



Quarterly News

March 2024

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Legal Aid Ontario
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The views expressed here are those of the clinic and do not necessarily reflect those of Legal Aid Ontario.

Restoring In-Person LTB Hearings

On February 6th, 2024, Toronto City Council adopted motion 2024.MM14.2: *Restoring In-Person Landlord and Tenant Board Hearings*. This motion was brought by Councillor Paula Fletcher and seconded by Councillor Alejandra Bravo.

The purpose of this motion was to make recommendations highlighting the challenges faced by landlords and tenants when accessing virtual hearings. Some of the recommendations are:

- To make in-person hearings the default format and providing Zoom hearings as an option if both landlords and tenants agree and clearly understand what this entails; and
- To have a clear procedure to follow when making a request to change the format of a hearing.

Councillor Fletcher also included in her motion that the **City Council needs to ask the Government of Ontario to immediately progress on all recommendations outlined in the Ontario Ombudsman's Report**. Also, to request the LTB to restore regional scheduling to improve access to housing for vulnerable people in the local community.

Lastly, the motion is asking the City Council to request the LTB to re-open counter services at the Toronto South location at 15 Grosvenor Street, the Toronto East location at 2275 Midland Ave., and all other regional locations, so in-person services can be provided. These services include, providing documents to the parties on the hearing date, documents being reviewed before they are filed and processed, and referrals to other resources for both landlords and tenants.

To review the adopted motion 2024.MM14.2, please visit <https://secure.toronto.ca/council/agenda-item.do?item=2024.MM14.2>

To review the Ontario Ombudsman's Report, visit <https://www.ombudsman.on.ca/resources/reports,-cases-and-submissions/reports-on-investigations/2023/administrative-justice-delayed,-fairness-denied>

City of Hamilton Adopts Ontario's First Anti-Renovation Bylaw

On January 17th, 2024 the City of Hamilton passed the **Renovations Licence and Relocation Bylaw**, making them the first city in Ontario to create their own "Anti-Renovation" bylaw or commonly referred as 'Renoviction'. Although this new bylaw is not set to come into effect until January 2025, landlords in Hamilton should be aware of the new requirements for evicting tenants based on renovation.

These requirements will include:

Obtaining a License

- The landlord will be required to file an application with the City of Hamilton for a renovation licence within seven days of issuing an N13 notice to a tenant.
- The application for a renovation licence must include supporting documentation including a building permit, a report from a qualified person (engineer) that states that vacant possession is required and a copy of the N13 notice. The cost of the license will be \$715 per unit. If the renovations take longer than a year, an annual renewal fee of \$125 per unit will be required.

Tenant Compensation/Accommodation

- A landlord must ensure that each tenant who receives an N13 notice is also provided with the "Tenant Rights and Entitlement Package."
- When a tenant decides to exercise their legal right of first refusal, under section 53 of the RTA, the landlord must provide either a temporary alternative accommodation or compensation to the tenant for the duration of the renovation.
- Any temporary alternative accommodation offered to the tenant must be comparable to the tenant's current unit during the period of repair.
- Compensation is determined to be in an amount equal to the difference between the rent rate currently paid by the tenant for the unit being repaired and the Average Market Rent of a Rental Housing Unit with the same number of bedrooms as the tenant's current unit.

Compliance

- In order to receive a renovation licence, the landlord must provide the City of Hamilton with the particulars of the arrangement that has been made.
- If the landlord and tenant cannot make an arrangement, it will be up to the employee of the Licensing and By-law Services Division of the City of Hamilton discretion to provide an exemption.

If a landlord fails to comply, they will be subject to enforcement (having the renovation license revoked) or fines (speculated to be up to \$500 per day).

The features of this bylaw are in addition to the provincial wide changes proposed in **Bill 97, Helping Homebuyers, Protecting Tenants Act**. Bill 97 includes the following changes under section 53 of the RTA (Tenant's Right for First Refusal after Repair or Renovation);

- The landlord must provide tenants with written notifications about the status of renovations/repairs, including estimated completion date and any changes to this date, as well as a final notification, once the renovations/repairs are completed stating when the unit will be ready for re-occupancy.
- The landlord must provide tenants with a grace period of at least 60 days after the day the rental unit is ready for occupancy for the tenant to move back in.
- The landlord must obtain and provide, along with the eviction notice, a report from a qualified person stating the renovations/repairs are so extensive they require the rental unit to be vacant.

It is important to note that to date, the above provincial wide changes to section 53 of the RTA have not yet been amended. Currently, landlords are not required to provide tenants with information regarding status of extensive renovations/repairs and completion date. The RTA also does not require landlords to give tenants a 'grace period' to re-occupy the unit once these renovations/repairs are completed. If you are intending to issue your tenant with an N13 for renovations or repairs, obtain legal advice before serving the N13.

For more details about the new Renovation Licence and Relocation By-law, visit the City of Hamilton's website at: <https://pub-hamilton.escribemeetings.com/filestream.ashx?DocumentId=398339>

Mississauga to Permit Fourplexes Citywide

As the housing crisis in the Greater Toronto Area (GTA) becomes more of a concern due to high housing demand and lack of supply, the City of Mississauga has decided to take matters into its own hands. City Council has approved a motion moved by Mayor Bonnie Crombie to enact amendments to permit fourplexes “as-of-right” in the City of Mississauga. The proposed amendment would permit landowners to develop up to four separate dwelling units, each with an entrance that is either independent or through a common hall on low-rise residential lots in neighbourhoods citywide. This type of residential unit is referred to as a “fourplex.”

The City of Mississauga explains that the purpose of this policy is to help create more affordable rental options within the city. Furthermore, the “as-of-right” permit also aims to help the city meet its housing target, including the provincial government's directive to build 120,000 new homes by 2028.

The “as-of-right” permit provides various benefits to landowners, such as;

- The permit is available for newly built fourplex units and converting of existing properties to accommodate fourplexes.
- The permit allows for various configurations of up to three storey high buildings, including basement units that are partially above grade.
- Homeowners can obtain this permit to increase housing on their property without additional zoning permits, provided they follow by-law regulations.

Below are some by-law regulations landowners should consider when using the “as-of-right” permit:

- Fourplexes will be subject to the same regulations as other houses with regard to certain matters such as play equipment, outdoor swimming pools and encroachment and projection regulations.
- Newly built fourplexes are only permitted in the following zones: R1 to R11, R15, R16, RM1, RM2, RM7.
 - For more information, please visit <https://pub-mississauga.escrimemeetings.com/filestream.ashx?DocumentId=49137>
- Newly built fourplexes will have a maximum lot coverage of 10% greater than the maximum lot coverage in the case zone in which it is located.
- The conversion of houses that legally exist to a fourplex shall comply with regulations of the zone in which they are located.
- It is not permitted to enlarge a house that legally exists for the purpose of conversion to a fourplex.
- A minimum of two parking spaces is required for a fourplex.
- The nearest part of a driveway or any other parking area shall be a minimum of 0.6 m away from a rear lot line and any side lot lines other than the common side lot line.



For additional information regarding zoning and by-law requirements for fourplexes within the City of Mississauga, please visit <https://www.mississauga.ca/apps/zoningbylaw/#/show/p4.1488.6095>

Self-Help TIPS

With “rooming houses” (also called multi-tenant houses) becoming legal in Toronto as of March 31st, 2024, we wanted to discuss pertaining legislation and tips that landlords renting out rooming houses will want to consider.

When Serving a Notice of Termination

Pursuant to Section 43 (1) of the Residential Tenancies Act, where this Act permits a landlord or tenant to give a notice of termination, the notice shall be in a form approved by the Board and shall,

(a) identify the rental unit for which the notice is given;

A landlord will want to make sure that any notice of termination identifies the specific rental unit that the tenant is living in. Identifying the building is NOT enough and may lead to an application being dismissed by the Landlord and Tenant Board. For example –2nd floor- room 1, 121 Bloor Street West.

The Landlord's Right of Entry Into a Rental Unit

Sections 26 and 27 of the *Residential Tenancies Act* specify when a landlord does and doesn't need written notice to enter a rental unit. Generally, a landlord doesn't need written notice if:

- There is an emergency (such as the landlord smells smoke).
- The tenant consents to the entry at the time of entry.
- The lease requires the landlord to clean the rental unit and the landlord is entering to clean.
- The tenant or the landlord have agreed to end the tenancy or one of them has given written termination notice and the landlord is showing the unit to prospective tenants (although you still have to make reasonable efforts to inform the tenant of your intentions).

In all other circumstances, written notice is going to be required and should follow the requirements of *section 27* of the RTA.

Contents of Notice of Entry

Section 27(3) of the RTA states-The written notice under subsection (1) or (2) shall specify the reason for entry, the day of entry and a time of entry between the hours of 8 a.m. and 8 p.m.

Landlord's Responsibility to Repair

Section 20 (1) of the RTA specifies a landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.

It is important for a landlord to remember that they are responsible for keeping each rental unit in a rooming house in a good state of repair. However, there is the added responsibility of keeping the common areas clean and functioning, as the law only makes a tenant responsible for cleaning **their rental unit**.

TIPS

1) *Number your rental units before you rent them out*-If possible, before you start renting out any rooms in your rooming house, assign each one a number. This will help prevent any eviction notices from potentially getting dismissed at the Landlord & Tenant Board.

2) *Notices of Entry for Common Areas*-Technically, the law does not address if a landlord is required to provide a notice of entry for common areas (i.e. any area that isn't explicitly rented out to one tenant), however, to keep yourself totally protected, a smart landlord should make an effort to inform tenants with a 24 hour written notice when they are going to be entering into common areas.

3) *Keeping Common Areas Clean*-As discussed above, a landlord has a duty to keep common areas clean, it is not the tenant's responsibility. Some landlords may try to contract this duty out to tenants, and while that is allowed, the landlord can still be held responsible if the tenant doesn't do their job. To keep yourself protected, a landlord should either clean the common areas themselves or hire a cleaner to do it.

Did You Know?

Q: I served my tenant with a notice of termination based on extensive repairs. I obtained a building permit and I gave notice to my tenants to move out using the N13 notice. The tenants have informed me that they wish to come back. However, due to financial issues, I had to put everything on hold and realized that I'm not going to be able to carry out the renovations. How do I deal with this?

The first thing to do is to contact your tenant as soon as possible and explain the situation. However, they could still file an application (Form T5) with the Landlord and Tenant Board claiming the N13 notice was given in bad faith. If the Board finds that the landlord gave notice in bad faith, the landlord could be ordered to pay the tenant a rent abatement, moving expenses and compensation for the increased rent if the tenant has to pay higher rent at another unit for a period of one year. The landlord may also be ordered to pay a fine to the LTB.

Q: One of my tenants was arrested for possession of firearms at the rental property. Can I change the locks? What do I do with his belongings?

In this situation, you would still have to go through the process of eviction to obtain an Order from the Landlord and Tenant Board. You would have to issue a notice of early termination (Form N6) because the tenant has committed an illegal act on the premises. If the tenant doesn't move out on his own, you will then have to file an L2 application with the Landlord and Tenant Board to evict the tenant.

Q: My tenant has filed an application against me, but I am going to be out of the country and won't be able to attend the hearing because I will not have access to the internet. How do I re-schedule the hearing?

If you cannot attend the hearing, you will have to contact your tenant as soon as possible and obtain consent from them to re-schedule the hearing. There is a form called *Request to Reschedule a Hearing* that must be used and you will have to explain your reasons for this request. If the tenant will not give consent to re-schedule, you must arrange for someone to attend on your behalf. You must provide the person with written authorization stating that they are allowed to represent you at the hearing.

Q: I served one of my tenants with a Form N4: Notice to End Your Tenancy Early for Non-Payment of Rent. Due to certain circumstances, I have not taken any other steps and I'm wondering if I can still proceed with filing with the Landlord and Tenant Board even though it's been a few months since I gave my tenant the N4?

The Notice of Non-Payment of Rent Form N4 is the only eviction notice that does not expire. Therefore, the landlord can file with the Landlord and Tenant Board anytime after the fourteen days' notice period set out in the notice has elapsed.

Q: How long does a landlord have to respond to a maintenance issue? My tenant is telling me that I have to respond to maintenance issues within 24 hours, is this true?

The *Residential Tenancies Act* does not set out a specific time period in which the landlord must carry out repairs. The landlord must use their discretion and handle repairs within a reasonable time.

To review more Did You Know questions, visit our website at <https://landlordselfhelp.com/frequently-asked-questions/>

LTB Updates

Effective April 1, 2024, Tribunals Ontario is launching a new Hearing Audio Recordings Policy (HARP).

Audio recording hearings will better assist tribunals in carrying out their functions and providing quality service. Tribunals Ontario will not audio record any “pre-hearing events” such as case management conferences, mediations, and settlement conferences unless the tribunal orders otherwise.

Audio recordings will normally be created using the recording function in Zoom. In case of technical difficulties and unforeseen circumstances, the tribunal may proceed with the hearing without recording it. Individuals who wish to make their own audio recording of a hearing should consider retaining a court reporter, if permitted by the tribunal’s rules and practices.

For more information, please review Tribunals Ontario Hearing Audio Recordings Policy here

https://tribunalsontario.ca/documents/T/O/TO_Hearing_Audio_Recordings_Policy_EN.pdf

Filing LTB applications in-person:

Visit

<https://www.services.gov.on.ca/sf/?en#/oneServiceDetail/13180/ip/sr/> to find out where the closest Service Ontario that accepts LTB applications is located.

LSHC has a new ED!

Diana Padierna is the new Executive Director at LSHC. She started as a paralegal placement student 8 years ago and continued on to become a Community Legal Worker. Congratulations Diana!

LSHC Upcoming Holiday Closures!

Please be advised that our office will be closed on the following dates: **March 29th for Good Friday and April 1st for Easter Monday**- Our regular business hours will resume on Tuesday, April 2nd at 9:00 a.m. and **May 20th for Victoria Day** - Our regular business hours will resume on Tuesday, May 21st at 9:00 am.

Unlocking the AODA: Housing Provider Obligations under the Accessibility for Ontarians with Disabilities Act

The Canadian Centre for Housing Rights has updated their resource entitled *Unlocking the AODA: Housing Provider Obligations under the Accessibility for Ontarians with Disabilities Act*. This resource offers housing providers information about complying with the legislation to promote accessibility in Ontario. To download a copy of the material, visit [Unlocking the AODA: Housing Provider Obligations under the Accessibility for Ontarians with Disabilities Act - Canadian Centre for Housing Rights \(housingrightscanada.com\)](https://housingrightscanada.com)

LSHC is Partnering with Whitchurch-Stouffville Public Library!

Join us for a comprehensive presentation by the Landlord Self-Help Centre, tailored for both novices and seasoned landlords on Wednesday, April 17th at 6:30 p.m. via Zoom

<https://us02web.zoom.us/j/84547377272?pwd=ekFZZjIMK05GckdFTWczR1VsdkZ0dz09>

Explore key aspects of the *Residential Tenancies Act (RTA)*, including property repairs, entry rights, maintenance duties, and tenant responsibilities. Uncover insights into security of tenure and gain valuable knowledge to navigate the landlord landscape.

2024 LSHC Quarterly Newsletter Survey

The Landlord’s Self-Help Centre produces four issues of the Quarterly Newsletter throughout the year in March, June, September and December. We kindly invite you to fill out our Quarterly Newsletter survey to help us improve the newsletter. Visit

<https://www.surveymonkey.com/r/5QJPGCS> or scan the QR code to complete the survey.



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