



Tip Sheet For Tenants

REVIEWS: CONTESTED ORDERS

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 REVIEW?

If you have **attended** at a hearing at the Landlord and Tenant Board (“Board”) and you believe the Board has made a serious error in making its decision, you can ask the Board to **“review”** its own order.

If the Board made a serious error, then the Board can “review,” or look at your case one more time.

TIP FOR TENANTS: You should get legal advice before asking for a review of a Board decision.

HOW MUCH DOES IT COST?

It costs \$50.00 to file a “Request to Review an Order”. If you win at your review hearing, you can ask to be reimbursed for the \$50 fee.

WHERE CAN I GET A “REQUEST TO REVIEW” FORM?

You can get a “Request to Review an Order” form at the Board, a ServiceOntario Centre or online at www.ltb.gov.on.ca.

IS THERE A DEADLINE?

Yes. You must file your Request to Review within **30 days** of the date the order was issued. Check the date at the bottom of the last page of the order (usually on the left side of the page) to find out when it was issued. The date the order was issued is usually in **bold** print.

If you miss the 30 days for filing the Request for Review, you must ask for more time. This request can be made on the “Request to Extend or Shorten Time” form, which is available online at www.ltb.gov.on.ca or directly at the Board. The Board does not often give you extra time to file, so try to file the Review within the 30 day time limit.

WHAT SHOULD I BE WRITING IN MY REQUEST FOR A REVIEW?

The Board will only review its own order if there is a **serious error**.

1. **an error of law**: for example, the Board did not accept your property standards report as evidence that the landlord did not maintain your apartment properly; *or*
2. **an error of fact**: the following are examples: (1) new facts came up after the hearing ended which, if the Board had heard them, could have led the Board to make a different decision; (2) the Board made an unreasonable finding considering all of the evidence which was presented to the Board Member; *or*
3. **an error of procedure**: for example, at your hearing for disrepair, the Board Member does not allow you to speak about the disrepair – the Board Member keeps cutting you off and does not want to see your pictures and does not want to hear from your witnesses; *or*
4. **an error of procedure**: which prejudiced a party (for example: failing to ensure that a party had a proper opportunity to participate in a hearing); *or*
5. **an error of jurisdiction**: the Board did not have the right to make a decision in your case, because, for example, the Board has no jurisdiction to make an order for eviction where the notice period on the Notice to Terminate a Tenancy Early for Nonpayment of Rent was short.

TIP FOR TENANTS: You must explain in your “Request to Review” what the serious error is. Since orders are often brief, you may not be able to tell what the error is. **If you want to review a Board order, write a letter to the Board asking that they give you “written reasons” for its order.** You must ask for written reasons within 30 days of the date of the Board order. Check the date at the bottom of the last page of the order to find out when it was written.

TIP FOR TENANTS: A request to review an order should include enough information and/or evidence so that it is clear to the Board that the order contains a serious error. For example, if the Board made a finding that rent from August and September 2006 has not been paid, and you have receipts that show you paid the rent for the months of August and September 2006, be sure to include a copy of each of these receipts in your request for a review, as you only get one chance to request a review. Be thorough and get legal advice.

If you want to review a Board order, you should also consider ordering the hearing record (disk) from the Board. It costs \$15. You can order it at any ServiceOntario Centre or directly at the Board. Don't wait until the last minute because sometimes it takes a bit of time to get the disk.

HOW CAN I STOP THE SHERIFF FROM LOCKING ME OUT?

In your Request to Review, you can ask the Board to "stay" (put on hold) the eviction order so that the Sheriff cannot change your locks until a decision has been made at the review hearing. A "stay" means that the order is frozen and that the Sheriff cannot lock you out.

You can ask for a stay if you will suffer harm by being evicted before your Request to Review is considered. There is a section in the Request to Review form where you can ask for this stay. Remember that if your stay is granted, you must let the Sheriff know. You can do this by taking a copy of the new Notice of Hearing and Request to Review to the Sheriff's office. Ask the Board for the location of the Sheriff.

AFTER I HAVE FILLED IN MY REQUEST TO REVIEW, WHAT HAPPENS NEXT?

Once you have filled in your Request to Review form, you must take it to the Board and give it to one of the people at the counter so that your request can be processed. This is called "filing a Request to Review".

Your case will then be reviewed by a different Board Member than the one who made the first decision.

If the new Board Member thinks there may be a serious error in the order, the Member will schedule a hearing and hear evidence from the parties to determine whether there really is a serious error in the order.

If the Board Member reviewing your case does not believe there is a serious error in the order, your Request for Review will be denied and this denial may be the end of the process at the Board. Get legal advice as to whether to appeal your case to a higher court.

Also, if your Request to Review an order is denied, you will **not** get a stay and you will not get a new hearing. This means that the Sheriff can come to your home and change the locks.

IF MY REQUEST FOR REVIEW IS GRANTED, DO I HAVE TO LET THE LANDLORD KNOW ABOUT THE HEARING?

No. The Board will notify the landlord that a new hearing will take place.

The person at the counter will process your form and set a hearing date. She/he will give you two (2) copies of your form and two (2) copies of a Notice of Hearing (which tells you when your hearing will be held). One (1) copy is for you and one (1) copy is for you to give to the Sheriff.

WHAT HAPPENS IF THE BOARD DECIDES THERE IS A SERIOUS ERROR IN ITS ORDER?

If the Board finds there is a serious error in the order, the Board will then hold a new hearing based on the issues in the original application.

WHEN WILL THIS NEW HEARING BE HELD?

Time permitting, the new hearing is usually held on the same day, **right after** the review hearing. You should be ready to present your case on the same day as your review hearing. Make sure you bring all the evidence and witnesses you will be relying on to the review hearing.

WHAT HAPPENS IF THE BOARD DECIDES THERE IS NO SERIOUS ERROR IN ITS ORDER?

If the Board does not think there is a serious error in its order, it will refuse your Request to Review.

If a stay was put on the original order to stop the Sheriff from changing the locks on your door, the stay will now be taken away (lifted).

WHAT ELSE CAN I DO TO CHALLENGE A BOARD DECISION?

You have the right to appeal to the Divisional Court if you believe there is an **error of law** in the Board's decision. You have **30 days** from the time of the Board's decision to make or "file" an appeal at the Divisional Court. But before going to court, you should get legal advice. Going to court can be very expensive, and if you lose, you could be made to pay what it cost your landlord to defend the case, which could be thousands of dollars.

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