



## Tip Sheet For Tenants

# WHAT IF MY LANDLORD OR A PURCHASER WANTS TO MOVE INTO MY UNIT?

*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.***

**My landlord has told me that s/he is going to evict me so that a family member can move into my apartment. Is this legal?**

**My friend's landlord told her that she has to move out because he has sold the property. Is this legal?**

The *Residential Tenancies Act* allows a landlord to evict a tenant for a **landlord's personal use** or for a **purchaser's own use**.

- **Landlord's Personal Use:** If the landlord requires the use of your apartment in good faith for the purpose of residential occupation by the landlord or by certain members of the landlord's family.
- **Purchaser's Own Use:** If the landlord has entered an agreement of purchase and sale, the landlord may apply to evict you on behalf of the purchaser if the purchaser requires the use of your apartment in good faith for the purpose of residential occupation by the purchaser or by certain members of the purchaser's family.

## WHAT MUST MY LANDLORD PROVE TO GET AN EVICTION FOR PERSONAL USE?

There are four things that the landlord must prove to obtain an eviction for a **landlord's personal use**:

- **"requires"**: the landlord/purchaser must need to take back your unit for a good reason. A common example is that the landlord or purchaser's child is starting college and wants to live close to school.
- **"in good faith"**: the landlord or purchaser must have a genuine desire and need for the unit.
- **"for the purpose of residential occupation"**: the landlord or purchaser or their family member must intend to live in the unit. It is not legal to evict you for this reason simply to rent out the unit to another tenant. For example, many landlords try to evict tenants who have been living in the unit a long time because the market rent for the unit is now much higher than the tenant is paying.
- **approved family members**: this ground of eviction can only be used if one or more of the following people want to move into your unit:
  - the landlord or the landlord's spouse
  - the child(ren) of the landlord or the landlord's spouse
  - the parent/s of the landlord or the landlord's spouse
  - a person who will provide care services to any of the above and will be living in the same complex as the person who needs the care.

For a **purchaser's own use**, there is an additional fifth requirement:

- **agreement of purchase and sale: the landlord must have entered into an agreement of purchase and sale at the time that the eviction notice is given. For example, the landlord cannot simply have you evicted because the place is easier to sell if it is empty.**

## WHAT KIND OF NOTICE DOES THE LANDLORD HAVE TO GIVE ME BEFORE THEY EVICT ME?

Under the *Residential Tenancies Act*, the landlord must give you a **Notice of Termination (an eviction notice)** for either of these reasons. The eviction notice must be in writing and should be in a form approved by Landlord and Tenant Board (the "Board"). The approved form is a Form N12.

**TIPS FOR TENANTS: Verbal notice to evict a tenant is not legal.** If your landlord ever threatens to have you evicted verbally, make a note of it on your calendar in case you need to tell the Board about it at an eviction hearing.

*Monthly Tenant:* If you are a monthly tenant or have a lease, the landlord must give you at least 60 days notice in writing that s/he wants you to leave. If you have a lease, the landlord cannot evict you for this reason until the last day of the lease period. If you do not have a lease (i.e., if you are a month to month tenant) the landlord only has to give you 60 days' notice.

*Weekly Tenant:* If you are a weekly tenant, the landlord must give you at least 28 days' notice.

*Termination Date:* The termination date on the eviction notice (that is, the day the landlord tells you that you must move out by) must be on the last day of your rental period. This is the day before the date of the month on which you have agreed to pay rent. For most tenants, the last day of the rental period would be the last day of the month.

*Family Members:* The eviction notice must also specify which of the landlord's family members will be moving into the unit. However, the landlord is not required to name the person on the notice (the landlord could, for example, just say "my son").

**TIP FOR TENANTS:** Just because the landlord has put the property up for sale doesn't mean that you must to move out if it is sold. The law entitles you to stay in the unit and the purchaser then becomes your new landlord, unless the purchaser wants to move in themselves.

## DO I HAVE TO MOVE OUT ON THE TERMINATION DATE IN THE NOTICE?

**No.** If you don't believe that the landlord or the purchaser actually wants to move into your unit, you have the right to a hearing at the Board.

Even if you think that the landlord really does want to move into your unit, you might still consider attending an eviction hearing. Before you have your hearing you might want to try to work out an agreement with your landlord. This is called **mediation**. Mediation is a free service for landlords and tenants. In mediation, a mediator will try to help you and your landlord reach an agreement. Mediation is voluntary – you do not have to agree to it, but it is a good idea to try to work out everything in mediation so that you can avoid going to a hearing. For example, in mediation you may want to negotiate a leaving date that is later than the day your landlord wants, or you may want to ask the Board to give you more time to leave so that you can find a place at a comparable price.

It is the landlord's responsibility to ask the Board for a hearing to evict you. You do not have to feel as though you must let your landlord know that you are planning to move out.

The landlord may apply for an eviction hearing at the Board any time after they give you the eviction notice. You should receive a letter in the mail from the Board saying that your landlord has scheduled a hearing. The landlord must also give you a copy of the Notice of Hearing and their application to evict you.

**TIP FOR TENANTS:** When a landlord applies to the Board to evict a tenant for personal use, they must also file an **affidavit** (a sworn statement) from the person who says they want to move into the unit. If you live near a Board office, try to go there and sign out your file so that you can see the affidavit and learn who is claiming they want to move into your unit. The landlord does not have to give you a copy of the affidavit.

## **CAN I ASK MY LANDLORD TO PAY FOR MY MOVING EXPENSES OR OTHER COMPENSATION IN EXCHANGE FOR MOVING OUT?**

**Yes.** But your landlord is not obligated to pay you any compensation if they want to evict you for this reason. However, if you want to move anyway, it is worth trying to work out a deal with your landlord - either before your hearing day or on your hearing day through mediation at the Board.

If you do make an agreement with your landlord, make sure that the agreement is in writing. It is also advisable for the agreement to say that you should be paid in guaranteed funds (money order or cash) to ensure the best chances of getting paid.

## **I THINK MY LANDLORD IS ACTING IN BAD FAITH. HOW CAN I DEFEND MYSELF AT MY HEARING?**

The landlord does not have to prove that you did anything wrong in order to evict you for personal use or for a purchaser's own use. Sometimes these applications are not brought in good faith. For example, the landlord may really be trying to evict you because your rent is lower than market value; you and your landlord have had disagreements recently; or you have asked the landlord to do repair work and the landlord doesn't want to do it.

Some specific ways of preparing for a hearing may include:

- Try to recall if the landlord has said to you at any point "I could tell the Board that I want the place and kick you out" or anything along those lines.
- Keep notes of any conversations you have with the landlord between the time you get the eviction notice and the hearing date, especially if they are pressuring you about leaving.
- Look in your local classified ads or at on-line apartment listings to see if the landlord has advertised your apartment for rent or your house for sale. If so, make copies to bring to the Board hearing.
- Find out whatever information you can about the landlord or purchaser and their current living arrangements. For example, if the landlord lives in a big house in an expensive neighbourhood, the Board may not find it believable that he now wants to move into a one bedroom apartment above a store on a noisy street downtown.

## **IF MY LANDLORD PROVES AT THE HEARING THAT HE WANTS MY UNIT IN GOOD FAITH, WILL I HAVE TO MOVE OUT?**

You will probably have to move out of your unit, but you may not have to move out on the day your landlord wants you to leave. The Board can choose to delay or refuse your eviction. For example, if you are lower-income tenant and need some time to find an affordable place, the Board may delay your eviction.

However, there is no guarantee that the Board will give you extra time to leave. Getting legal advice as soon as possible before your hearing is important so that you can get specific advice on your options with regard to your personal circumstances.

## **THE ONLY REASON I MOVED OUT OF MY UNIT IS BECAUSE THE LANDLORD GAVE ME AN EVICTION NOTICE FOR OWN USE. I WALKED BY THE OTHER DAY AND SAW A "FOR RENT" SIGN IN THE WINDOW. IS THERE ANYTHING I CAN DO?**

If you have moved out of an apartment because you received an eviction notice for own use, or you were ordered by the Board to leave your unit, and you later learn that your unit has been re-rented or that the person that said they were going to move in never did move in, then you can apply to the Board and ask for compensation.

In order to be successful, you must prove that the landlord gave the notice to you in bad faith (that is, that the landlord had never intended to move in or to let the purchaser move in).

Among the types of compensation you can ask the Board to give you are:

- an order reimbursing you for part or all of a rent increase you incurred as a result of having to move;
- an order reimbursing you for reasonable moving expenses; and
- a fine against the landlord.

## 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 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)