



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



Selling a Rental Property

Information for landlords thinking of selling a property that is occupied by a tenant



Selling a Rental Property

At this Town Hall Meeting we will learn about:

- The provisions under the Residential Tenancies Act that impact landlords when selling a property;
- The rules for entering the rental unit to show to a potential purchaser;
- Entering the rental unit for appraisal by a mortgagee or insurer;
- Terminating a tenancy agreement for the purchaser's own use; and
- Penalties for serving notice in bad faith.

Residential Tenancies Act, 2006

The *Residential Tenancies Act, 2006* (RTA) is the provincial statute that governs most residential rental agreements in Ontario and establishes the rights and responsibilities of landlords and tenants.

The RTA establishes rules that direct how a landlord must deal with a sitting tenant when the property is being sold.



Selling a Rental Property

Listing a rental property for sale with a tenant in possession can be a challenge.



A landlord may list their rental property for sale at any time but should fully understand their rights and responsibilities as well as tenant's.

The Residential Tenancies Act

The Act establishes rules that address the sale of property containing a rental unit, specifically:

- Privacy provisions,
- Security of tenancy, and
- Reasons or grounds that permit a tenancy agreement to be terminated.



Privacy and Entry Provisions



Entering the Rental Unit to Show Potential Purchasers

Section 27(2) of the Residential Tenancies Act allows:

- A landlord, a broker or a salesperson registered under the Real Estate and Business Brokers Act, with written authorization of the landlord, to enter a rental unit to allow a potential purchaser to view the rental unit.

After providing the tenant with at least 24 hours written notice before the time of entry

Written Notice Requirements

Section 27(3) of the RTA specifies that the notice of entry must:

- Be in writing;
- Specify the reason for entry (to show potential purchasers);
- Include the date of entry and the time of entry, which must be between 8:00 am and 8:00 pm

Important: Please note email and text notices are not considered proper written notice

Exact Time or Window of Time

The specific time of entry should be stated in the notice of entry.

Where the specific time of entry is not known, the notice should specify a brief window of time.

Example: “Between the hours of 4:00 p.m. and 5:00 p.m.”



Notice of Entry



Serving a Notice of Entry

The landlord may deliver the written notice of entry to the tenant by:

- Handing the notice to the tenant;
- Handing the notice to an apparently adult person in the rental unit;
- Placing the notice in the tenant's mailbox or where mail is usually delivered;
- Sliding the notice under the door of the rental unit; or
- Posting the notice on the tenant's door.

Note: This is the only notice that can be posted to the tenant's door.

Serving a Notice of Entry

The notice of entry may also be delivered by

- Faxing the notice to the residence or tenant's place of business;
- Sending the notice by courier (deemed to be given on the next business day following the day it was given to the courier); or
- Sending it by ordinary mail (**add five calendar days for delivery**).

Potential Mortgagee or Insurer

The landlord also has the right to enter the premises to allow a potential mortgagee or insurer of the rental unit or complex to view the unit on 24 hours written notice.

Example: The purchaser requires a potential mortgagee to appraise the rental property.



Security of Tenancy



Can a landlord ask the tenant to move out before the sale ?

The Residential Tenancies Act protects the tenant's right to remain in the rental unit until:

- The tenant decides to leave and gives notice to terminate the tenancy;
- The landlord and tenant agree to terminate the tenancy; or
- The landlord gives notice to end the tenancy for a reason permitted under the RTA, and the tenant moves out, or if the tenant does not move out, the landlord applies to the Landlord and Tenant Board and obtains an eviction order.

Common landlord misconceptions about selling a rental property

A landlord **cannot**,

- serve a notice of termination of tenancy based solely on the reason that they plan to sell the property,
- serve a notice of termination of tenancy because they want to renovate the property and have the unit vacant in order to sell it, or
- serve a notice of termination based on the reason that the property is sold and the purchaser wants the property vacant in order to find his own tenants.

Terminating a Rental Agreement



Can a landlord terminate a tenancy when selling a property?

According to **Section 49** of the **RTA** the only reason that a tenancy may be terminated when selling the property is for a purchaser's own use.

The landlord may issue a notice of termination on behalf of the purchaser if

- the purchaser,
- a family member of the purchaser, or
- a caregiver

requires the rental unit in good faith for their own use.



Purchaser's Own Use

A landlord can terminate a tenancy based on this reason only under the following circumstances:

- a) the landlord/vendor has an **executed** Agreement of Purchase and Sale;
- b) the property must contain **three** or fewer residential units;
- c) the purchaser must, **in good faith**, require possession of the rental unit for the purpose of residential occupation by,
 - ✓ the purchaser;
 - ✓ the purchaser's spouse;



Purchaser's Own Use

- ✓ a child or parent of the purchaser or purchaser's spouse; or
- ✓ a person who provides or will provide care services to the purchaser, the purchaser's spouse, or a child or parent of the purchaser or the purchaser's spouse, if the person receiving the care services resides or will reside in the building where the rental unit is located.



What happens if the tenant has a fixed term lease?

If the tenant has a written fixed term agreement (lease) in place, the purchaser must honour the lease agreement. The tenancy cannot be terminated for this reason until the end of the lease term.

- The only way to end the agreement early is if the tenant is willing to terminate their tenancy early in which case an Agreement to Terminate a Tenancy (Form N11) should be signed by both parties.



Notice of Termination

What type of notice of termination can be given?

- Landlord must serve the tenant with a **Form N12 – Notice to Terminate a Tenancy at End of Term or Rental Period**.
- The notice period is 60 days and *must end* on the last day of the rental period or fixed term lease.
- The notice must indicate who is moving in to the unit.
- If serving the N12 notice after September 1, 2017 the landlord is required to compensate the tenant with an amount equal to one month's rent by the terminate date on the notice OR offer the tenant another rental unit which is acceptable.
- Application to Landlord and Tenant Board will be **required** to enforce notice if tenant does not vacate voluntarily.

Serving Notice in Bad Faith

Landlord/vendor must ensure that the purchaser, family member or caregiver intends to occupy the unit before serving a notice of termination to the tenant.

- To ensure that the purchaser/family member or caregiver in good faith requires the premises for their own personal use a landlord/vendor should obtain a sworn affidavit from the person who will be moving in certifying that the person in good faith requires the rental unit for his or her own personal use.
- Also the purchaser/family member or caregiver must be able to live in the rental unit for 1 year, otherwise the tenant may file an application for bad faith against the landlord.



Offences and Penalties

There are serious consequences for landlords that give a notice of termination in bad faith.

These may include an order to pay a fine to the Landlord and Tenant Board, a rent abatement and compensation to the tenant.

- In addition to any penalties that may be imposed by the Board, giving notice in bad faith is considered an offence under the Act. If found guilty this offence an individual could be fined up to \$25,000.



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Resources

Landlord's Self-Help Centre

- LSHC Sound Advice Podcast - Entering a Tenant's Rental Unit
- Podcast and Transcript:
http://www.landlordselfhelp.com/sound_advice/scripts/entering_unit.htm
- LSHC FAQs - Index of Q and A's
http://www.landlordselfhelp.com/education/forum_subcategories.asp?cat_id=1
- LSHC RTA FactSheets: Entering the Unit
<https://landlordselfhelp.com/media/2017-Entering-Unit.pdf>
- LSHC RTA FactSheets: Selling a Rental Property
<https://landlordselfhelp.com/media/2017-Selling-a-Rental-Property.pdf>
- LSHC FAQs – Q and A's page on Selling a Property
<https://landlordselfhelp.com/frequently-asked-questions/?faq-category=selling-a-property>

Resources

Landlord and Tenant Board

- A Guide to the Residential Tenancies Act - [http://www.sjto.gov.on.ca/documents/ltb/Brochures/Guide%20to%20RTA%20\(English\).pdf](http://www.sjto.gov.on.ca/documents/ltb/Brochures/Guide%20to%20RTA%20(English).pdf)
- Interpretation Guideline #19 - A Landlord's Right of Entry into a Tenant's Rental Unit - <http://www.sjto.gov.on.ca/documents/ltb/Interpretation%20Guidelines/19%20-%20The%20Landlords%20Right%20of%20Entry%20into%20a%20Rental%20Unit.html>
- Interpretation Guideline #12-Eviction for Personal Use <http://www.sjto.gov.on.ca/documents/ltb/Interpretation%20Guidelines/12%20-%20Eviction%20for%20Personal%20Use.html>

e-laws

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



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.