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# Landlord and Tenant Disputes

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*What A Police Officer Needs To Know  
When Dealing With Residential Tenancies*



# PURPOSE

*This guideline is intended to provide general information only. As each situation involving a landlord and tenant relationship is unique, you should familiarize yourself with the relevant legislative provisions and with any amendments.*

## THE RESIDENTIAL TENANCIES ACT, 2006

The *Residential Tenancies Act, 2006* (the “Act”) came into force on January 31, 2007, replacing the *Tenant Protection Act, 1997*. The Act governs relationships between residential tenants and landlords. The Act applies to most residential rental units, including rooming and boarding houses, non-profit housing, care homes, mobile home parks, and, in some cases, hotels and motels. It sets out specific rights and obligations regarding tenancies, including when and how a tenancy can be terminated.

The Act creates two regimes: a civil regime for enforcing the rights and obligations between the parties and a quasi-criminal regime for ensuring compliance with the Act. Matters involving tenants’ and landlords’ rights and responsibilities are heard and resolved before the Landlord and Tenant Board (the “Board”). The Board is a quasi-judicial agency established by the Act to resolve disputes between landlords and tenants through either mediation or adjudication, to regulate rent increases and to provide information to landlords and tenants about their rights and obligations under the Act. The quasi-criminal regime is enforced under Part III of the Provincial Offences Act (the “POA”) with prosecutions being heard before the Ontario Court of Justice (Provincial Offences Court). A matter may be pursued in both forums at the same time.

The Investigation and Enforcement Unit of the Ministry of Municipal Affairs and Housing (the “Ministry”) seeks to obtain compliance with the Act’s provisions and investigates alleged contraventions of the Act. The Ministry’s Legal Services Branch prosecutes offences when charges are laid by the Investigation and Enforcement Unit.

**Officers should be encouraged to contact the Ministry’s Investigation and Enforcement Unit at 1-888-772-9277 for additional information or to seek advice.**

Police officers may lay charges under the Act, using the processes provided for under Part III of the POA. The offences are set out in sections 233 to 237 of the Act. Police Officers are encouraged to communicate with the Investigation and Enforcement Unit if they are contemplating laying an information alleging that an offence under the Act has been committed.

The following is a list of the offences that a Police Officer is most likely to encounter:

- Landlord knowingly changing the locks and not giving the tenant a replacement key – clause 233(b)
- Tenant knowingly changing locks without landlord’s permission – clause 233(b)
- Knowingly withhold or interfere with a vital service [fuel, electricity, gas, hot or cold water, and heat (during prescribed times)] – clause 233(a)
- Knowingly harass or threaten in a manner which induces the tenant to move – clause 233(i)
- Knowingly harass, obstruct or interfere with a landlord enforcing a right – clause 233(j)
- Knowingly seize a tenant’s property without lawful authority – clause 233(d)
- Landlord entering a rental unit without proper notice – clause 234(a)
- Unlawfully recover possession of the rental unit (unlawful eviction) – clause 234(w)
- Failure to make an evicted tenant’s property available for retrieval – clause 234(b)



# EVICCTIONS UNDER THE ACT

Self-help evictions are prohibited under the Act, and it is an offence for a landlord to evict or attempt to evict a tenant without following the procedures set out in the Act. Only the Sheriff can enforce an order terminating a tenancy.

A tenant can only be evicted if a landlord obtains an Order terminating a tenancy from the Board and **only the Sheriff** can enforce this Order.

To evict a tenant, a landlord must complete all of the steps set out below:

- Serve the tenant with a valid Notice of Termination;
- Apply to the Board for a Hearing, and serve the tenant with the Application and Notice of Hearing;
- Obtain an Order terminating a tenancy from the Board;
- Deliver the Order terminating a tenancy to the Sheriff for enforcement.

## WHAT AN OFFICER SHOULD DO:

1. Determine if the Act applies to the situation.

The Act applies to most residential rental units, including rooming and boarding houses, care homes, non-profit housing, mobile home parks, and, in some cases, hotels and motels, but **does not** apply to:

- A roommate of a tenant, i.e., a person who is renting a room from a tenant, not from a landlord;
- A person who is required to share a bathroom and/or kitchen with an owner of the premises, the owner's spouse, child or parent or the spouse's child or parent;
- Emergency shelters;
- Co-operative housing (i.e. member controlled housing subject to the *Co-operative Corporations Act*);
- Accommodation used by and intended for the vacationing public (however, the Act does apply to someone living in a motel or hotel as their residence).

2. Determine if the eviction is lawful.

An eviction is lawful under the Act only if an Order terminating a tenancy has been issued by the Board, and the Order has been enforced by the Sheriff. This also applies even where the unit is "illegal" and/or the landlord or tenant has notices from city officials declaring the unit to be unfit. In order to determine if the eviction is lawful, ask the landlord and/or the tenant for the relevant documents (for example, a copy of the Order and the Sheriff's Notice and the Writ of Possession).

## LAWFUL EVICTION

The tenant is required to leave the premises once the order is enforced by the Sheriff on a specific date and not before. Failure to leave the premises could result in charges being laid under the *Trespass to Property Act*.

The tenant has the right to collect personal property, including furniture, clothing, medication, identification, money. The landlord is not permitted to seize any of the tenant's possessions to offset damage to the unit or to offset rental arrears and the landlord is also not permitted to hold onto the property until the tenant pays arrears that are owing.

The landlord must give the evicted tenant access to his or her property. The parties should agree on a time for the tenant to retrieve their belongings. The tenant has 72 hours following the eviction to retrieve his or her belongings (between the hours of 8 am and 8 pm). If the tenant fails to do so and the landlord has complied with the relevant provisions, the landlord may dispose of the property or keep it.

The tenant may be referred to local support agencies, including a housing help agency, shelter, or community legal clinic.



### UNLAWFUL EVICTION

The tenant has the right to be put back into his/her home. If the landlord fails to allow the tenant back in, consider whether the landlord should be charged under clauses 233(b) or 234(w) of the Act – it may be preferable to consult with or refer the matter to the Ministry's Investigation & Enforcement Unit.

Landlords can obtain information from the Board or the Landlord's Self-Help Centre.

The tenant can file an application with the Board for compensation and reasonable out-of-pocket expenses as a result of the unlawful eviction, and, if the unit is vacant, the Board can also order the landlord to allow the tenant to recover possession and prohibit the landlord from renting the unit to anyone else. The tenant can obtain information from the Board or from the Ministry's Investigation and Enforcement Unit. The tenant may be referred to local support agencies, including a housing help agency, shelter, or community legal clinic.

### EVICCTIONS WHERE THE ACT DOES NOT APPLY

The Act does not apply to roommates of tenants (unless the roommate has also entered into a tenancy agreement with the landlord) or to a person who is required to share a kitchen and/or bathroom with the owner of the premises, the owner's spouse, child or parent or the spouse's child or parent.

A person who is required to share a kitchen and/or bathroom with an owner etc. is a "licencee" and that person's relationship with the owner ("licensor") is governed by common law.

A roommate of a tenant who is not also a tenant of the landlord may be a licensee of the tenant, but in some rare situations (e.g., where the roommate has his or her own space and right to exclusive possession) this arrangement may be governed by the *Commercial Tenancies Act* (CTA): i.e., the roommate would be considered a tenant under the CTA and the tenant would be considered to be the landlord.

If there is a written agreement or contract between the parties, it will govern how long and under what conditions the licensee can remain in the unit. (The situation is more complex if the CTA applies.)

If there is no written contract, then the tenant/owner can ask the licensee to leave at any time, without a reason, provided that appropriate notice is given. Notice is generally equal to the rent period (for example, if rent is paid monthly, one month's notice is required). In urgent situations, safety must be considered.

If the licensee fails to pay rent, then the licensee's right to remain in the unit can be ended without notice, unless the terms of the written agreement states otherwise.

Sometimes, despite the landlord claiming that the lease is a "commercial" lease and the terms of the lease appearing to be "commercial", the Act may still apply. The officer should make careful observations and take notes. It may be prudent to refer the parties to the Landlord and Tenant Board.

### WHAT AN OFFICER SHOULD DO

Determine if there is a written agreement or contract between the roommate and tenant or between the owner and occupant, and ask to see it.

- If there is a written agreement or contract:

Determine if the parties have complied with the terms of the agreement or contract. Unless the agreement or contract provides otherwise, if the licensee has failed to pay the rent, then the licensee must leave the unit if asked to leave by the owner/tenant.

Disputes about the contract can be taken to the Superior Court of Justice (some disputes fall within the jurisdiction of the Small Claims Court).



- If no written agreement or contract:

Determine if the tenant/owner has given proper notice to terminate the agreement. If proper notice has been given and the notice period is over, the licensee must leave the unit. If the tenant/owner has not given proper notice or the notice period is not over, then the licensee can remain in the unit. If the licensee has failed to pay the rent, then the licensee must leave the unit if asked to leave by the owner/tenant.

If the situation is unclear, consider putting the licensee back into the unit if it is safe and practical to do so, recommend the parties get legal advice, and refer them to the Superior Court of Justice (or Small Claims Court) to resolve their dispute.

## ABANDONMENT

A landlord cannot recover possession of a rental unit as being abandoned if arrears of rent are not owing or there is no strong evidence that the tenant has vacated the unit.

A landlord may apply to the Board for an Order terminating the tenancy if the landlord believes the tenant has abandoned the rental unit (section 79).

The landlord cannot dispose of property in the abandoned rental unit unless they get an Order from the Board terminating the tenancy and 30 days have passed after obtaining the Order or the landlord gives 30 days notice to both the tenant and the Board of the landlord's intention to dispose of the property.

The landlord, if notified by the tenant that the tenant wants to remove their property within the 30-day notice period, shall make the property available to the tenant at a reasonable time and place in a location within reasonable proximity to the rental unit (subsection 42(5)).

### WHAT AN OFFICER SHOULD DO

If the tenant is present, he or she could be asked whether they have abandoned the unit. If the tenant indicates that they have not abandoned the unit, the landlord may be advised to allow the tenant back into possession of the unit and the landlord may be directed to file an application with the Board to determine the issue.

If the tenant is not present, the landlord could be asked whether there are any arrears of rent owing by the tenant. If no arrears are owing, then the landlord should be advised that under the Act, the provisions that deal with "abandoned" units or property do not apply (subsection 2(3)).

If arrears of rent are owing, determine whether the tenant has moved out of the unit. Did the landlord see the tenant move out? Have all of the tenant's belongings been removed from the unit? Ask to see the unit or view the unit through the windows - is it empty? Ask other tenants or neighbours if the tenant has moved out. The officer could also attempt to contact the tenant at the tenant's last known place of employment.

If it is unclear whether the unit has been abandoned, advise the landlord that an application can be made to the Board under section 79 of the Act for an Order terminating the tenancy based on abandonment.

Advise the landlord that the Act requires a landlord to give the Board and the tenant 30 days notice of the landlord's intention to dispose of the property in the unit and the landlord is to provide reasonable access to the property if the tenant gives notice to the landlord that they want access to the property during the notice period.



# RIGHTS OF ENTRY

A landlord can enter a tenant's premises between the hours of 8 a.m. and 8 p.m. only if 24 hours written notice has been given to the tenant. The notice must set out the reason for the entry, date and time of entry. Entry can only be for the specific reasons set out under section 27 of the Act – they include repairs, reasonable inspections and showing the unit to potential buyers.

A landlord can enter a unit **without** written notice **at any time** in certain circumstances, including where:

- There is an emergency (e.g. fire or flooding);
- The tenant voluntarily allows the landlord into the unit;
- A tenant in a care home agreed in writing to let the landlord do “bed checks”.

A landlord can enter a rental unit **without** written notice **between the hours of 8 a.m. and 8 p.m.** if:

- The rental agreement requires the landlord to clean the unit unless the agreement provides for different hours for cleaning;
- The landlord enters the unit to show the unit to prospective tenants after notice of termination has been given by the landlord, or the tenant and the landlord has made reasonable efforts in advance to advise the tenant of the entry.

## WHAT AN OFFICER SHOULD DO

Determine whether the landlord's entry into the unit is lawful. Was there an emergency or did the tenant consent? If not, was 24 hour written notice given to the tenant (note: notice need not be served in person)? Was the stated purpose for the entry allowed as a reason for entry under the Act?

### Lawful Entry

- Advise the tenant that in the circumstances, the entry appears to be lawful.
- The tenant may be referred to the Board or to a community legal clinic.

### Unlawful Entry

- Advise the landlord that the entry appears to be unlawful – explain the circumstances under which entry is allowed and advise the landlord of the reason his actions are not in compliance.
- Escort the landlord off the premises.
- If the landlord refuses to leave, consider whether the landlord should be charged under clause 234(a) of the Act (entry where not permitted) or other appropriate statutes – it may be preferable to consult with or refer the matter to the Ministry's Investigation & Enforcement Unit.

# VITAL SERVICES

A landlord is not permitted to withhold or interfere with a vital service. Vital services are defined as fuel, gas, electricity, hot or cold water and heat (from September 1 to June 15).

## WHAT AN OFFICER SHOULD DO

Determine if the landlord has interfered with a vital service. If the landlord has interfered, advise the landlord to restore the vital service and advise the landlord of the offence provision under the Act. If the landlord fails to restore the service, consider whether the landlord should be charged under clause 233(a) of the Act.

Consult with or refer the matter to the Ministry's Investigation & Enforcement Unit. Refer the tenant to the Investigation and Enforcement Unit, the Board or a community legal clinic.



# CREDITS

This guideline was developed jointly by the Ministry of Municipal Affairs and Housing's Investigation and Enforcement Unit, the Ministry of Community Safety and Correctional Services, Community Legal Aid Clinics, Ontario Police College, Ontario Provincial Police, Ontario Association of Chiefs of Police, and various municipal police services. Brochure design by Vivian Choi (viv\_choi@hotmail.com).

A complete text of the *Residential Tenancies Act, 2006* can be found at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca) (search "consolidated statutes and regulations" and then search under "R").

## BOARD FORMS & INFORMATION PAMPHLETS

[www.ltb.gov.on.ca](http://www.ltb.gov.on.ca), "Forms & Publications"

## GOVERNMENT

Investigation & Enforcement Unit, Ministry of Municipal Affairs Housing: 1-888-772-9277 or 416-585-7214

Landlord and Tenant Board: 1-888-332-3234 or 416-645-8080

Website: [www.ltb.gov.on.ca](http://www.ltb.gov.on.ca)

Citizen's Inquiry Bureau: 1-800-267-8097

## SOCIAL SERVICES

Toronto and GTA resources: 211

Website: [www.211Toronto.ca](http://www.211Toronto.ca)

Inform Ontario – directory of information and referral centres across the province

Website: <http://www.informontario.on.ca>

Citizen's Inquiry Bureau: 1-800-267-8097

## LEGAL

Legal Aid Ontario: 1-800-668-8258

Website: [www.legalaid.on.ca](http://www.legalaid.on.ca)

Landlord's Self Help Centre: 1-800-730-3218 or 416-504-5190

Website: [www.landlordselfhelp.com](http://www.landlordselfhelp.com)

Aboriginal Legal Services of Toronto: 416-408-4041

Advocacy Centre for Tenants Ontario: 416-597-5855

Advocacy Centre for the Elderly: 416-598-2656

African Canadian Legal Clinic: 416-214-4747

Algoma Community Legal Clinic: 705-942-4900

ARCH – Disability Law Centre: 416-482-8255

Association of Community Legal Clinics Ontario: 416-204-5380

Centre for Spanish-Speaking Peoples: 416-533-8545

Centre Francophone de Toronto: 416-922-2672

Chatham-Kent Legal Clinic: 519-351-6771

Clinic Services Office: 416-979-2352

Clinique Juridique francophone de l'Est d'Ottawa/Centre des Services Communautaires de Vanier: 613-744-2892



Clinique Juridique Communautaire Timmins Temiskaming: 705-267-0300

Clinique Juridique Grand Nord Legal Clinic: 705-337-6200  
Website: [www.grandnordlegalclinic.info](http://www.grandnordlegalclinic.info)

Clinique Juridique Populaire de Prescott et Russell: 613-632-1136

Clinique Juridique Stormont, Dundas & Glengarry Legal Clinic: 613-932-2703

Community Legal Assistance Sarnia: 519-332-8055

Community Legal and Advocacy Centre: 613-966-8686

Community Legal Clinic – Brant, Haldimand, Norfolk: 519-752-8669

Community Legal Clinic – Simcoe, Haliburton, Kawartha Lakes: 705-326-6444  
Website: [www.slsc.ca](http://www.slsc.ca)

Community Legal Clinic of York Region: 905-508-5018

Community Legal Education Ontario: 416-408-4420

Community Legal Services – (Ottawa-Carleton) Centre: 613-241-7008

Community Legal Services of Niagara South: 905-735-1559

Downsview Community Legal Services: 416-635-8388

Dundurn Community Legal Services: 905-527-4572  
Website: [www.hamiltonlegalclinics.ca](http://www.hamiltonlegalclinics.ca)

Durham Community Legal Clinic: 905-728-7321

East Toronto Community Legal Services: 416-461-8102

Elgin-Oxford Legal Clinic: 519-633-2638

Elliot Lake & Northshore Community Legal Clinic: 705-461-3935

Flemingdon Community Legal Services: 416-441-1764

Grey Bruce Community Legal Clinic: 519-370-2200

Halton Community Legal Services: 905-877-5256

Hamilton Mountain Legal and Community Services: 905-575-9590  
Website: [www.hamiltonlegalclinics.ca](http://www.hamiltonlegalclinics.ca)

Huron/Perth Community Legal Clinic: 519-271-4556

Jane Finch Community Legal Services: 416-398-0677

Keewaytinok Native Legal Services: 705-336-2981  
Website: [www.lantz.ca/keewaytinok](http://www.lantz.ca/keewaytinok)

Kenora Community Legal Clinic: 807-468-8888

Kensington Bellwoods Community Legal Services: 416-924-4244

Kingston Community Legal Clinic: 613-541-0777

Kinna-aweya Legal Clinic: 807-344-2478

HIV/AIDS Legal Clinic: 416-340-7790

Lake Country Community Legal Clinic: 705-645-6607

Lanark County Legal Clinic: 613-264-8888

Legal Assistance of Windsor: 519-256-7831

Legal Clinic of Guelph and Wellington County: 519-821-2100

Legal Clinic Elgin – Oxford: 519-633-2638





Manitoulin Legal Clinic: 705-368-3333

McQuesten Legal & Community Services: 905-545-0442

Website: [www.hamiltongalclinics.ca](http://www.hamiltongalclinics.ca)

Metro Toronto Chinese and Southeast Asian Legal Clinic: 416-971-9674

Mississauga Community Legal Services: 905-896-2054

Neighbourhood Legal Services: 416-861-0677

Neighbourhood Legal Services (London & Middlesex): 519-438-2890

Niagara North Community Legal Assistance: 905-682-6635

Niagara South Area Office: 905-735-1559

Nipissing Community Legal Clinic: 705-476-6603

North Peel & Dufferin Community Legal Services: 905-455-0160

Northumberland Community Legal Centre: 905-373-4464

Parkdale Community Legal Services: 416-531-2411

Website: [www.parkdalelegal.org](http://www.parkdalelegal.org)

Peterborough Community Legal Centre: 705-749-9355

Rainy River District Community Legal Clinic: 807-274-5327

Sioux Lookout Community Legal Services: 807-737-3074

Renfrew County Legal Clinic: 613-432-8146 (7,8)

Rexdale Community Legal Clinic: 416-741-5201

Rural Legal Services: 613-279-3252

Scarborough Community Legal Services: 416-438-7206

South Etobicoke Community Legal Services: 416-252-7218

South Ottawa Community Legal Services: 613-733-0140

Sudbury Community Legal Clinic: 705-674-3200

Waterloo Region Community Legal Services: 519-743-0254

Website: [www.wrcls.ca](http://www.wrcls.ca)

West End Legal Services of Ottawa: 613-596-1641

West Scarborough Community Legal Services: 416-285-4460

West Toronto Community Legal Services: 416-531-7376

Willowdale Community Legal Services: 416-492-2437

Windsor Essex Bilingual Legal Clinic: 519-253-3526

York Community Services: 416-653-5400