



Tip Sheet For Tenants

ASSIGNING OR SUBLETTING YOUR RENTAL UNIT

Prepared by the Tenant Duty Counsel Program and funded by Legal Aid Ontario

This tip sheet contains general information for tenants in Ontario. It is not legal advice about your situation. For legal advice, consult a lawyer or legal worker.

Do you want to move out before the end of your lease?

If so, you may be allowed to “assign” or “sublet” your apartment to someone else. Or, if your landlord refuses to let you assign or sublet, you may be able to break your lease early.

WHAT IS AN ASSIGNMENT?

“**Assignment**” means that another person takes over your lease. If you are allowed to “assign” your tenancy, your relationship with the landlord will be legally finished. You will no longer have any responsibility for the apartment.

This may be a good option for you if you don’t intend to return to the apartment (for example, if you have to move out of town for work).

WHAT IS A SUBLET?

“**Sublet**” means that another person moves into your apartment temporarily but you will move back in at a later date. You are still responsible for making sure the rent gets paid and for any damage done to the apartment in your absence.

This may be a good option for you if you are only moving for a short period of time, and you want to come back to live in your apartment.

However, if you are planning to sublet, make sure that you have a written agreement with the person moving in. This agreement should be clear about who is responsible for payments if there are problems. This agreement will not affect your responsibility to your landlord, but it will make it easier for you to make a claim against the person moving in.

HOW DO I ASSIGN OR SUBLET MY APARTMENT?

The process is similar whether you wish to assign or to sublet your unit.

1. Your request to assign or sublet your unit.

If you wish to sublet or to assign your unit, you must ask permission from the landlord. **It is important to ask in writing.** You will need proof that you made the request if there is any dispute later on.

TIP FOR TENANTS: Make a request by E-mail, if you can, so that you will have a record of when the request was delivered and when the landlord received it.

You can ask to assign or sublet to a specific person, or you can simply ask for the right to assign generally.

TIP FOR TENANTS: If your landlord has not agreed to let you assign or sublet and you let someone else move in, that person could be evicted as an “unauthorized occupant”. You would be legally responsible for paying the rent until the end of the lease period. The tenant who is evicted from your unit may have a claim against you as well.

2. What happens if my landlord accepts my request?

If your landlord **accepts** your request to assign or sublet, your landlord is allowed to charge you for reasonable expenses (for example, the cost of advertising for another tenant). Many landlords charge a flat fee - often up to \$250. If this fee is not related to the landlord's reasonable expenses, it is an illegal charge.

Your landlord can also agree to your request to assign generally, but then refuse the specific person you choose.

3. What can I do if my landlord refuses my request to assign or doesn't reply?

You can end your tenancy by giving your landlord 30 days **written notice** (you can use a Form N9 – Tenant's Notice to Terminate the Tenancy) if you have asked to **assign** your unit and your landlord

- does not reply within 7 calendar days or
- refuses without a good reason.

4. What can I do if my landlord refuses my request to sublet or doesn't reply?

If you have asked your landlord to **sublet** your unit and the landlord does not reply within 7 calendar days or refuses your request without a good reason, the law does **NOT** allow you to give 30 days written notice to terminate your tenancy.

Note: Your landlord can refuse to assign or sublet for a good reason. For example, your landlord can refuse to let you assign or sublet to a person whose credit rating does not meet the landlord's standard.

5. My landlord has refused to consent to my request to assign and also says that my 30-day notice is not valid, OR the landlord has refused my request to sublet. What can I do?

You can apply to the Landlord and Tenant Board (the "Board"). Ask the Board to find that your landlord has "unreasonably withheld consent". If you are successful, the Board may end your tenancy on a date that you choose.

You must make this application (Application About a Sublet or an Assignment or Form A2) within one year of the date of your landlord's refusal.

FILING THE FORM

Once you have completed the form, go to a Board office and hand it in. Your application will be stamped with the date you gave the application to the Board.

If you do not live near a Board office, you can file your application with the Board, by fax, courier or mail. You can also file your application, in person, at any ServiceOntario Office.

Once your application has been filed and processed, you can pick up your package (which includes a copy of your application and a new notice of hearing) at a Board or ServiceOntario Office, or you can have the Board mail or fax you a copy of the package. You can indicate how you would like to receive a copy of the package by completing the Scheduling Information Form.

You are responsible for giving a copy of the package to your landlord, at least 10 days before the hearing date.

WHERE CAN I GET HELP OR MORE INFORMATION?

Contact your local **Community Legal Clinic** for free advice on landlord and tenant matters. Legal clinics give free legal advice to people with low incomes.

To find the nearest community legal clinic for your area, go to Legal Aid Ontario's web site at www.legalaid.on.ca. Click on **CONTACT LAO** then **COMMUNITY LEGAL CLINICS**. Or call Legal Aid Ontario:

Toll-free	1-800-668-8258
In Toronto	416-979-1446
Toll-free TTY	1-866-641-8867
TTY in Toronto	1-416-598-8867

You can contact the **Landlord and Tenant Board** for application forms and for general information about landlord and tenant issues. The Board cannot give you legal advice. The Board's website address is www.ltb.gov.on.ca. You can call the Board at 416-645-8080 or 1-888-332-3234.

You can find information online at www.acto.ca or www.cleo.on.ca.

In Toronto you can also call the **Tenant Hotline** at 416-921-9494 for free information and referrals to your local legal clinic.