



Tip Sheet for Tenants

HOW TO RAISE YOUR ISSUES IN NON-PAYMENT OF RENT APPLICATIONS

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

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

CAN I RAISE MY PROBLEMS WITH MY LANDLORD AT MY EVICTION HEARING?

If your landlord has applied to the Landlord and Tenant Board (“Board”) to evict you for non-payment of rent, you can ask the Board on your hearing day to use **section 82** of the *Residential Tenancies Act* to let you defend the eviction application and ask for compensation.

If you can prove that your landlord has breached their obligations to you under the *Residential Tenancies Act*, the Board may decide to order that some or all of the rent that you owe be “set off” by any compensation that you might be entitled to from your landlord.

WHEN DOES SECTION 82 APPLY?

Section 82 may apply if:

- Your landlord has not done repair work that you have asked for.
- The local property inspector has told the landlord that repair work must be done;
- Your landlord or superintendent has harassed you; or
- Your landlord has collected an illegal deposit or illegal rent from you.

NOTE: Section 82 applies if you are facing an eviction for non-payment of rent or just a non-payment of rent application (and no eviction). If your landlord is trying to evict you for other reasons, you will probably not be able to discuss your own issues at the eviction hearing. You could, however, file your own application at the Board and schedule your own hearing. See the Tenant Tip Sheets on Application about Tenant Rights (T2) and Application about Maintenance (T6).

WHAT CAN THE BOARD DO?

If you prove that your landlord has not lived up to their bargain with you and that the problem is serious, you can ask the Board to give you some or all of the following remedies:

1. **Rent Abatement**

A reduction in rent for the period of time that you have had the problem. There are no rules for how the Board decides how much of a reduction is appropriate. **It is important to keep in mind that it is very unlikely the Board would give you a 100% rent reduction.**

2. **Compensation for loss of property**

For the cost to repair or replace property which was damaged, destroyed or thrown away: A common example of this is if you have had a flood in your apartment because the landlord didn't keep the apartment repaired properly.

3. **Compensation for expenses**

For example, if your fridge broke down, you may ask the Board to compensate you for spoiled food, or if your heat isn't working properly, you may ask to be reimbursed the cost of the space heater you had to buy.

4. **Tell your landlord to pay you for the cost of repairs you did**

The Board can tell your landlord to pay you for the cost of your repairs only if you have done the work yourself or have hired someone to do the work for you.

5. **Tell your landlord to pay you for repairs you will do yourself.**

6. **Tell your landlord to do specific repair work.**

7. ***(If you can prove harassment)* order your landlord to stop harassing you or to make sure that their employees don't harass you**

8. ***(If your landlord has collected an illegal deposit)* deduct the amount of the deposit from your rent obligation.**

9. **End your tenancy at a time of YOUR choosing.**

10. **Reimburse you for any costs related to preparing for and attending your hearing.**

HOW SHOULD I PREPARE FOR MY HEARING?

1. Gather evidence

The Board will not usually just take your word for it that your landlord has caused problems for you. It is important to present the best case that you can in order to prove what you are saying. This means making sure you bring evidence with you to prove your claims. It is important that you bring all of your evidence and witnesses on the hearing day – you will probably not get a second chance to provide it.

The types of evidence you should bring to your hearing include:

- Reports from the Property Standards department if you have any
- Any receipts you have that are related to your defence. For example, receipts from buying mousetraps because your landlord would not deal with your mouse problem.
- Photographs or videotape of repair problems. Make sure that you bring copies of photographs for the Board and for your landlord. If you want to bring a videotape, keep it short and make sure you call the Board before your hearing date to organize a video player. **DO NOT BRING PHOTOGRAPHS ON YOUR CELL PHONE OR ON YOUR CAMCORDER.**
- Sworn statements from any witnesses who cannot attend. You can also bring letters but the Board will probably not give unsworn letters very much weight.
- Proof that you have notified your landlord about the problems. For example, copies of letters you have sent to the landlord or copies of work orders you have filled in.

TIP FOR TENANTS: If a property inspector or a police officer has had to come to your apartment as a result of your problems, and if you think their evidence would help you, you can also “**summons**” them to come to your hearing and testify. Most municipal officials cannot attend your hearing unless they are summoned. For more information about asking to summons a witness, contact the Board or your local community legal clinic.

2. Organize your case

It is important to present your case to the Board in an organized way. This can be hard when you have been living with problems. Some tips to organize your thoughts:

- Make a list with a “timeline” of when the problems have happened and what you have done to respond to them. You could hand the timeline to the Board and to your landlord at the hearing as well.
- Make a list of the evidence that you wish to present.
- Organize any receipts and photographs and make photocopies of all of them (one for the Board and one for your landlord).
- Be specific about what you are asking the Board to do. Come up with some realistic figures about any money you think you’re entitled to and why.

3. Advise the Board and your landlord before the hearing date that you want to talk about your own issues.

The *Residential Tenancies Act* does not require you to provide this kind of information before your hearing day. However, it is a good idea to give some notice, especially if you want to avoid delays.

For example, if your landlord does not know that you are going to talk about your own issues, the case may be put over to another day to allow your landlord time to prepare. One possible problem with this is that the Board may order you to pay some or all of the money that you owe before your next hearing day. If you do not make the payments ordered then the Board might tell you that you can no longer raise your issues.

Attached is a sample form that you can use to notify the Board and your landlord about what issues you want to discuss on the hearing day.

WILL THE BOARD DECIDE ON MY HEARING DAY?

It is likely that the Board will not give you its full decision that day. You will probably be told that the Board is going to “reserve” its decision and take some time to review all of the evidence.

SHOULD I WITHHOLD MY RENT IF I HAVE PROBLEMS WITH MY LANDLORD?

No. It is dangerous to withhold rent from your landlord. You can still be evicted if you cannot pay what you owe within a reasonable time period. There is no guarantee that the Board will award you any money or rent reduction. A lot will depend on the strength of your case.

The *Residential Tenancies Act* allows a tenant to pay rent money in trust to the Board rather than to your landlord **IF THE TENANT HAS FILED THEIR OWN APPLICATION FOR A HEARING**. This is not the same as raising your issues at an eviction hearing.

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 or www.cleo.on.ca.

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