



## Tip Sheet For Tenants

# MOTION TO VOID AN EVICTION ORDER AFTER IT BECOMES ENFORCEABLE

*Prepared by the Tenant Duty Counsel Program & Funded by Legal Aid Ontario*

***This publication contains information intended to assist the general public. It is not legal advice about your situation. You should talk to a lawyer or legal worker for advice on your particular situation.***

### WHAT IS A MOTION TO VOID?

A Motion to Void is a form you can fill out to ask the Landlord and Tenant Board (the “Board”) for a hearing to determine whether to void or stop an eviction from taking place, because you have paid **all** the money that you owe. The amount you owe may include back rent, additional rent that has become due, NSF cheque charges from your financial institution, NSF cheque administration charges of the landlord not greater than \$20 for each cheque, and costs ordered by the Board. These costs may include the \$170 application fee and the Sheriff’s fee, if your landlord has already paid the Sheriff to come to your home to lock you out.

You **must** pay all the money you owe (excluding the sheriff fee) and file the paperwork with the Board, **before** the Sheriff changes your locks. Sometimes calculating the amount you have to pay can be difficult. Therefore, you may first want to get legal advice.

You will get a hearing date once you complete and file your Motion to Void. Whether or not you owe the sheriff fee, will be determined at the hearing. If you do owe the sheriff fee, you will be given time to pay it. At the hearing, ask the landlord to produce proof of payment of the sheriff fee. You **MUST** pay this fee into the Board.

### HOW MANY TIMES CAN I MAKE A MOTION TO VOID?

You can only make **ONE** motion to void per tenancy. If you have previously done a motion to void and you are still living at the same address, you **CANNOT** do another one.

## WHO DO I MAKE THE PAYMENTS TO?

You can make the payment(s) to your landlord directly or make the payment(s) into the Board, or a combination of both.

## HOW CAN I MAKE A PAYMENT INTO THE BOARD?

You can make a payment into the Board, in trust, by doing the following:

1. Go to your nearest Board location and tell the person at the front counter, also called a Customer Service Representative (“CSR”) that you wish to make a payment into the Board, in trust.
2. The CSR will ask you for your Board file number (for example TSL-12345, TNL-23456, TEL-34567). You can find the file number in the top right-hand corner of the order or notice of hearing.
3. The CSR will give you a form which you must take to any CIBC branch. You must make the payment(s) at a CIBC. No other bank will accept your payment.
4. Once at the CIBC, line-up to speak with a bank teller. Tell her/him you wish to make a payment into the Landlord and Tenant Board, in trust. Give the bank teller the form and indicate how much money you wish to pay. Once you make the payment, the bank teller will fill out this form, indicating how much money was paid and the date the payment was made.
5. You **must** return a copy of this completed form to the Board. A copy will go into your file.
6. You should keep a copy of this form for your records and bring it with you to your hearing.

## WHICH FORMS WILL I NEED TO DO A MOTION TO VOID?

You will need:

1. A “Tenant’s Motion to Void an Eviction Order for Arrears of Rent” form; and
2. An “Affidavit About A Tenant’s Motion”.

## WHERE CAN I GET THESE FORMS & HOW MUCH DO THEY COST?

All of the forms are available online at [www.ltb.gov.on.ca](http://www.ltb.gov.on.ca). If you do not have access to a computer, you can pick-up the forms at a Board office, or at your local ServiceOntario Centre (SOC). The forms are free.

## PROOF OF PAYMENT

You will require receipt(s) and/or other form(s) of proof of payment.

If you paid your landlord directly, you should obtain a receipt which contains the following information:

1. The signature of the person you made the payment to
2. The amount of the payment
3. The date the payment was made

If you cannot get a receipt from the landlord, you may want to:

- Bring a family member or friend when you make the payment(s). This person can be your witness later on.
- Bring copies of the money order(s) or cheque(s)
- Bring copies of your bank account statement

If you paid your money at a CIBC (to the Board, in trust), you will require an acknowledgement of payment from the CIBC.

You will also require a copy of the eviction order. If you did not receive a copy in the mail or have misplaced your copy, you can obtain a copy directly from the Board. There is information on the order which you will have to put onto the “Tenant’s Motion to Void an Eviction Order for Arrears of Rent” form.

**TIP FOR TENANTS:** Remember to bring some **photo identification** with you. Whoever assists you with swearing or affirming the affidavit will want to see your photo identification.

## COMPLETING THE FORMS

Now it is time to fill-in the forms. You will require the following information to complete the forms:

1. Your file number (for example: TSL-12345, TNL-23456, TEL-34567);
2. Your name (tenant’s name);
3. Your landlord’s name;
4. The address of the rental unit (your home address);
5. A copy of the eviction order;
6. All of your receipts from your landlord and the CIBC (if you paid money into the Board, in trust);
7. A phone number where you can be reached; and
8. Photo Identification

## COMPLETING THE AFFIDAVIT

An affidavit is a form which contains a written statement that you swear or affirm to be true. Likely, one of the Board staff will be able to swear or affirm the affidavit for you. The affidavit must contain the following information:

1. The date(s) the payment(s) were made;
2. Who the payment(s) were made to;
3. How the payment(s) were made (cash, cheque, money order, etc.); and
4. The amount of each payment.

## FILING THE FORMS

You may go to a Board office and hand-in all the forms and receipts. Your documents will be stamped with the date you gave the documents to the Board.

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

Once your documents have been filed and processed, you can pick up your package (which includes a copy of your motion 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.

The Board will give you three packages. One copy is for yourself (the tenant), one copy goes to your landlord (you must give your landlord a package at least 48 hours before your hearing) and one copy is for the Sheriff. By giving a copy of the Notice of Hearing to the Sheriff, you put a hold (or stay) on the eviction. The Board will give you the phone number and address of the Sheriff.

## WHAT CAN I EXPECT AT THE HEARING?

You must attend the hearing. At the hearing, the Board Member will make a decision on whether you have paid all the money you were required to pay. The Board Member will want to see all your evidence. If you have witnesses, make sure they come with you to your hearing.

If the Board Member makes a finding that all the money has been paid, the Board Member will then determine whether your landlord paid the sheriff fee. If your landlord paid the sheriff fee, you will be responsible for reimbursing the landlord. At the hearing, make sure you ask the landlord to see a copy of the receipt so you know exactly how much you have to pay.

After the hearing is finished, the Board will write an order and mail you a copy. If you have to pay the sheriff fee, the order will specify the date by which the sheriff fee must be paid in full. You **MUST** make the payment into the Board, in trust.

If you pay the amount in full, on or before the date specified in the order, the Board will send a notice to the landlord and to you stating that the eviction order is void. The Board will then pay the money to the landlord. If you paid too much into the Board, the extra money will be returned to you.

If you do not pay the entire amount on or before the date specified in the order, you will not void the order. The order will no longer be on hold (or stayed) and the Sheriff can now lock you out.

The amount that you paid into the Board will be paid out to your landlord. If you paid too much into the Board, the extra money will be paid back to you.

## **IS IT ALWAYS NECESSARY TO DO A MOTION TO VOID?**

**Yes.** You must do a Motion to Void the Eviction Order for Arrears of Rent. If you make the payments into the Board, but do not fill out the motion and file it, the Board will pay the money to the landlord. The Board will also send the landlord and the tenant a notice that the money was paid out to the landlord and that the eviction order is **not** void.

## **WHERE CAN I GET MORE INFORMATION?**

Contact your local **Community Legal Clinic** for free advice on landlord and tenant matters. To find the telephone number for your clinic call Legal Aid Ontario at (416) 979-1446 or 1-800-668-8258.

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

You can find information on line at [www.acto.ca](http://www.acto.ca) or [www.cleo.on.ca](http://www.cleo.on.ca).

You can call the Landlord and Tenant Board toll free at 416-645-8080 from within the Toronto calling area or 1-888-332-3234 from outside Toronto. Their internet address is [www.ltb.gov.on.ca](http://www.ltb.gov.on.ca)