the LTB to evict you. The LTB will schedule a hearing where you can explain why you disagree.

What if you move out?
If you move out of the rental unit by the termination date, your tenancy ends on that date.

What if the landlord applies to the LTB?
The landlord can apply to the LTB to evict you immediately after giving you this notice. If the landlord applies to the LTB to evict you, the LTB will schedule a hearing and send you a copy of the application and the Notice of Hearing. The Notice of Hearing sets out the date, time and location of the hearing. At the hearing, the landlord will have to prove the claims they made in this Notice to End your Tenancy and in the application and you can respond to the claims your landlord makes. If the LTB issues an order ending your tenancy and evicting you, the order will not require you to move out any earlier than the termination date included in this notice.

How to get more information
For more information about this notice or your rights, you can contact the Landlord and Tenant Board. You can reach the LTB by phone at 416-643-8080 or 1-888-332-3234. You can visit the LTB website at go.on.ca/LTB.

Signature Landlord Representative

First Name / /

Last Name / /

Phone Number / /

Signature / / Date (dd/mm/yyyy) / /

Representative Information (if applicable)

Name	LJUC #	Company Name (if applicable)
Mailing Address		Phone Number
Municipality (City, Town, etc.)	Province	Postal Code
		Fax Number

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N12 Notice for Landlord's Own Use: Names

Notice to End your Tenancy Because the Landlord, a Purchaser or a Family Member Requires the Rental Unit N12	
To: (Tenant's name) include all tenant names	From: (Landlord's name)
JOHN SMITH	SHIRLEY ADAMS
Address of the Rental Unit:	
BASEMENT UNIT- 123 SEASIDE AVENUE, TORONTO, ONTARIO, M4S 2V8	

Names: Ensure all names are spelled in full and correctly.

If you have a joint tenancy, make sure you list all the tenant's names together on the same notice.

If a tenant has a nickname that they use, put that on the notice as well [i.e. John Smith (aka. Johnny Smith)].

Address: Clearly define the rental unit (i.e. basement unit).



N12 Notice for Landlord's Own Use: Termination Date

This is a legal notice that could lead to you being evicted from your home.

The following information is from your landlord

I am giving you this notice because I want to end your tenancy. I want you to move out of your rental unit by the following termination date:

3 1 / 0 8 / 2 0 1 9 .
dd/mm/yyyy

Termination Date: The termination date must be at least 60 days and coincide with the end of a rent period or the end of a fixed term if there is a lease.

Important: The notice becomes void if the landlord does not apply to the Board within 30 days of the termination date. In the example used in this presentation, the N12 notice would expire September 30/19 if the landlord has not filed with the LTB.



N12 Notice for Landlord's Own Use: Reason

My Reason for Ending your Tenancy

I have shaded the circle next to my reason for ending your tenancy.

Reason 1: The following person intends to move into the rental unit and occupy it for at least one year:

Me

My spouse

My child

My parent

My spouse's child

My spouse's parent

Or A person who provides or will provide care services to:

Me

My spouse

My child

My parent

My spouse's child

My spouse's parent

Reason: Make sure the proper reason is selected and indicate who will be moving into the unit.



N12 Notice: Important Information

Tenant is entitled to compensation or another unit

If the landlord is giving you this notice for **Reason 1**, then the landlord must:

- Pay you an amount equal to one month's rent by the termination date in this notice, or
- Offer you another rental unit that is acceptable to you.

A tenant can give 10 days' notice to end the tenancy

You can terminate the tenancy sooner than the date set out in this notice as long as you give the landlord at least **10 days'** notice that you intend to move out of the rental unit. You must use the Landlord and Tenant Board's Form N9 *Tenant's Notice to End the Tenancy* to give your written notice to the landlord.

What if you disagree with the notice?

You do not have to move out if you disagree with what the landlord has put in this notice. However, the landlord can apply to the LTB to evict you. The LTB will schedule a hearing where you can explain why you disagree.

What if you move out?

If you move out of the rental unit by the termination date, your tenancy ends on that date.



N12 Notice: Important Information

Carefully read the Important Information section on page 2 of the notice and make sure you understand everything before serving this notice to your tenant(s).

Compensation: When giving this notice, the landlord must compensate the tenant by paying them an amount equal to one month's rent or offering them another unit that is acceptable to them. The unit being offered must be owned by the same landlord*



Tenant's Rights After Being Served

The tenant is not obligated to respond to the notice and can remain in the rental unit if they wish to dispute the landlord's notice.

- The tenant may terminate earlier than the termination date by giving at least 10 days' notice. This notice should be provided to the landlord using the **N9-Tenant's Notice to End the Tenancy**.
- If the tenant decides to leave early they are also entitled to a refund of any extra rent the landlord is holding in addition to the one month's compensation.



How can you serve the N12?

Make sure to deliver the notice to the tenant according to the Landlord and Tenant Board Rules or this will result in you having to start the process all over.

The landlord may deliver the tenant the N12 notice by:

- Handing it to the tenant;
- Handing it to an apparent adult person in the rental unit;
- Placing it in the tenant's mailbox or where mail is usually delivered;
- Sliding it under the door of the rental unit;
- Faxing it to the tenant's residence or place of business; or
- Sending the notice by courier or mail with additional time added to allow for delivery.
 - If you serve this notice by regular mail or using Canada Post Xpress post, you must add 5 days to the termination date.
 - If you serve this notice by couriers such as FedEx, UPS or Purolator Next Day Service, you must add 1 day to the termination date.
 - See Rule 3.8 <http://www.sjto.gov.on.ca/documents/lrb/Rules/LTB%20Rules%20of%20Practice.html>

IMPORTANT: This notice should **NOT** be posted on the tenant's door.

Do **NOT** deliver this notice by email or text message, it is **NOT** a proper method of service.



'Cancelling' a N12 Notice

There is no set way to cancel a N12 notice once it is given to the tenant.

Make sure the person set to move into the rental unit is committed before serving the N12 notice to your tenant.

- If you have served your tenant with a N12 and then the person who wanted to move into the unit changes their mind, you should notify the tenant right away. Write the tenant a letter explaining the change in circumstance. Inform them that they can disregard the N12 and continue to live in the unit.
- If you want to 'cancel' the notice but it is too late because the tenant has signed another tenancy agreement and is moving out, you will still have to provide the compensation. There is also a chance the tenant files an application against you at the LTB for bad faith and tries to sue you for up to \$25,000.



Offences and Penalties

If the tenant moves out according to the notice, and before you file an application with the LTB, the individual on the notice is still required to live in the property full-time for at least one year.

If a former tenant finds out the unit has been re-rented or sold within the first year, they can file a bad faith application at the Landlord and Tenant Board, and the landlord may face fines up to \$25,000, which can include:

- the payment for the differences in rent for one year,
- moving expenses, and
- anything else the Adjudicator deems to be appropriate under the circumstances.

More detailed information can be found at <https://landlordselfhelp.com/new-rules-when-ending-a-tenancy-for-landlords-own-use/>



Recent changes to the law: Providing Compensation

As of September 1, 2017, when serving the N12 notice for landlord's own use, the landlord is required to compensate the tenant an amount equal to one month's rent by the termination date on the notice **OR** offer the tenant another rental unit that is acceptable.

If paying the tenant compensation, the full amount of compensation must be paid to the tenant on or before the termination date listed on the N12 notice. If it is not paid by this deadline, the landlord risks the dismissal of their application at the LTB and having to start the process all over again.

If offering another rental unit, it must be a unit which is owned by the same landlord who is giving the tenant the notice.



Landlord and Tenant Board

L2- Application to End a Tenancy and Evict a Tenant



Filing the L2 Application

The landlord can file an L2 application with the Landlord and Tenant Board at any time after serving the N12 notice if:

- The landlord wants to be proactive and save as much time as possible; or
- The landlord believes that the tenant may not leave; or
- The tenant fails to vacate at the end of the notice period.

The L2 application can be filed:

- In person at the LTB or Service Ontario location (\$190 fee); or
- Online through the LTB's e-file option www.sjto.ca/ltb/forms (\$175 fee)



L2 Application: Details

The L2 application is used with many different termination notices so make sure to only fill out the information relating to the N12 notice (but keep all the pages together).

General Information

- Make sure the address in the L2 application matches what you have on the N12 notice.
- If there are more than one landlord or more than two tenants, use the Schedule of Parties form from the Landlord and Tenant Board website to add them to the application www.sjto.ca/ltb
- If there is another hearing date set for another issue (i.e. arrears of rent), record the file number in the Related Applications section to alert the LTB. They may be able to join both applications so that both issues are dealt with at the same hearing. **Be careful NOT to file the N12 with the N5/N6/N7 notices as this may hurt your N12 application.**
- You can only file the L2 application based on the N12 if the tenant is still living in the rental unit.

Signature

- Anyone can go to the LTB to file the documents for the landlord. However, only the landlord or landlord's legal representative should sign this application.



L2 Application: Schedule B- Additional information Ending a Tenancy for Landlord's Own Use

Compensation

- If your hearing date is scheduled **after** the termination date on the N12 notice, you **must** pay the tenant the compensation or provide another acceptable unit before the hearing date.
- If your hearing date is scheduled **before** the termination date on the N12 notice, you still have time to pay the tenant the compensation. It is suggested that you bring the payment with you to the hearing.

Affidavit or Declaration

- These forms are a separate document that must be completed by the person moving into the rental unit and can be found on the Landlord and Tenant Board's website at <http://www.sjto.gov.on.ca/ltb/forms/>



Declaration v. Affidavit

The main difference between the Declaration and the Affidavit is that the Affidavit is sworn before a Commissioner of Oath and the Declaration is not.

The Landlord and Tenant Board made the Declaration available on December 15, 2018 as a way to speed up the filing process.

It does not matter which form is used as long as it is filled out properly and with truthful information by the person who intends to move into the property. This person must also attend the hearing.



Gather all Required Documentation

The following forms must be filed with the Board:

- Copy of the Form N12
- Form L2- Application to Terminate a Tenancy and Evict a Tenant
- Certificate of Service
- Affidavit (sworn) or Declaration (unsworn) filled out by the person who will be moving into the unit.

Forms and Board locations can be obtained from the Landlord and Tenant Board's website at <http://www.sjto.gov.on.ca/ltb/forms/>



Notice of Hearing

- Once the application is filed with the Board, a hearing date will be scheduled and the landlord and tenant will both be sent a Notice of Hearing package.
- Check back with the Board after a couple of weeks if you filed and didn't receive a package.
- The Notice of Hearing will indicate the hearing date, time and the location where the hearing will take place.



What Happens at the Landlord and Tenant Board Hearing?



Organize Supporting Documentation

The landlord needs to organize any documentation that will be required to support their case. For example:

- If the landlord is seeking the unit for his parents who are moving to Canada from abroad, the landlord should have immigration documents, visas, airline tickets, etc. which support this claim.
- If the unit is required for a caregiver, gather medical or other information that can be offered in support of the application and illustrate the need for the caregiver.
- If the unit is for a child attending a local university, gather documentation which confirms registration, etc.



Landlord and Tenant Board Hearing

- An adjudicator will preside at the hearing. These hearings are usually conducted in person.
- The landlord will be required to explain the reasons and circumstances for giving the notice to terminate the tenancy and demonstrate that there is a good faith intention by the landlord or family member to move into the rental unit.
- The person who will occupy the unit should be present at the hearing.
- The tenant can dispute the landlord's application if they do not believe that the landlord or family member is acting in good faith.
- The landlord must be prepared to demonstrate good faith at the hearing.
- After the hearing an Order will be issued and sent to both parties with a decision.



Bad Faith

Tenant's Bad Faith Application

A tenant can file a T5 application against a landlord for bad faith if:

- The landlord or landlord's family member did not move into the rental unit within a reasonable time after the tenant moved out;
- If the landlord advertises the unit for rent or for sale within the first year;
- Enters into a new tenancy agreement; or
- Converts or demolishes the rental unit or building.

The tenant can file this application within the first 12 months after vacating the unit.

Even if the landlord was initially successful in obtaining an order for termination based on the N12/L2 at the Landlord and Tenant Board, they can still be found to have acted in bad faith.

Bad Faith- Tenant moved out

If the Board decides that the landlord gave the N12 notice in bad faith, the landlord could be ordered to pay the following:

- All or any portion of any increased rent that the former tenant has incurred or will incur for a one year period after vacating the rental unit;
- Reasonable out-of-pocket moving, storage and other like expenses that the former tenant has incurred or will incur;
- An abatement of rent;
- An order that the landlord pay a fine of up to \$25,000 to the Board (\$100,000 for corporations); and
- Any other order that the Board considers appropriate.



Offences and Penalties

- Under section 233 of the *Residential Tenancies Act*, a person is guilty of an offence if they knowingly,
- (f) recovers possession of a rental unit without complying with the requirements of s. 48.1 (one month's rent owner's use)
- Individuals convicted of the offence may be fined up to \$25K
- Corporations convicted of the offence may be fined up to \$100K

Educate Yourself

- It is very important that you do your research to make sure this process is appropriate for your situation. If you serve your tenant(s) with an incorrect notice, it can cause other problems for you down the road.
- Use these resources to learn about the process:
 - Landlord & Tenant Board www.sjto.gov.on.ca/ltb
 - Notices and Applications
 - Brochures
 - Frequently Asked Questions
 - Landlord's Self Help Centre www.landlordselfhelp.com
 - RTA Fact Sheets
 - Landlord Learning Videos
 - Frequently Asked Questions





Thank you!



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If you have a specific issue or situation, please contact a legal service provider.