



Tip Sheet for Tenants

WHAT YOU NEED TO KNOW WHEN YOU'RE IN JAIL

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

You cannot be kicked out of your home just because you are in jail.

If your landlord wants to evict you legally they must follow the rules of the *Residential Tenancies Act*. Unfortunately, some landlords ignore the law. If your landlord evicts you, or tries to evict you, you should contact a Community Legal Clinic as soon as possible.

IS THIS TIP SHEET FOR YOU?

Note: This Tip Sheet applies to you only if you are covered by the *Residential Tenancies Act*.

The rules about housing are different for different types of housing. Most people who pay rent for a place to live are covered by the *Residential Tenancies Act*. But some people are not. *The Residential Tenancies Act might not apply to you if you live in a hotel or motel, a co-op, a shelter, a school residence, if you share a bathroom or kitchen with your landlord or a member of their family, or if you are living somewhere that provides rehabilitation or therapy.* If you describe your living arrangement to a Community Legal Clinic or the Tenant Hotline they should be able to tell you if the *Residential Tenancies Act* applies to you.

HOW DO I DEAL WITH THIS FROM JAIL?

Find someone you trust to check your mail, pay your rent, deal with your landlord, and – if you have to move out - remove your belongings. If you give this person written permission then they can act on your behalf for all of your landlord and tenant matters while you're in jail.

It might be helpful to write your landlord to tell him or her that you will be coming back and who they should contact in the meantime.

If you have a hearing for eviction and you cannot attend, you can send someone to speak on your behalf if you give them permission in writing. If you are going to be released shortly after the hearing date the person you send can ask for an **adjournment** to put off the hearing to when you can attend yourself. If you just need some time to pay the rent that you owe, then the person you send to the hearing can negotiate with your landlord or ask the Board for the time you need to pay off all the rent owing.

WHAT IF I DON'T WANT TO KEEP MY APARTMENT?

There are several ways to legally end your tenancy. If you do not end it properly you could be on the hook for the rent even after moving out. If you want to end your tenancy ask your counsel for a pamphlet called "Moving Out" which is published by Community Legal Education Ontario. You can also find it on the internet at www.cleo.on.ca.

WHAT HAPPENS TO MY LAST MONTH RENT DEPOSIT?

After moving out or being evicted, your last month rent deposit will be used to cover any rent arrears that you owe the landlord. If there is any money left from the deposit after the arrears have been paid your landlord has to pay you the balance. If you do not get the balance from the landlord you can apply to the Landlord and Tenant Board to get it back. However, you only have **one year** after your tenancy ends to apply. After that you could lose your deposit.

THE EVICTION PROCESS

There are 3 steps to every eviction:

1. **The termination notice.** Your landlord must first give you an official notice telling you why they want you out. Some termination notices give you a chance to correct the problem and stay. Some do not.
2. **The Landlord and Tenant Board.** After giving you a termination notice your landlord can apply to the Board for an order to evict you. The Board will schedule a hearing. Your landlord must give you a copy of the hearing notice. At the hearing you can challenge being evicted or ask that it happen at a time more suitable to you. After the hearing the Board will decide whether or not to evict you. They will send to you their decision in the mail.
3. **The Sheriff.** Once your landlord gets an eviction order from the Board they must take it to the **Sheriff**. Only the Sheriff can enforce an eviction order. **If any one else**

changes the locks it is an illegal eviction. In most cases, a few days before locking you out, the Sheriff will send you a letter saying when they will do it.

What Happens To My Stuff If I Am Evicted?

After the Sheriff changes the locks you have only 72 hours to assert your right to retrieve your property. After 72 hours your landlord can keep or sell or throw out everything in your apartment. If your landlord does not let you get your property you can bring an application at the Board. **Unfortunately, it can be very difficult to force a landlord to give you your stuff or to pay you compensation. So, you should try to get out as much of your stuff as possible before the Sheriff shows up.**

REASONS FOR EVICTION

There are lots of reasons why your landlord might try to evict you while you are in jail. Here are the most likely ones:

1. **You do not pay the rent.** If you don't pay your full rent on the day it is due then your landlord can give you an eviction notice called an N4. (Your rent will be in arrears even if your landlord is holding onto a last month rent deposit. This deposit is not meant to cover arrears of rent.) The N4 will give you at least 14 days to pay what your landlord says you owe plus any other rent that has come due by the deadline. If you do not pay then your landlord can apply to the Landlord and Tenant Board to have you evicted.
2. **The offence you are charged with occurred in the apartment building or it involved your landlord or another tenant.** In this case your landlord could give you an eviction notice and apply to the Board for an eviction order.
3. **You have abandoned your apartment.** If you have not been to your apartment in a long time your landlord might think that you have abandoned it and are not coming back. If that happens they could take back possession of the apartment. You could lose your belongings if you do not claim them within 30 days. **You cannot abandon your apartment if your rent is fully paid, even if you are not in the apartment for months.**
4. **You live in subsidized housing and are absent for too long.** If you live in subsidized or rent-geared-to-income housing there are rules regarding how long you can be absent from your unit. The amount of time is different for different landlords. For example, if your landlord is the Toronto Community Housing Corporation and you are gone for more than 120 days you might be no longer eligible for subsidized housing. Your landlord could then apply to evict you.

Remember, these are not the only reasons your landlord might try to evict you. If you do receive an eviction notice you should call a community legal clinic or the tenant hotline to find out your options.

LEGAL ADVICE

It is always a good idea to get some legal advice and information before you deal with any of the issues mentioned in this Tip Sheet.

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.cleo.on.ca or www.acto.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