

Province releases new Standard Lease Form

On February 7, 2018, Ontario's Ministry of Housing released the new Residential Tenancy Agreement (Standard Form of Lease). This new lease is written in plain language to make it easier for landlords and tenants to understand the rights and responsibilities they have under the *Residential Tenancies Act, 2006*. It is also an attempt to reduce illegal and unenforceable terms in tenancy agreements, and lessen the number of disputes seeking resolution at the Landlord and Tenant Board.

Ontario landlords entering into a written residential tenancy agreement on or after April 30, 2018 are required to use the new Standard Form of Lease as it will be mandatory for all written tenancy agreements in Ontario.

The law in Ontario does not require a written tenancy agreement. However, landlords are strongly encouraged to document the terms of the tenancy by way of a written agreement, signed by the landlord and the tenant, before the tenancy begins. A written tenancy agreement is important as it defines the responsibilities of parties and allows the landlord to reserve certain rights.

The standard lease developed by the Ministry of Housing will apply to most residential tenancies in Ontario, including:

- single and semi-detached houses
- apartment buildings
- condominiums
- secondary units (for example, basement apartments)

Please visit their website at <http://www.mah.gov.on.ca/Page18704.aspx> for more information and to get a copy of the lease.

In addition to the release of the Standard Form of Lease, the Ministry of Housing will be developing a multi-language guide. These guides are expected to provide more information about the Standard Form of Lease and include examples of legal and illegal clauses which may be used in the additional terms section.

If landlords do not use the Standard Form of Lease when entering into a written tenancy agreement on or after April 30, 2018, they will have 21 days to provide one to the tenant after the tenant makes a written request.

If the landlord does not provide the tenant with a Standard Form of Lease after the written request was made, the tenant is allowed to withhold one month's rent, or give the landlord a 60 days' notice to end their tenancy early.

If certain sections of the Standard Form of Lease are unclear, landlords are encouraged to seek legal advice before a lease agreement is signed and a tenancy is entered into.

Visit <https://landlordselfhelp.com/blog/standard-lease-form/> to read this article in full.

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Disclaimer

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Landlord's Self-Help Centre
1500 - 55 University Ave.
Toronto, Ontario
M5J 2H7

Tel: 416-504-5190
Toll free: 1-800-730-3218
Email: info@landlordselfhelp.com

Funded by:



Moving back into the rental unit?

Landlords giving the N12: [Notice to End your Tenancy Because the Landlord, a Purchaser or a Family Member Requires the Rental Unit](#) to tenants indicating that they need to move back into the rental unit are now required to pay one month's compensation or offer another rental unit acceptable to the tenants. This new requirement came into effect on September 1, 2017 as part of the recent changes to the *Residential Tenancies Act*.

Section 48.1 of the *Residential Tenancies Act* says the following: "A landlord shall compensate a tenant in an amount equal to one month's rent or offer the tenant another rental unit acceptable to the tenant if the landlord gives the tenant a notice of termination of the tenancy under section 48." It does not matter if the tenancy is on a fixed term or month-to-month basis, this requirement must be fulfilled.

It is important to note that this requirement is to be fulfilled only by a landlord moving back into the rental unit. If a landlord is selling the rental unit and the purchaser would like to move in, the requirement to pay one month's compensation or offer another rental unit acceptable to the tenant does not apply.

The one month's compensation must be a monetary amount equal to one month's rent and paid to the tenant on or before the termination date indicated in the N12 notice. For example, if the N12 termination date is April 30th and the tenant pays the rent amount of \$1,000 dollars per month, the landlord then must pay the tenant \$1,000 dollars on or before April 30th. This is extremely important as the Landlord and Tenant Board may delay or dismiss the N12 application if the landlord failed to pay the one month's compensation to the tenant by the termination date.

However, section 48.1 provides the landlord with two options: to either pay the compensation or offer another rental unit acceptable to the tenant. This indicates that if the landlord chooses to offer another rental unit instead of paying the one month's compensation, this must be another rental unit provided by the landlord that the tenant accepts. For example, a landlord of a two-unit house giving an N12 notice to move into the rental unit located on the upper floor may offer the rental unit located on the lower floor of the same house. This is subject to the lower floor rental unit being vacant. Offering another landlord's rental unit to the tenants does not satisfy this requirement.

To avoid potential disputes, LSHC suggests landlords file their N12 notices with the Landlord and Tenant Board as soon as the notices are given to the tenants. Filing the N12 notice and scheduling a hearing as soon as possible may resolve the issue of whether or not the landlord has satisfied the requirement in section 48.1 of the *Residential Tenancies Act*.
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RENOVICTION?

Renoviction is a new term coined by the media in recent weeks used to report on the eviction of tenants for renovations. There is one case in particular that is attracting a lot of media, found at: <https://www.thestar.com/news/gta/2018/03/27/housing-minister-aims-to-curb-renovictions.html>

The *Residential Tenancies Act* (RTA) establishes rules for termination of a tenancy for extensive repairs, renovations, or conversion, these include: renovations or repairs must be extensive and require a building permit; tenants must receive a minimum 120 days' notice; compensate tenants equal to 3 months rent or offer an alternate unit that is acceptable to tenant where 5 or more units. Tenants also have the right of first refusal post renovation at the same rent provided they advised in writing they wished to exercise this right and provided their address to the landlord. Learn more about your rights and responsibilities www.landlordselfhelp.com

Small Landlord Workshop: STANDARD LEASE FORM

If you're using a written tenancy agreement for new and renewing tenancy agreements, you will be required to use the new Standard Lease Form beginning April 30, 2018.

Join LSHC and the Ministry of Housing on Wednesday, April 18 at 6:00 pm to learning more about the new Standard Form of Lease as we discuss why Ontario landlords must now use this form and the penalties faced for non-compliance. We'll also discuss how to add unique clauses for special terms, such as no smoking. Time has been set aside for a Q&A. Pre-registration is required at <https://lshc-standard-lease-form.eventbrite.ca>

Please note: seating is very limited. The workshop will be recorded and posted online for on demand viewing.

Bill C-45 - The Cannabis Act

The Government of Canada introduced Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts (the Cannabis Act), on April 13, 2017 and has been making its way through the legislative process. Bill C-45 passed second reading in the Senate by a vote of 44-29, clearing another hurdle and transitioning to the committee stage with the final vote to take place on or before June 7. The Senate Social Affairs, Science and Technology will not study Bill C-45 as well as the Aboriginal Peoples Committee, the Legal and Constitutional Affairs Committee, the National Security and Defence Committee, and the Foreign Affairs and International Trade Committee.

If Bill C-45 passes third reading, receives royal assent and is proclaimed into force, adults in Canada will be allowed to possess, grow and purchase limited amounts of cannabis. This will give Canada the distinction of becoming the second country to adopt a nationwide policy on the recreational use of marijuana.

The provinces each developed legislation to establish regulatory frameworks which define the rules for use and enforcement in preparation for the federal cannabis legislation. In Ontario, the Cannabis Act, 2017, the Smoke-Free Ontario Act, 2017 and the Road Safety Statute Amendment Act, 2017 were passed on December 12, 2017 although not proclaimed into force. Ontario will prohibit individuals under 19 years from possessing, cultivating, or consuming recreational cannabis. Police will be allowed to confiscate small amounts (5 grams) of cannabis from young people. The consumption of recreational cannabis will be restricted to private residences and not permitted to be consumed in any public places, workplaces and motorized vehicles or boats.

Ontario landlords should be aware of forthcoming changes governing the possession and use of recreational marijuana and inform themselves of new rules to ensure they are able to respond to conflict and complaints regarding the use of recreational marijuana in the rented premises.

Landlords should also be concerned with smoking or vaping of marijuana in or around the rental premises and the impact the use of recreational marijuana will have on other tenants. Regulations under the Cannabis Act, 2017 will likely define locations where marijuana may not be smoked or vaped with respect common areas in the residential complex. However, the "no smoking" clause in individual tenancy agreements will be the tool which determines whether the tenant or their guests can smoke or vape tobacco and/or recreational marijuana in the rental unit.

The Cannabis Act prohibits any person from selling or distributing cannabis and will prohibit landlords from knowingly permitting such activities on their premises.

Consideration must also be given to the cultivation of marijuana plants as the restriction of 4 plants is per household. Landlords will want to address the indoor cultivation of marijuana plants in their written tenancy agreement.

The Cannabis Act proposes adults in Canada be legally permitted to engage in the following:

- Purchase fresh or dried cannabis, cannabis oil, plants and seeds for cultivation from a regulated retailer;
- Possess up to 30 grams of dried legal cannabis or equivalent in public;
- Share up to 30 grams or equivalent of legal cannabis and legal cannabis products with other adults;
- Cultivate up to 4 plants in their own residence (4 plants per household); and
- Alter cannabis at home in order to prepare varying types of cannabis products (e.g. edibles) for personal use provided no dangerous organic solvents are used in the process.

Cannabis will be available in alternate forms, including edibles, 12 months after the legislation comes into force.

Individuals 19 years and older will be permitted to possess up to 30 grams of marijuana for recreational purposes in Ontario.

The province will regulate the sale of marijuana in retail outlets, OCS - Ontario Cannabis Store, and online.

Visit <https://www.ontario.ca/page/cannabis-legalization> to learn more about rules governing cannabis legalization.

Self-Help TIPS

In this issue of the **Self-Help Tips** we discuss the importance of understanding the remedies presented to your tenant(s) when they are served with notice to end their tenancy; why it is important to act promptly when issues arise: and the importance of following through to complete the termination process.

A good relationship with your tenant is important but don't forget renting is a business and you need to protect your interests. It is essential that you understand and use the appropriate notice(s) of termination for your situation.

Termination Notices - Some of the reasons to terminate a tenancy agreement relate to the tenant's conduct or actions. This is called termination for cause. Other reasons, which are not based on the tenant's conduct, are called no fault termination. The notice period to terminate a tenancy by the landlord varies depending on the reason for termination. The notices can be found on the Landlord and Tenant Board's (LTB) website at <http://www.sito.gov.on.ca/ltb/forms/>

Read the Notices - It is important to read the notice in its entirety before you give it to your tenant. On the LTB's website next to each notice there are special instructions that discuss termination date calculation for the notice, tenant options if they disagree with the notice, steps the tenant needs to take to void the notice, what happens if the tenant moves out and what happens if the landlord applies to the **Landlord and Tenant Board**.

Certain notices also provide instructions on required tenant action if they want to leave earlier than the date on the notice. For example, if you sold the unit and have a signed purchase and sale agreement, and serve the tenant with the **N12: Notice to End your Tenancy Because the Purchaser or a Family Member Requires the Rental Unit**, the tenant is able to end the tenancy earlier because the notice states the following: *"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."*

Use the correct notice - If unsure about which notice of termination is most appropriate for your situation, seek legal advice. Some notices should not be served together and can jeopardize a landlord's case for termination if they are. For example, the **N5: Notice to End your Tenancy for Interfering with Others, Damage or Overcrowding** should not be served

together with the **N12: Notice to End your Tenancy Because the Landlord or a Family Member Requires the Rental Unit** because it will look like a bad faith application.

Act Promptly - The termination process at the **Landlord and Tenant Board** is a lengthy process and can take as long as **2 to 3 months** to resolve an issue once the notice of termination is served. Therefore, the longer the landlord waits to serve a tenant with the proper notice of termination, the longer it will take to resolve the problem and evict the tenant.

Filing an Application - If there is a tenant remedy, the landlord cannot file an application with the Board unless the tenant fails to correct the behavior referred to in the notice, or fails to do what the notice requests, by the deadline set out in the notice. For example, on the **N4** notice the termination date must be at **least 14** days after you give the notice to the tenant, if the tenant fails to pay the rent by the termination date the landlord can file their application on the 15th day or later. If you file prior to the **14 days** your application will be dismissed.

Where the tenant does not have a remedy, the landlord can file their application as soon as they give the notice to the tenant. Particularly when the current owner is serving an **N12** for the purchaser's own use an application to the **LTB** should be filed **immediately** after serving the notice. A prompt application to the **LTB** should ensure that the premises are vacated on or shortly after the termination date specified on the notice.

Sheriff Enforcement - If you take the steps of serving a notice of termination, filing an application at the Landlord and Tenant Board and obtaining an eviction order, follow through with the Sheriff eviction (unless the tenant complies with the order). Sometimes in non-payment cases, landlords go through the Landlord and Tenant Board process, obtain an order to evict and then hesitate to file for eviction with the Sheriff because the tenant promises to pay. If the landlord waits too long, the order may expire and the landlord may be left to start the process all over again for new rent owing only.

Tips

- Ensure you properly serve the correct notice with the correct termination date.
- When you serve N4 for non-payment of rent and the tenant does not comply with paying the rent in 14 days **do not** serve a new notice for future rents that became due or your application will be dismissed.
- Keep a copy of all documents served on the tenant.

Did You Know?

Q: I served a Form N5 to one of my tenants about two weeks ago because he was causing a lot of disturbances. The tenant did not correct the situation within seven days but I haven't applied to the Board yet and he is now causing damages to the property also. Can I serve him a second N5 notice and add the new problems that have come up since I served him the first N5?

One of the recent changes implemented by the government to the Residential Tenancies Act addresses the N5 procedure. Under the old rule when the first N5 was given, the tenant had seven days to correct all the issues set out in the notice. If the tenant corrected all the problems, the notice became void, however if the problems started again after the seven day period the landlord could then serve a second N5 notice which could not be voided by the tenant and the landlord could apply to the Landlord and Tenant Board immediately after serving the second N5 notice.

Under the new rules, landlords are now able to serve a second non-voidable N5 notice even if the tenant did not void the first N5 notice by correcting the problems. The second N5 cannot be voided by the tenant and the landlord can apply to the Landlord and Tenant Board to terminate the tenancy and evict the tenant as soon as the landlord has given the notice. Also, the reasons for the second notice do not have to be the same issues that were on the first notice.



Q: I have a tenant renting one of my units and we have a lease until July 2018. I've heard that there is a new standard lease agreement form that must be used after April 30, 2018. Can the tenant ask for the new lease agreement form?

You will not be required to use the standard lease form if you have a current lease agreement that was entered into prior to April 30th, 2018, it will renew automatically to a month to month tenancy after April 30th, 2018. However, if you and the tenant choose to renew for another term then in that case you would have to use the new standard lease form.



Q: I rent a house to someone, and he has another person living in the unit. Now the tenant is unable to pay the rent and we have agreed that he will move at the end of month. However, the person that lives with him is telling me that he has paid rent to the tenant and he will not move out. There is no agreement between me and this person, they had an agreement between themselves. What should I do if this other person does not move out?

If your agreement is only with the one tenant, anyone else that would be living there is considered a roommate or occupant. If the tenant moves out they will have to move out also. If not, then you will have to file an application with the Landlord and Tenant Board to evict them because they would be considered unauthorized occupants. The form you would file with the Board is a Form A2 which can be obtained on their website at www.sjto.ca/ltb.



Q: I have recently served a Form N12 to my tenant because I'm planning to move in to the unit. I will be filing the application with the Landlord and Tenant Board soon but I would like to know more about how the Board makes their decision with this type of termination. How would I get this information?

The Landlord and Tenant Board has several Interpretation Guidelines that are used to help the parties understand how the Board interprets the law and to guide the Board members in making their decisions. It is recommended that landlords review the Guidelines pertaining to their particular reason for termination in order to prepare for the hearing. Guideline 12 deals with eviction based on personal use, demolition, repairs or conversion. All the Interpretation Guidelines can be found on the Board's website at <http://www.sjto.gov.on.ca/ltb/rules-practice-directions-guidelines/>



What's New?

LTB Latest News

The LTB posts informational updates regarding LTB changes at <http://www.sjto.gov.on.ca/ltb/>. All landlords are encouraged to monitor this page.

Interpretation Guidelines provide the parties with the LTB's interpretation of the law and provide guidance to the Members hearing applications. Recent changes due to legislative amendments resulted in changes to the following Guidelines:

- Guideline 6: Tenants Rights
- Guideline 10: Procedural Issues Regarding Eviction Applications
- Guideline 12: Eviction for Personal Use, Demolition, Repairs and Conversion
- Guideline 14: Applications for Rent Increases Above the Guideline

Changes to LTB Form L4 - *Tenant Failed to Meet Conditions of a Settlement or Order* now include two version of the form. Forms L4-A and L4-B are now required with the difference being failure to comply with a L1 or L2 mediated order pre Dec. 31, 2017 or post January 1, 2018.

Election Tool Kit

Ontarians head to the polls on June 7, 2018 to elect the provincial government - this is your opportunity to lobby candidates, their campaign and party for legislative reform to landlord and tenant legislation to level the playing field and improve the operating environment for small landlords.

When candidates arrive on your doorstep ask them their position on housing issues and don't hesitate to share experiences as a small landlord! Tell them you contribute housing to the rental stock and share your experiences. Tell them about rent losses, the challenges you face collecting unpaid utility bills, the cost you're absorbing for increased electricity, water, and fuel because it's included in the rent and you are unable to pass on to the tenant because the Above Guideline Rules changed. If you've filed with the Landlord and Tenant Board, tell them about the complicated, costly and lengthy process.

Toronto: Maximum Heat

Toronto is tackling the issue of maximum temperatures in rental units. Recent activity has included the Executive Committee of Council referring the issue to the Municipal Licensing and Standards in consultation with the Chief Resilience Officer. Issues to be brought forward to Licensing and Standards Committee and part of the upcoming report include an assessment of the following:

- a) a max heat by-law of 26 degrees Celsius;
- b) assessment of electrical grid implications when adding air conditioning units and its capacity;
- c) estimated average operating cost to an apartment tenant where the unit is sub-metered;
- d) impact of above guideline increases resulting from cost to retrofit all apartments with air conditioning;
- e) a strategy to ensure landlords do not exacerbate tenant discomfort through not turning on air conditioning or keeping heat on in the event of warm weather period prior to June 2, 2018; and
- f) including heat considerations when landlords are retrofitting apartments.

The maximum temperature issue stems from a heat-wave in late fall 2017 after landlords had shut down the air conditioning and ramped up heating systems in accordance with the municipal by-law.

Obstacles for small landlords include: infrastructure of older properties which are not equipped for additional load of A/C on wiring and electrical systems; additional electricity costs for all inclusive rents which cannot be recovered with extraordinary operating costs AGI application; initial cost to equip properties with a/c; application to LTB to recover capital costs via AGI are complex and small landlords cannot afford the cost to hire representatives to make applications; potential loss of more small rental units due to over regulation and costs. Stay tuned for updates!

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