



Tenant Belongings

**Landlord duties and responsibilities
when the tenant leaves but
their belongings stay**

Tenant Belongings

At this Town Hall Meeting we will:

- Examine four common situations involving belongings:
 - Tenant vacates on notice
 - Tenant is evicted
 - Tenant abandons the unit
 - Tenant dies
- Discuss the general rules regarding tenant belongings left in the rental unit.
- Discuss landlord obligations respecting the storage, removal and disposal tenant's belongings left in the rental unit.



Residential Tenancies Act, 2006

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

The RTA establishes specific rules that direct how a landlord must deal with abandoned belongings.

These rules differ depending on the circumstances related to how the rental unit was vacated.



Situations involving belongings

1. The tenant moves out according to:
 - a notice,
 - an agreement to terminate, or
 - a Landlord and Tenant Board Order;
2. The tenant is evicted by the Enforcement Office pursuant to a Landlord and Tenant Board Order;
3. The tenant has abandoned the rental unit;
4. The tenant has died.



Tenant Vacates on Notice



Situation No. 1: Tenant Vacates

- The tenant received a notice of termination and vacated the rental unit according to the notice.
- The landlord and the tenant mutually agreed to terminate the tenancy.
- The landlord obtained an Order terminating the tenancy from the Landlord and Tenant Board.



Belongings left in unit

When belongings are left behind for any of the reasons just mentioned, the landlord may:

- sell the belongings;
- retain the belongings; or
- dispose of the belongings immediately



Eviction by Court Enforcement Office



Situation No. 2: Tenant is Evicted

The landlord shall make an evicted tenant's property available for retrieval within 72 hours after the eviction.

- During the 72 hour period 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 between 8:00 am and 8:00 pm



What happens after 72 hours?

If the tenant does not retrieve their belongings, the landlord may:

- sell the belongings;
- keep the belongings; or
- dispose of the belongings



Landlord fails to make belongings available



The tenant has two options for legal action in situations where the landlord:

- does not allow the tenant to retrieve their belongings during the 72 hour period, *or*
- sells, keeps or disposes of the belongings **before** the 72 hours

Tenant Option 1:

File a Complaint with the Rental Housing Enforcement Unit (RHEU)

- The RHEU is responsible for enforcing the offences under the RTA
- It is an offence for a landlord to fail to make an evicted tenant's property available within 72 hours following the enforcement of an eviction order by the Sheriff



Timing Requirements

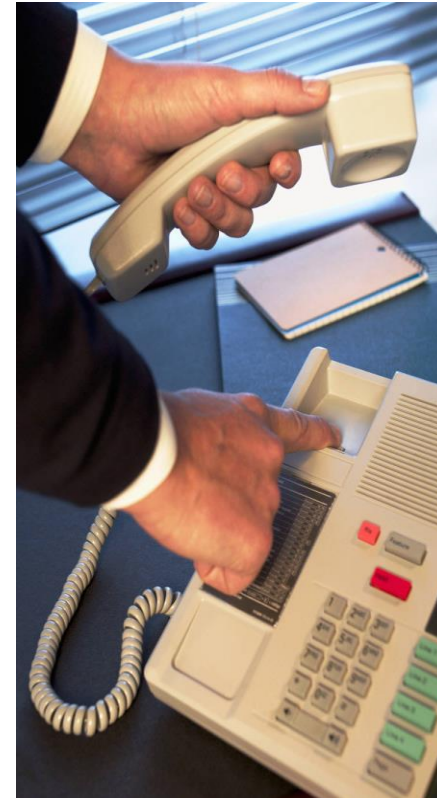
Landlords must:

- Make themselves, or their representative, available to attend the rental unit between 8 a.m. and 8 p.m. within the 72 hour period to allow the tenant to retrieve their belongings



How will the RHEU resolve the complaint?

- Upon receiving a complaint from a tenant, if it appears an offence may have occurred, an RHEU Compliance Officer will contact the landlord to collect additional information
- The Compliance Officer will educate the parties about the offence provision in the RTA and discuss how it may apply to the situation
- If voluntary compliance is not achieved, the case may be referred to an RHEU Investigator



Tenant Option 2:

Tenant files Application with LTB

- If the landlord does not allow the tenant access to their belongings within the 72 hour period

or

- If the landlord sells, retains or disposes of the tenant's property before 72 hours have passed.



Tenant Option 2 - LTB Application:

Possible outcomes

The Landlord and Tenant Board may:

- Order the landlord not to breach his obligation again.
- Order the landlord to return the property to the former tenant if the landlord still has the belongings in his possession.
- Order the landlord to pay the former tenant reasonable costs they incurred or will incur in repairing or replacing their property that was damaged, destroyed or disposed of by the landlord.
- Order the landlord to pay any other reasonable out of pocket expenses the former tenant incurred or will incur as a result of the landlord's actions.

Rental Unit Is Abandoned



Situation No. 3: **Abandonment**

The unit may be considered abandoned if the tenant is in arrears, vacates the premises, and has not:

- Entered into an agreement with the landlord to end the tenancy,
- Provided the landlord with notice to end the tenancy,
- Received notice from the landlord to end the tenancy, or
- Received an Order of the Board terminating the tenancy.



Factors in determining abandonment

- Has the tenant not been seen in the unit for quite some time?
- Did the tenant tell someone they were moving out?
- Did the neighbours see the tenant moving out?
- Is the mail being picked up?
- Did the tenant disconnect the utilities?



IMPORTANT: A rental unit can **NOT** be considered abandoned if the tenant has paid the rent and is not in arrears.

When tenant belongings are left in the rental unit ...

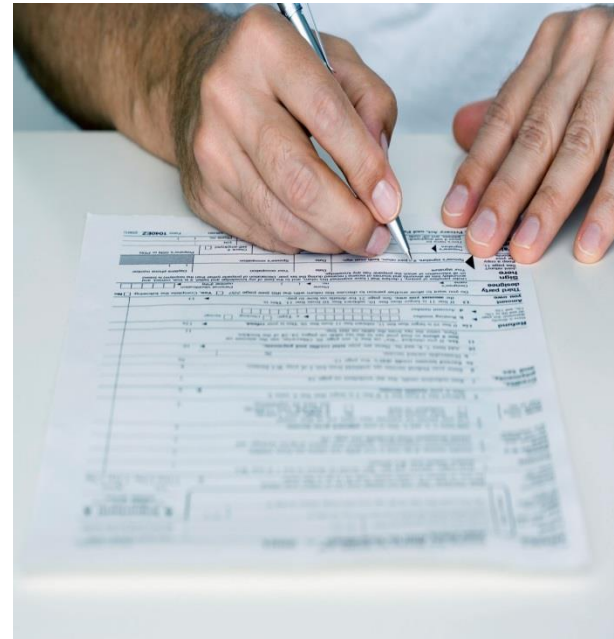
The landlord **MUST** do one of the following:

- Apply to the Landlord and Tenant Board to obtain an Order terminating the tenancy based on abandonment of the rental unit; or
- Give notice to the tenant and to the Landlord and Tenant Board stating that the landlord intends to dispose of the belongings if the tenant does not claim the belongings within 30 days of the notice being given.



Making an Application to the Landlord and Tenant Board

- File an L2 Application with the Landlord and Tenant Board for an Order terminating the tenancy based on abandonment
- Filing fee is \$190 or if filing online using e-File it is \$175.



Giving Notice to the Tenant and Landlord and Tenant Board

The landlord must give notice to the tenant and to the Landlord and Tenant Board of their intention to dispose of the tenant's belongings.

- The tenant has 30 days to retrieve their belongings
- The notice should be in the form of a letter and sent to the tenant's new address
- The notice can be sent to the tenant's last known address



Landlord must wait 30 days

After giving notice to the tenant or receiving an Order from the Board stating that the unit was abandoned, the landlord must wait **30 days** before they can sell, retain or dispose of the tenant's belongings.



NOTE: The landlord can immediately dispose of any unsafe or unhygienic items. Examples include rotting food or garbage.

Tenant claims belongings

If the tenant contacts the landlord to retrieve his belongings within the 30 day period, the landlord must make the tenant's belongings available to the tenant at a reasonable time and at a place close by the unit.

However, the tenant can be required to pay:

- any outstanding rent, and
- any out-of-pocket expenses the landlord had to pay to move, store or secure the tenant's property before the tenant is allowed to retrieve the belongings.



Tenant returns within 6 months

If the tenant returns for their belongings within six months and the landlord has sold the belongings, the landlord must give the tenant the proceeds of the sale after deducting:

- any outstanding rent, and
- any out-of-pocket expenses the landlord had to pay to move, store or secure the tenant's property.



Death of the Tenant



Situation No. 4: Death of the Tenant

The *Residential Tenancies Act, 2006* includes a provision for the termination of a tenancy agreement 30 days after the death of the tenant.



Spouse remains in unit

- Tenant has died and is survived by a spouse or partner who also occupied the unit as their primary residence
- The spouse or partner can remain in the unit as the tenant



During 30 day period

The landlord must:

- Leave the belongings in the tenant's unit during the 30 day period
- Preserve any property belonging to the tenant but may dispose of any unsafe and unhygienic items immediately
- Provide reasonable access to the rental unit to allow the executor or administrator of the estate or family member to remove the tenant's belongings



During the 30 day period

The landlord must:

- Leave the belongings in the tenant's unit during the 30 day period
- Preserve any property belonging to the tenant, but may dispose of any unsafe or unhygienic items immediately
- Provide reasonable access to the rental unit to allow the executor or administrator of the estate or the family member to remove the tenant's belongings



After 30 day period

If the tenant's belongings remain on the rented premises after the 30 day period, the landlord has the right to:

- sell
 - retain
- or**
- dispose of the belongings



Tenant's family claims belongings



If the landlord has sold the belongings and the tenant's family claims the items within six months, the landlord is required to give them the proceeds of the sale of the belongings, after deducting any arrears of rent and any out of pocket expenses.

If the landlord kept the belongings, the landlord is required to return the items to the tenant's family.

At this Town Hall Meeting we have:

- ✓ Learned about the general rules regarding tenant belongings left in the rental unit;
- ✓ Examined the landlord's responsibilities for the disposal of the tenant's belongings; and
- ✓ Discussed how the rules apply to four specific situations involving tenant belongings:
 1. The tenant leaves on notice
 2. The tenant is evicted by the sheriff
 3. The tenant abandons the rental unit; and
 4. Where the tenant dies.

Resources

Landlord's Self-Help Centre

- **Sound Advice for Landlords: Tenant Belongings**

http://www.landlordselfhelp.com/sound_advice/scripts/tenant_belongings.htm

- **Frequently Asked Questions: Tenant Belongings**

<https://landlordselfhelp.com/frequently-asked-questions/?faq-category=tenant-belongings>

- **RTA Fact Sheets: Tenant Belongings-**

<https://landlordselfhelp.com/media/2017-tenants-belongings.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.

