



## Eviction by Sheriff

### **What does the landlord do if the tenant fails to leave as ordered by the Landlord and Tenant Board?**

If the tenant does not vacate the premises as ordered by the Landlord and Tenant Board, the landlord must take the order to the Superior Court of Justice Enforcement Office (Sheriff's Office) to schedule an eviction.

### **Why must I file for an eviction with the Court?**

The Superior Court of Justice provides for the enforcement of an order issued by the Landlord and Tenant Board. The *Residential Tenancies Act* states that an order evicting a person shall have the same effect, and shall be enforced in the same manner, as a writ of possession.

### **Will the landlord have to file any additional documents?**

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).

The landlord will be provided with instructions, from the Enforcement Office, that include the vacate date ordered by the Sheriff. The Sheriff will send a **Notice to Vacate** to the tenant instructing the tenant to leave the rental unit on or before a specific date.

### **What happens if the tenant doesn't leave?**

The landlord **MUST** contact the Enforcement Office to schedule an eviction if the tenant fails to vacate by the date specified in the sheriff's notice to vacate. The landlord will be informed of the date and time the Sheriff will attend at the rental property to enforce the eviction order.

### **Is the landlord required to pay any fees for the eviction?**

The landlord will be required to pay a fee when the landlord initially attends the Enforcement Office. The landlord will also be required to pay a **flat fee plus a mileage charge** for every kilometer the Sheriff must travel from the courthouse to the eviction address. The amount ranges from **\$318-333** and the amount of mileage charge will depend on which part of Ontario the unit is located in.

### **Can the tenant have the eviction stopped?**

The *Residential Tenancies Act* gives the tenant the opportunity to make a motion to the Board to void the order after the termination date on the order, but before the Sheriff actually enforces the order *if the tenant*:

- Pays an amount 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, Sheriff's fees.

This type of motion can only be granted once 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 becomes in 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 Sheriff. 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 Sheriff.

### **What happens to the tenant's pets?**

If the Enforcement Office has not made arrangements for the Humane Society or SPCA to remove the pets, you should contact the local authority.

### **When can the landlord dispose of the belongings?**

When a tenant has been evicted following an order of the Landlord and Tenant Board, the landlord must wait a **72-hour** period following the eviction before selling, retaining or disposing of the property.

### **What happens if the tenant comes back to claim their belongings?**

If the tenant contacts the landlord within the 72-hour period, the landlord must make the tenant's belongings available for retrieval between the hours of 8:00 am and 8:00 pm each day. To prevent a situation from occurring where the tenant may attempt to re-possess the unit, it is advised that the landlord does not leave the tenant unsupervised in the rental unit.

### **What happens if the landlord refuses to give the tenant access to their belongings within 72 hours following the eviction?**

If a landlord fails to allow the tenant access to their belongings during the 72-hour period following the eviction by the sheriff's department, the Board may do one or more of the following:

1. Order that the landlord not breach the obligation again;
2. Order that the landlord return the former tenant's property that is in the possession of the landlord;
3. Order that the landlord pay a specified sum to the former tenant for,
  - a. The reasonable costs that the former tenant has incurred or will incur in repairing or replacing the former tenant's property that was damaged, destroyed or disposed of as a result of the landlord's breach, and
  - b. Other reasonable out of pocket expenses the former tenant incurred or will incur as a result of the landlord's breach.
4. Order that the landlord pay the Board an administrative fine not exceeding the greater of

- \$10,000 or the monetary jurisdiction of the Small Claims Court;
5. Make any order that it considers appropriate.

It is also considered an offence if a landlord fails to make an evicted tenant's property available for retrieval in accordance with subsection 41(3). The fine could be up to \$50,000 (for an individual landlord) or up to \$250,000 (for a corporate landlord).

**How do I contact the Enforcement Office of the Superior Court of Justice?**

In Toronto, the Enforcement Office is at 393 University Avenue, 6<sup>th</sup> Floor; (416) 327-5600.

An online directory for court services and locations across Ontario can be found at:

[https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court\\_Addresses/](https://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses/)

The **Residential Tenancies Act Fact Sheets** are aimed at helping landlords better understand their rights and responsibilities. They are not intended as legal advice but rather as general information.

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