

Presented by Landlord's Self-Help Centre www.landlordselfhelp.com

1



Non-payment of Rent

Do you know and understand the rules for terminating a tenancy for non-payment of rent?

Non-Payment of Rent

At this Town Hall Meeting we will discuss:

- The general rules for terminating a tenancy for non-payment of rent;
- Common Pitfalls Landlord's obligations before serving a tenant a notice to terminate for non-payment of rent;
- Form N4- Notice to Terminate a Tenancy for Non-Payment of Rent;
- Form L1- Application to evict a tenant for non-payment of rent and to collect rent the tenant owes;
- Form L9- Application to Collect Rent the Tenant Owes;
- Application to the Landlord and Tenant Board;
- L1/L9 Information Update as of the Hearing Day Form; and
- Enforcement of eviction Order.



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.

The RTA defines the reasons a tenancy may be terminated and establishes notice requirements, which vary depending on the reason for notice.



Ending a Tenancy

According to the *Residential Tenancies Act, 2006*, a tenancy may be terminated in one of three ways:

- i. The tenant gives notice (Form N9);
- ii. An agreement to terminate between the landlord and tenant (Form N11); and
- iii. Notice from the landlord (under one or more of the fault or no-fault grounds).



At this Town Hall Meeting we will discuss notice from landlord as it relates to the fault ground of non-payment of rent.



Notice Requirements

When a landlord gives a notice of termination to a tenant for a reason allowed by the Act, the notice **must** be on a form approved by the Landlord and Tenant Board.

- A tenant does not have to move out of the unit.
- The landlord must apply to the Landlord and Tenant Board for an Order allowing the eviction of the tenant.
- The tenant is entitled to dispute the landlord's Application.





Common Pitfalls



Address of Landlord

Section 12.(1) of the *Residential Tenancies Act* states that

Every written tenancy agreement entered into on or after June 17, 1998 shall set out the legal name and address of the landlord to be used for the purpose of giving notices or other documents under this Act. 2006, c. 17, s. 12 (1).

Landlords are required to provide a copy of the signed tenancy agreement within 21 days of the agreement being signed.

Note: The tenant's obligation to pay rent is **suspended** if the tenant has not been provided with the landlord's legal name and address.





Address of Landlord

(continued)

If the tenancy agreement is a verbal agreement, the *Residential Tenancies Act* still requires the landlord to provide the tenant with their legal name and address within 21 days of the tenancy beginning.

A letter can be provided to the tenant containing this information.





Landlord's Self-Help Centre

Tenant Information Sheet

It is the landlord's responsibility to provide every new tenant with the <u>Information for New Tenants</u> information sheet.

The Information for New Tenants information sheet is available on the Landlord and Tenant Board website at http://www.sjto.gov.on.ca/documents/lt

<u>b/Brochures/Information%20for%20New</u> <u>%20Tenants.html</u>





Common Pitfalls

<u>The tenant is **not** obligated to</u> <u>pay rent</u> if the landlord **failed** to provide a copy of the written lease agreement (containing the landlord's legal name and address) within **21 days** after it has been signed.

A similar provision exists for verbal agreements.



<u>Note</u>: Not providing this information can be a costly mistake. If a landlord files an Application with the Landlord and Tenant Board (LTB) based on non-payment it will likely be **dismissed** by the Adjudicator. The filing fee to schedule a hearing is \$190.



Common Pitfalls (continued)

If a tenant claims the landlord failed to provide their legal name and address, the landlord cannot rely on the notice of termination that was given to argue it was provided.

The best practice is to provide the tenant with a copy of the written tenancy agreement right after it has been signed by both the tenant and landlord.

 Where the tenancy agreement is a verbal agreement, the landlord should prepare a written one-page document containing the landlord's legal name and address.





Avoiding Pitfalls

Confirm the following to ensure it is appropriate to serve notice:

- The landlord has provided the tenant with the legal name and address of the landlord;
- The landlord has provided the tenant with an Information for New Tenants sheet;
- A copy of the executed lease agreement has been delivered to the tenant;



 If a tenant has moved out of the rental unit, the landlord's only remedy is to file a claim in Small Claims Court to collect rent arrears.

Landlord's Self-Help Centre



N4 - Notice to Terminate a Tenancy Early for Non-payment of Rent

Form N4: Notice to End a Tenancy Early for Non-payment of Rent

A landlord can give a tenant a Form N4 notice as early as the day after the rent is due.

For example, if rent is due on the 1st of the month and is not paid in full, the landlord **can** give the Form N4 on the 2nd day of the month.

Landlords are encouraged to act promptly and issue notice as soon as possible.

2015 MONTHLY CALENDAR

JANUARY	FEBRUARY	MARCH	APRIL
RAN MON THE WED THE AR SAT	NON THE WED THU FR SKT	SUN MON THE WED THU FRI SAT	DAY MON THE WED THU FRI S
1 2 3	1 2 3 4 5 6 7	1 2 3 4 5 6 7	1 2 3
4 5 6 7 8 9 10	8 9 10 11 12 13 14	8 9 10 11 12 13 14	5 6 7 8 9 10 1
11 12 13 14 15 16 17	15 16 17 18 19 20 21	15 16 17 18 19 20 21	12 13 14 15 16 17 1
18 19 20 21 22 23 24	22 23 24 25 26 27 28	22 23 24 25 26 27 28	19 20 21 22 23 24 2
25 26 27 28 29 30 31		29 30 31	26 27 28 29 30
MAY	JUNE	JULY	AUGUST
SUN MON THE WED THE PRI SAT	SAN MON THE WED THU MIN SAT	SUN MON THE WED THU PR SAT	SUS MON THE WED THU PR I
1 2	1 2 3 4 5 6	1 2 3 4	
3 4 5 6 7 8 9	7 8 9 10 11 12 13	5 6 7 8 9 10 11	2 3 4 5 6 7
10 11 12 13 14 15 16	14 15 16 17 18 19 20	12 13 14 15 16 17 18	9 10 11 12 13 14
17 18 19 20 21 22 23	21 22 23 24 25 26 27	19 20 21 22 23 24 25	16 17 18 19 20 21 3
24 25 26 27 28 29 30	28 29 30	26 27 28 29 30 31	23 24 25 26 27 28 3
31			30 31
SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
SAN MON THE WED THU PRI BAT	SAN MON THE MED THIS PRI SAT	NUN WON THE WED THU MI SAT	SAN MON THE WED THU PRI 1
1 2 3 4 5	1 2 3	1 2 3 4 5 6 7	1 2 3 4
6 7 8 9 10 11 12	4 5 6 7 8 9 10	8 9 10 11 12 13 14	6 7 8 9 10 11
13 14 15 16 17 18 19	11 12 13 14 15 16 17	15 16 17 18 19 20 21	13 14 15 16 17 18
20 21 22 23 24 25 26	18 19 20 21 22 23 24	22 23 24 25 26 27 28	20 21 22 23 24 25 3
27 28 29 30	25 26 27 28 29 30 31	29 30	27 28 29 30 31

<u>Note</u>: Do not apply the last month's rent deposit unless the tenant has given you proper notice to vacate.





Form N4 shall:

Provide a termination date of

- 7 days for a daily or weekly tenancy, or
- 14 days for all other types of tenancy agreements;
- Specify the amount of rent owing; and
- Inform the tenant that the landlord can apply to the Board to evict the tenant, if they do not pay the rent or move by the termination date on the notice.



Note: Landlords must treat the day that they give the tenant the notice as day zero, and calculate the termination date accordingly.





- It is very important for the rent periods to be properly recorded on the notice. Any mistakes may cause the notice to be deemed defective and require the landlord to start over.
- A best practice for landlords is to complete page 2 of Form N4 and confirm the total payable before recording it on the first page of the notice.

Section 1. Rent Owing				
I have calculated the amount of rent the tenant owes me as follows:				
Rent Period From: (dd/mm/yyyy) To: (dd/mm/yyyy)		Rent Paid \$	Rent Owing \$	
3 1 / 0 1 / 2 0 1 5	1,000000	, 5 0 0 0 0	, 5 0 0 0 0	
28/02/2015	1,000.00	, 0.0	1,000.00	
	<u></u>	, .	, .	
Total Rent Owing \$ 1 5 0 0 0 0				
	eriod To: (dd/mm/yyyy) 3 1 / 0 1 / 2 0 1 5	eriod Rent Charged \$ 31/01/2015 1,000.00 28/02/2015 1,000.00 1,000.00 1,000.00	eriod To: (dd/mm/yyyy) Rent Charged \$ Rent Paid \$ 31/01/2015 1,000.00 ,500.00 28/02/2015 1,000.00 ,000.00 1/1/10 1,000.00 ,000	

TOWN HAL

Landlord's Self-Help Centre



N4 will be deemed <u>invalid</u> if:

- The tenants' names are incorrectly stated;
- The full address of the rental unit is not correctly identified (For example: Basement unit or 2nd floor unit);
- The termination date is incorrect;
- The total amount of arrears is not calculated correctly;
- The arrears include charges that are not considered rent, such as:
 - The last month's rent deposit;
 - Utility charges;
 - NSF charges; and
 - Late payment/Interest charges (which are illegal to charge and collect).
- The signature is missing;
- The notice is not served properly.

Serving a Notice of Termination

The landlord may deliver the tenant the notice of termination 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; or
- Sliding it under the door of the rental unit.



IMPORTANT: This notice should **never** be posted on the tenant's door, and notice by email is **NOT** an appropriate method of service.



Other methods of service

The landlord may:

- Fax the notice to the tenant's residence or place of business
- Send the notice by courier or mail with additional time added to allow for delivery



IMPORTANT: One day must be added if delivered by courier and five days must be added for delivery by mail.

Landlord's Self-Help Centre



Potential Pitfall

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 notice to terminate.
- A witness is an impartial third party, their presence may reduce the likelihood of the tenant arguing they did not receive the document.

Note: The landlord will be required to complete and file a Certificate of Service detailing how the notice was delivered to the tenant.





How can the tenant void the notice?

The N4 notice is void and the tenant does not have to move out if the tenant pays,

- The amount of arrears on the N4 notice; and
- Any additional rent payments that have come due after the notice was given to the tenant.



Note: A landlord may apply to terminate the tenancy in cases where a tenant has only paid **part** of the amount indicated as owing on the notice. If the tenant does not void the N4 notice, it does not expire.



Applying to the Landlord and Tenant Board

There are two Applications the landlord may file with the Landlord and Tenant Board with respect to non-payment of rent, either:

- An Application for an eviction **and** arrears Order (L1 Application); or
- An Application for an arrears only Order (L9 Application).





Landlord's Application: L1- Application to evict a tenant for non-payment of rent and to collect rent the tenant owes

L1- Application to evict a tenant for non-payment of rent and to collect rent the tenant owes

This Application can only be filed with the Landlord and Tenant Board **after** the termination date specified on the form N4 has passed.

 If the form N4 has a termination date of the 16th, the earliest day a landlord may file the L1 Application with the LTB is on the 17th.



DO NOT rely on the LTB staff to check timing. If filed too early and a hearing is scheduled, the Adjudicator will dismiss the Application and the landlord will have to start the N4 process over.



L1- Application (continued)

If successful, the L1 Application will provide the landlord with **both** an order to terminate the tenancy **and** for the arrears owing.

	Landlord and Tenant Board Application to evict a tenant for non-payment of rent and to collect rent the tenant owes FORM L1
1	Information for the Tenant from the Landlord
	I am applying to the Landlord and Tenant Board for an order:
	 to evict you because you owe rent, and to collect the money you owe me.
	I believe that you owe me a total of \$, , as of , as of , , , , , as of , , , , , , , , , , , , , , , , , ,
m	This amount includes the filing fee for this application (\$170.00). You may also owe me any dd rent that comes due after I file this application. To see how I arrived at this amount, go to page 4.



L1- Application (continued)

When completing the L1-Application to evict a tenant for non-payment of rent and to collect rent the tenant owes, a landlord is also able to request that the tenant be responsible for the filing fee and any charges incurred due to NSF cheques.

Section 2. NSF Cheque Charges

I have calculated the amount of NSF cheque charges and related administration charges the tenant owes me as follows:

Cheque Amount \$	Date of Cheque dd/mm/yyyy	Date NSF Charge Incurred dd/mm/yyyy		Landlord's Administration Charge \$	Total Charge \$
1 0 0 0 0 0	01/01/2015	10/01/2015	5 0 0	2 0 0 0	2 5 0 0

The landlord is also able to request an administration charge (up to a maximum of \$20) for each NSF cheque.





The charges along with the outstanding rent are then added to the filing fee. The total of this section of the L1 Application is then carried over to the first page where it indicates the total amount owing by the tenant.

PART 2: TOTAL AMOUNT THE TENANT OWES				
The follo	The following information is from your landlord			
 to evict you because you owe ren 	I am applying to the Landlord and Tenant Board for an order: • to evict you because you owe rent, and • to collect the money you owe me.			
I believe that you owe me a total of	\$ 1 6 9 5 . 0 0 as of / / /			
This amount includes the filing fee for file this application. To see how I calc	or this application. You may also owe me any new rent that comes due after I ulated this amount, go to page 5.			
PART 6: TOTAL AMOUNT OWING				
Total rent owing:\$1,48(from Part 5, Section 1)	••••••••••••••••••••••••••••••••••••••			
Total NSF cheque related charges owing: \$ 2 (from Part 5, Section 2) 2	sections must be the exact			
Application Fee: \$ 1 9	same.			
Total: \$ 1 6 9	5 . 0 0			
Landlord's Self-Help Centre	TOWN HALL Non-Payment of Rent			

L1- Application (continued)

When filing the L1-Application with the Landlord and Tenant Board, the landlord will also be required to file:

- A copy of the N4 Notice given to the tenant;
- A completed L1 Application; and
- A Certificate of Service to prove service of the notice to the tenant.

The cost for filing the L1 Application is \$190.00.





Landlord's Application: L9 - Application to Collect Rent the Tenant Owes



L9-Application to Collect Rent the Tenant Owes

The landlord should complete and file the L9 Application if the landlord **only** wants an Order for arrears and **does not** want to evict the tenant.

If the landlord does not want to evict the tenant, the landlord does not have to serve the tenant with a Form N4, but may apply to the Landlord and Tenant Board right away with the L9 Application.

<u>Note</u>: The L9 Application requires the same information as the L1 Application, but it **will not** result in an Order to terminate the tenancy. It is **only** used to obtain an Order for the arrears.



Application and Notice of Hearing

- Once the Application (L1 or L9) is filed with the Board, a hearing date will be scheduled, and the landlord will be given copies of the Application together with a Notice of Hearing.
- The landlord must serve the tenants with the Application and Notice of Hearing at least 10 days before the hearing date.
- Serve the documents using the same methods of service set out under section 191 of the RTA, as previously discussed.





Certificate of Service

The Certificate of Service is a one-page form that tells the Landlord and Tenant Board (LTB) who served the documents to the tenant, when the documents were served, and how they were served.

- After the Application has been filed with the LTB, the landlord will be provided with copies of the Application and Notice of Hearing, and instructed to serve a copy to the tenant.
- A landlord must then complete and file another Certificate of Service with the LTB within 5 days of serving the tenant with the Application and Notice of Hearing documents.



Landlord's Self-Help Centre



L1/L9- Information Update as of the Hearing Day Form



L1/L9 Hearing Update Form

If the landlord has filed a L1 or L9 Application with the Landlord and Tenant Board, they are also required to complete the L1/L9- Information Update as of the Hearing Day Form, and bring it to the scheduled hearing This Form will address:

- Any new rent that has come due;
- Any payments that have been made; and
- Any new NSF or administration charges the landlord has incurred.

This Form is meant to update the LTB on any changes made between the date the Application was filed and the date of the Hearing. Even if there are no changes, the landlord must still complete and bring 3 copies of this form with them to the hearing.



Landlord and Tenant Board Hearing



Landlord and Tenant Board Hearing

An Adjudicator will preside at the hearing. These hearings are generally conducted in person.

The landlord will speak first and will be required to explain the reason for the Application and present any evidence to support their Application.

The tenant may dispute and raise issues at the hearing such as maintenance concerns, illegal charges, or any other issues.

After hearing both parties, the Adjudicator will make a decision and issue an Order within 30 days.

A copy of the Order will be mailed to both parties.


Board Order

If the landlord is successful at the hearing, they may receive an Order for the following:

- Termination of the tenancy within eleven days from the date the Order is issued, unless the tenant pays all rent owing (including filing fee).
- Permission for the landlord to file for eviction with the Court Enforcement Office (Sheriff), if the tenant does not pay all rent owing and does not move out by the termination date on the Order.





Enforcement of Eviction Order



If the tenant fails to vacate...

If the tenant does not comply with the Order issued by the Landlord and Tenant Board, the landlord can go to the Court Enforcement Office (also known as the Sheriff's office) to schedule an eviction.

 The Enforcement Office will send a Notice to Vacate to the tenant instructing them to leave the rental unit on or before a specific date.





Enforcing Eviction Order

A landlord may only file for eviction through the Enforcement Office **after** they have gone through the Landlord and Tenant Board process of obtaining a termination Order.

 If the landlord obtains a termination Order from the Landlord and Tenant Board and the tenant does not vacate the unit as ordered, the landlord must file the LTB Order with the Court Enforcement Office (Sheriff's Office) to schedule an eviction.



Note: The Enforcement Office **will not** schedule an eviction without a Landlord and Tenant Board Order.

Landlord's Self-Help Centre



Enforcing Eviction Order (continued)

When filing for eviction through the Enforcement Office, the landlord must:

- Present one certified Order issued by the Landlord and Tenant Board, and one copy of the Order to the Enforcement Office together with a completed Eviction Information Request sheet (provided by the Enforcement Office).
- Follow the instructions provided by the Enforcement Office, which will include the "vacate date" ordered by the Enforcement Office.

The Enforcement Office will send a **Notice to Vacate** to the tenant instructing the tenant to move out by a specific

vacate date. Landlord's Self-Help Centre



Enforcing Eviction Order (continued)

If the tenant does not leave according to the "vacate date" specified on the Enforcement Office's Notice to Vacate, the landlord **MUST** contact the Enforcement Office and schedule an eviction.

The landlord will be required to pay:

- A fee ranging between \$318- \$333 (which includes the flat fee and mileage charge) when the landlord initially attends the Enforcement Office, and
- A mileage charge is calculated for every kilometre the Enforcement Officer must travel from the courthouse to the tenant's address (*the mileage cost will vary depending on where in Ontario your unit is located).





Can the tenant stop the eviction?

The *Residential Tenancies Act* allows the tenant the opportunity to make a motion to the Board to void the Order after the termination date on the Order, **and** before the Enforcement Office enforces the Order, *if the tenant*:

- Pays amounts owing to the landlord or to the Board; and,
- Files a sworn affidavit stating that the amount paid to the Board, together with any amounts previously paid to the landlord, is at least the sum owing for rent arrears, additional rent or compensation owing, amounts for NSF cheque (financial institution) charges or (landlord's) administration charges, and, if ordered by the Board,
- Enforcement Office's fees.

<u>NOTE</u>: This type of motion granted <u>once</u> in any given tenancy agreement.



What happens when the tenant is evicted?

When the Order is enforced and the tenant is evicted, the landlord then regains possession of the rental premises.

- It is the landlord's responsibility to have the locks to the rental unit changed in the presence of the Enforcement Officer.
- If the landlord is unable to change the locks him or herself, a locksmith should be scheduled to attend at the time the order is executed by the Enforcement Officer.





What about the belongings?

The tenant has 72 hours after the eviction and the locks have been changed to retrieve their belongings.

- During the 72 hours the landlord may leave the belongings in the rental unit, or move them to another location which must be close to the rental unit.
- The landlord must make the tenant's property available to be retrieved by the tenant between 8:00 a.m. and 8:00 p.m.





Important Things to Remember...

- Tenants should be provided the landlord's legal name and address at the beginning of the tenancy.
- It is important to correctly serve a notice, for more information please refer to our Sound Advice Podcast for Landlords: Serving Documents to Tenants, at <u>http://www.landlordselfhelp.com/sound_advice/scripts/</u> <u>serving_documents.htm</u>
- Each form (Notice and Applications) contain important information that landlords should read over carefully. This information will assist with the proper completion of each form.



Terminating a Tenancy for Non-Payment of Rent

At this Town Hall Meeting we have covered:

✓ The general rules for terminating a tenancy for non-payment of rent;

- Common Pitfalls failure to provide:
 - landlord's name and address,
 - New Tenant Information Sheet, or
 - deliver a copy of the tenancy agreement
- Overview of Form N4- Notice to Terminate a Tenancy for Non-Payment of Rent;
- Form L1- Application to evict a tenant for non-payment of rent and to collect rent the tenant owes;
- ✓ Form L9- Application to Collect Rent the Tenant Owes;
- ✓ Application to the Landlord and Tenant Board;
- ✓ L1/L9 Information Update as of the Hearing Day Form; and
- ✓ Enforcement of eviction Order.



Questions

Resources Non-payment of Rent

Landlord's Self-Help Centre

 FAQs - Index of Q and A`s <u>https://landlordselfhelp.com/frequently-asked-questions/?faq-category=ending-a-tenancy</u>

RTA FactSheets: Ending a Tenancy Agreement <u>https://landlordselfhelp.com/media/2017-Ending-a-Tenancy.pdf</u>

 RTA FactSheets: Eviction by Sheriff <u>https://landlordselfhelp.com/media/2017-Eviction-By-Sheriff.pdf</u>

e-laws

Search Residential Tenancies Act, 2006 - www.e-laws.on.ca

Landlord's Self-Help Centre



Resources Non-payment of Rent

Landlord and Tenant Board

- How a Landlord can End a Tenancy <u>http://www.sjto.gov.on.ca/ltb/faqs/#faq7</u>
- A Guide to the Residential Tenancies Act -<u>http://www.sjto.gov.on.ca/documents/ltb/Brochures/Guide%20t</u> <u>o%20RTA%20(English).html</u>





The information offered in this presentation is intended as general information, it is not legal advice.

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





Landlord's Self-Help Centre