



## Rental Applications: Do's and Don'ts

# Rental Applications: Do's and Don'ts

At this Town Hall Meeting we will discuss:

- *Ontario Human Rights Code* considerations
  - What can a landlord ask an applicant?
- Rental Application
  - What is a rental application?
  - Why use a rental application?
  - Contents of a rental application
- Verifying information provided on the rental application
  - Selecting a tenant
- Review: Do's & Don'ts
- Membership with LSHC

# Residential Tenancies Act, 2006

The *Residential Tenancies Act, 2006* (RTA) is the provincial statute that governs most residential rental agreements in Ontario.



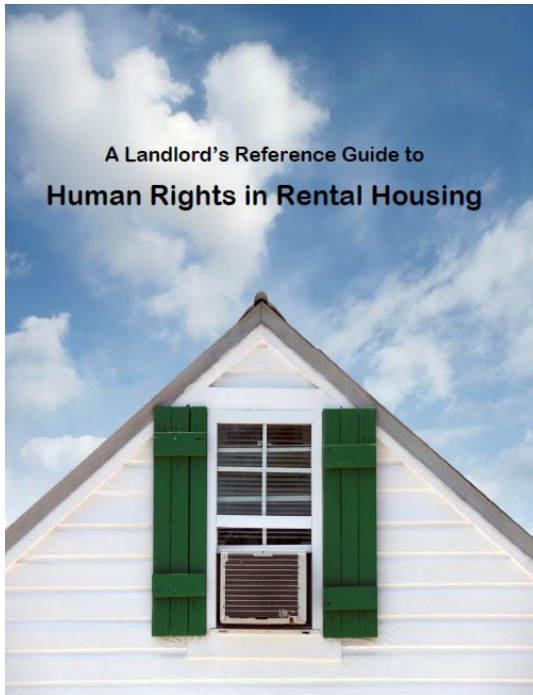
The RTA defines the rights and responsibilities of landlords and tenants.

The RTA includes provisions for the termination of a rental agreement. It defines circumstances under which a tenancy may be terminated and establishes notice requirements which vary depending on the reason for notice.

# Ontario Human Rights Code

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The *Ontario Human Rights Code (the Code)* establishes the following:



*Every person has the right to equal treatment with respect to the occupancy of accommodation without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status, handicap or the receipt of public assistance.*

The *Code* is a provincial law which assures equal rights and opportunities for all people. It allows landlords to request credit references, and rental history information from prospective tenants, but it restricts how this information is used.

The above Guide is available at

[http://www.landlordselfhelp.com/human\\_rights/HR\\_Book\\_final2012.pdf](http://www.landlordselfhelp.com/human_rights/HR_Book_final2012.pdf)

# What can a landlord ask an applicant?

On a rental application, landlords may request information related to:

- Income,
- Employment,
- Rental history,
- Banking information,
- Personal contact information,
- Credit references and/or guarantors.

**Important:** The business practices used by the landlord to screen tenants must comply with the *Ontario Human Rights Code*.

# Landlord's Obligation to Protect Information

The *Personal Information Protection and Electronic Documents Act (PIPEDA)*, requires information provided for business purposes to be kept confidential unless the party whose information is collected consents to its release. Under PIPEDA, personal information is defined as “information about an identifiable individual”.

With respect to residential rental units, landlords are considered to be engaging in business activities, and are therefore required to comply with the PIPEDA requirements.

Landlords cannot reveal personal information about a tenant or applicant, unless they receive prior approval, or it is required by law.



# Rental Applications





# What is a rental application?

A rental application is the first step in the tenant screening process. It is a snapshot of the rental unit, and it outlines what a tenancy agreement requires from both the landlord and the applicant.

*Renting is a business and it is important for small-scale landlords to adopt this mindset.*

Landlords are strongly encouraged to use rental applications because they are very valuable screening tools.



# Why use a rental application?

Rental applications and verification of the information provided, assist a landlord in determining which of their potential tenants will provide the lowest risk—someone who is likely to pay rent on time, and not cause any damage or disturbances, etc.

Using the same rental application for each prospective tenant ensures that the same information is collected, and it may help avoid claims of discrimination.

# Contents of a Rental Application

Rental applications should contain:

- The name of the applicant(s),
- Address of the rental unit,
- Names of proposed occupants,
- The rent amount per period (eg. Monthly, weekly),
- When the rental term is to begin and its duration,
- What is included in the rent (eg. Utilities, internet, parking...),
- The deposit amount collected,
- Signatures of the applicant(s) and landlord(s),
- Date the rental application was completed, and
- Supporting information about the applicant (sources of income, previous tenancies, etc.).

# Contents of a Rental Application

## (continued)

A rental application should also indicate that if the landlord accepts the applicant as a tenant, and first and last month's rent have been paid,

- A binding tenancy agreement shall be created,
- The landlord may require the applicant to enter into a written tenancy agreement before they are given possession of the rental unit,
- The deposit collected with the rental application will be applied towards the last month's rent, and
- The applicant agrees to take possession of the rental unit under the terms outlined in the rental agreement.

# Deposit

As a sign of the applicant's good faith, landlords often require an applicant to provide a deposit with the rental application.

Upon acceptance of the applicant:

- ✓ The deposit becomes last months' rent deposit.
- ✓ The maximum amount a landlord may require as a deposit is the equivalent of the rent for one rent period (one month/one week).
- ✓ If only part of the last months' deposit was provided, the tenant is required to increase the deposit to the amount equal to one rent period **before** they are given possession of the rental unit.

**Note:** This deposit amount cannot be used for damages, it can only be used as the deposit for the last rental period. If an applicant is rejected, this deposit must be returned.

# Important Clauses in the Rental Application

Important clauses to include in a rental application:

- That upon approval of the application by the landlord, if the applicant fails to either sign a lease, or refuses to move in to the unit, the deposit may be applied as rent, provided that the unit has not been re-rented;
- The applicant must provide written consent for the landlord to use the information provided on the rental application to conduct credit and reference checks; and
- The applicant certifies that the information provided on the rental application is current and complete.

# Verifying Information Provided on the Rental Application

# Verify the Information Provided

It is extremely important that landlords not only collect information from prospective tenants but also verify it!

The screening process is ineffective unless the landlord takes the necessary steps to verify that the information provided is accurate. This must be completed **before** accepting the applicant as a tenant.

The landlord can verify much of the information by:

- a) double-checking names against government issued I.D. (such as a driver's license or health card) and addresses in the telephone book or the Internet (Canada 411);
- b) contacting the individuals listed on the rental application as employers, previous landlords and personal references;
- c) personally visiting the former landlord or employer; this is necessary in some instances when there is a discrepancy in telephone numbers and addresses.



# Credit Checks

Credit checks often involve gaining access to records at the credit bureau, which can be difficult unless you are a member of the credit bureau or hire a company that specializes in doing credit checks.



Sometimes a prospective tenant cannot provide all the information that the rental application asks for. For instance, a newcomer to Canada or a person getting their first apartment will not be able to provide contact information for previous landlords. Please remember that an applicant with no credit history is not the same as them having bad credit history.

**Note:** If you are provided with the information necessary to do a credit and/or reference check, this must be done **before** the tenancy is entered into. If a landlord performs the checks after the tenant is approved and given possession of the rental unit, and discovers that incorrect reference or credit information was provided in the rental application, this is not a valid reason to terminate the tenancy.

# Selecting a Tenant

If an applicant does not provide all the information requested on the rental application, and rental history and credit references are not provided, the landlord can then proceed to use the income information to determine eligibility.

However, keep in mind that:

- ✗ Landlords should not solely base their decision to rent to a prospective tenant on income information, unless this is the only information provided.
- ✗ Failing to rent the unit to a prospective tenant because their income may appear too low is income-based discrimination. A Human Rights claim may be filed against you if a prospective tenant is suspicious that you are refusing to rent to them because you don't think they can afford to rent your unit.

# Selecting a Tenant (continued)

Once you have collected and reviewed all the information on the rental application, you must decide whether to accept or refuse the prospective tenant. Remember to take into account the legal requirements, such as the *Ontario Human Rights Code* when making your decision.

Complete a written lease agreement with the tenant, even if it is a monthly tenancy. The rental application should not be used in place of a rental agreement. **\*Note: In the near future, a standard lease will be released by the government which all landlords will be required to use.**



**REMINDER:** Income information cannot be used as the sole reason to decline an application. Landlords may only request income information if rental history, credit references and authorization to perform a credit check are also requested.

# REVIEW: Do's & Don'ts

## Do...

- ✓ Use a rental application form and require each prospective tenant to complete it.
- ✓ Have ALL prospective tenants complete the SAME rental application to ensure consistency in the information being collected.
- ✓ Verify the information provided on the rental application to ensure it is accurate.
- ✓ Use business practices that comply with the *Ontario Human Rights Code*.
- ✓ Draft a written lease agreement once an applicant is approved.

## Don't...

- ✗ Base your decision SOLELY on income information, this is not appropriate.
- ✗ Create a different rental application form for each prospective tenant, keep your collected information consistent.
- ✗ Use methods to discriminate against prospective tenants.
- ✗ Share any of a prospective tenant's personal information with other individuals. This is a violation of privacy.
- ✗ Rely on the rental application to be your lease agreement.

# Membership with LSHC



# Become a Member...

If you are already a Member of LSHC thank you! For those who are not, there are many benefits to becoming a member...

- Exclusive invitations to our events such as our Annual AGM and Landlord Information Forum
- Four issues of the Quarterly News delivered to your home
- Access to the Members' section of the website where you can find downloadable copies of a:
  - Rental Application
  - Inspection Report
  - Rental Agreement
  - Notice to Enter

**Membership dues are \$25 for one year or \$150 for a lifetime membership.**

For more information about membership with LSHC, visit

[http://www.landlordselfhelp.com/membership/become\\_member.html](http://www.landlordselfhelp.com/membership/become_member.html)

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# Questions

A photograph of a classroom scene from behind several students. In the foreground, a girl with dark hair in pigtails, wearing a red shirt, has her right arm raised. To her left, another student in a light blue shirt also has their arm raised. In the background, a boy in a dark blue shirt and another student in an orange shirt are also raising their hands. They are all facing a large blackboard filled with faint, handwritten mathematical equations and diagrams. The word 'Questions' is overlaid in large, bold, yellow font in the center of the image.



# Resources:

## Rental Applications: Do's and Don'ts

### Landlord's Self-Help Centre

- FAQs - Index of Q and A's <https://landlordselfhelp.com/frequently-asked-questions/?faq-category=before-you-rent>
- RTA Fact Sheets- Before You Rent  
<https://landlordselfhelp.com/media/2017-Before-You-Rent.pdf>

### e-laws

- Search Residential Tenancies Act, 2006 - [www.e-laws.on.ca](http://www.e-laws.on.ca)

### Landlord and Tenant Board

- A Guide to the Residential Tenancies Act  
[http://www.sjto.gov.on.ca/documents/lrb/Brochures/Guide%20to%20RTA%20\(English\).html](http://www.sjto.gov.on.ca/documents/lrb/Brochures/Guide%20to%20RTA%20(English).html)
- Information for Landlord and Tenants about Suite Meters  
[http://www.sjto.gov.on.ca/documents/lrb/Brochures/Information%20for%20Landlords%20and%20Tenants%20About%20Suite%20Meters%20\(EN\).pdf](http://www.sjto.gov.on.ca/documents/lrb/Brochures/Information%20for%20Landlords%20and%20Tenants%20About%20Suite%20Meters%20(EN).pdf)



**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.**

