



Rent Rules

What are some of the highlights of the Residential Tenancies Act related to rent rules?

- ◆ A rent increase may only be taken if at least 12 months have passed since the tenant first rented the unit or since the tenant was last charged an increase.
- ◆ Landlords are required to give tenants 90 days' written notice of rent increase using the current version of the proper (Ministry-approved) form (N1). The long-term impact on all future rents charged can be severe, should landlords give a notice of rent increase that is considered to be not in accordance with the Act.
- ◆ Increases are limited to the guideline amount unless an application has been made for an increase above the guideline or the landlord and tenant have entered into an agreement for new or additional services *or* capital improvements.
- ◆ Tenants have the right to apply to the Tribunal to have their rent reduced due to a reduction in services or taxes, or for the return of money collected illegally.
- ◆ Since the passing of Bill 124- Rental Fairness Act, any N2 notice given before April 20, 2017 is still effective for an above guideline increase. But any notice for rent increase given after April 20, 2017 must follow the guideline amount. Newly created units will **no longer** be exempt from the statutory guideline. However, the requirements of waiting 12 months between increases and serving a written 90-day notice of increase still apply.

What is meant by the term vacancy de-control?

The *Residential Tenancies Act* permits the landlord to set a new rent when a rental unit becomes vacant and a new tenant moves in. The new rent is linked to the history of the tenant rather than the rental unit.

Is it possible to charge a discounted rent and still protect the lawful rent for the unit?

A landlord can indeed offer a marketing discount to a tenant without affecting the lawful rent for the unit when the discount ends. The discount for a monthly rent can be applied as follows: Up to three months discount used in any 12 month period as long as it is provided in writing, and is given as a whole rent- free period rather than being spread out throughout the year, as follows:

-Where a discount is equal to rent for one month, it must be taken in during rental period;

-Where a discount is equal to rent for between one and two months, the discount equal to the rent for one month must be taken during one rental period and the balance within one other rental period;

-Where a discount is equal to rent for between two and three months, the discount equal to the rent for two



months must be taken during two rental period and the balance within one other rental period

-For rents paid daily or weekly, the discount must be taken in periods that are at least one week in duration.

Note: Although the Act allows another method of discounting we do not recommend using it, due to its complexity and the strong possibility of the discount negatively affecting the lawful rent.

Can a landlord charge a deposit or a fee to get a rental unit?

A landlord can collect a rent deposit if it is requested on or before the date that the tenancy agreement is entered into. The rent deposit cannot be greater than one month's rent or the rent for one rental period, whichever is less. The landlords are not allowed to collect any other deposit aside from a last month's rent deposit.

Does a landlord have to pay interest if a deposit is collected?

The landlord must pay interest to the tenant annually on the amount of the rent deposit at a rate equal to the guideline determined under s. 120 of the RTA. If the landlord does not pay the interest owed to the tenant, the tenant can make an application to the Board or deduct the interest from the rent.

Does a deposit have to be returned to a tenant when they leave?

A rent deposit is to be applied to the rent payment for the last period (e.g. the last month of occupancy) before the end of the tenancy. If the rent has increased since the tenant paid the deposit, the landlord may require the tenant to pay the difference for the last rent payment.

Can a landlord charge a fee if a tenant's rent cheque is returned NSF?

If a tenant's rent cheque is returned NSF, a landlord can require the tenant to pay the landlord for the charges that landlord paid to the bank, plus administrative charge of no more than \$20.00. This can be done by application to the board if the tenant refuses to pay voluntarily.

Does the landlord have to give a tenant a rent receipt?

Residential Tenancies Act requires a landlord to provide rent receipts, free of charge, to a tenant upon request. This request can be made for any payment or deposit the tenant gives to the landlord, including any payment of rent arrears. It is an offence for a landlord to refuse to provide a receipt where it is requested.

How much can a landlord increase the rent for a current tenant?

The landlord may increase the rent by the guideline amount once every 12 months by giving the prescribed 90 day notice of rent increase. The annual rent increase guideline is based on the Ontario Consumer Price Index (CPI).

Can a landlord increase the rent above the annual guideline amount?

Landlords may apply to the Ontario Rental Housing Tribunal for an order to increase the rent

above the guideline. These applications can be for:

- ◆ Eligible capital expenditures- these are more strictly defined than under previous legislations;
- ◆ Extraordinary increases in operating costs (municipal taxes and charges) ***does not include increase in costs for utilities;** or
- ◆ New or increased operating costs for security services provided in respect of the residential complex.

The applications can relate to any or all units in the complex and the maximum allowable amount is 3% for a maximum of three years until the total increase has been taken for capital expenditures or security services. Amounts for eligible capital expenditures will eventually be removed from the lawful rent, once they have been paid for. For increases in the cost of municipal taxes and charges, there is no limit on the amount of rent increase that can be charged. Since the passing of Bill 124- The Rental Fairness Act, increase in utilities will no longer be ground for an Above Guideline Increase Application. The filing fee for making such an application is \$200 for the first ten units plus \$10 for each additional unit to a maximum of \$1000. Landlords should also be aware of the strict requirements now in effect for making such an application, as well as the need to use up to date forms and schedules. We recommend landlords seek help from a knowledgeable rent control consultant.

What is the tenant required to pay when a rent increase above the guideline amount is sought?

The tenant has the option to **either** pay the amount of rent increase the landlord has applied for *or* the tenant may pay the guideline amount pending the outcome of the landlord's application.

Will the Board's order specify the amount of rent increase?

An order of the Board will **not** set out the rent increase as a dollar amount. Instead, it will set out the percentage increase above the guideline in effect at the time of the increase to the current tenant. **It is the landlord's responsibility to keep records and documentary proof of the rents actually charged to each tenant.**

What is the procedure for a landlord and tenant to "agree" on a rent increase?

The *Residential Tenancies Act* allows a tenant and a landlord to agree, in writing using the correct form, to increase the rent in exchange for a new or additional service **or** for a capital improvement without the need for a written 90 day Notice of Rent Increase.

How does the provision work for increasing the rent for a new or additional service?

The *Residential Tenancies Act* allows the landlord to increase the rent any time the landlord and tenant agree to add a benefit such as an additional parking space or other prescribed service. In addition to parking spaces, the Act allows agreements for: hydro; heat; air conditioners; extra hydro for air conditioners; water/sewage (but not capital work); floor space; cable/satellite tv; car plug-ins; and/or lockers/storage.

Note: There is also a provision that permits the decrease of rent where both landlord and tenant agree that parking or other service will no longer be provided to the tenant.

What is the procedure for rent increase agreements for capital improvements?

The provision for capital improvement agreements allow a landlord to recover costs for such things as providing an air conditioner, dishwasher or other improvement to the tenant's unit. The Act provides tenants with the option of cancelling the agreement within **5 days** of signing by giving the landlord a written notice. The agreement may not come into effect sooner than **6 days** after signing. Any Notice of Rent Increase given to the tenant before the Agreement to Increase Rent was signed becomes void if it takes effect on or after the day the agreed increase is to take effect.

Note: This provision also allows a tenant to apply for relief within two years of the effective date of increase if:

- a) the landlord failed in whole or in part to carry out an undertaking under the agreement;
- b) the agreement was based on work the landlord claimed to have done but did not do; or
- c) the agreement was based on services the landlord claimed to provide but did not.

What can a tenant do if they believe they are paying an unlawful rent?

A tenant may apply for a rebate with a T1 Application, if they believe they have been charged an unlawful rent. The Landlord and Tenant Board can only order a rebate of illegal rents paid by the tenant in the 12 months prior to the application being made. The Tribunal will consider the rent charged to the tenant 12 months earlier to be the lawful rent when an application is filed.

TIP: Rent Receipts

A rent receipt is a valuable tool for proving if and when the tenant paid the rent.

When applying for termination for arrears or persistent late payment, whether payment is made by cash or personal cheque, you need to be able to show when the payment was actually received.

TIP: Work Done in lieu of Rent Paid

Agreeing that a tenant will be charged a reduced rent in exchange for doing work such as grounds keeping or snow removal is **not** a good idea. If the work is not done well or at all, there is no clear remedy for the landlord. It is far better to charge the full rent and contract to pay the tenant separately for the work actually done.

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

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