

Tip Sheet for Tenants

I think my order from the Landlord and Tenant Board is wrong. What should I do?

This tip sheet contains general information on how to ask the Board to review eviction orders. The information can also be used to ask the Board to review other types of orders.

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This tip sheet contains general information. It is not a substitute for getting legal advice about your particular situation.

Prepared by the Tenant Duty Counsel Program and funded by Legal Aid Ontario. To download this and other tip sheets for tenants, go to <http://www.acto.ca>

An “order” is a document that shows the decision of the Landlord and Tenant Board, a special court that deals with conflicts between landlords and tenants. In this tip sheet “Board” means the Landlord and Tenant Board.

This tip sheet contains general information on how to ask the Board to review eviction orders. The information can also be used to ask the Board to review other types of orders.

If you believe the Board made a serious error in making its decision, you can apply to the Board to review the eviction order. In other words, you can ask the Board to look at your case one more time.

A review is not done by the same Board member who made the decision in the eviction order. Someone else at the Board does the review.

What is "a serious error"?

Your eviction order could have a serious error if the Board member who made the order:

- Got the amount of rent you owe wrong,
- Refused to look at your photos or other evidence showing that things in your place need repairs,
- Did not let you finish when you were trying to tell your story, or
- Did not consider the evidence you gave to the Board.

Your evidence is what you and your witnesses say at the hearing. Evidence is also any documents that you give to the Board. Here are some examples of

different kinds of evidence:

- ✓ photographs and videos,
- ✓ letters, e-mails, or texts,
- ✓ invoices and receipts,
- ✓ bank statements,
- ✓ medical records,
- ✓ reports from a building inspector,
- ✓ witnesses, for example, family, friends, social worker, police officer, building inspector.

What if I could not go to the eviction hearing?

The Board can go ahead with the hearing even if you are not there. This means the decision will be based on only your landlord's information and evidence.

You can ask the Board to review your eviction order if you were not able to go to the hearing.

If you can show that you had a good reason for not being at the hearing, the Board may decide to have a new hearing.

For example, you may not have known that your landlord had asked the Board for a hearing. Other examples of reasons you were not able to go to your hearing could be:

- You did not get a copy of the Notice of Hearing,
- Your landlord told you not to worry about the hearing,

- You did not get the Notice of Hearing because you were out of town, sick, or in jail, and you can prove it,
- You did not understand the Notice of Hearing because you have difficulty reading
- Or because you cannot read English or French,
- You have health problems that kept you from going to the hearing,
- You tried to get to the hearing on time but you could not find transportation.

How do I apply to the Board to review the eviction order?

To apply, you need to fill out a form called **Request to Review an Order** and give it to the Board. It costs \$55 to apply. You must do this within **30 days** from the date of the eviction order. This is the date at the bottom of the last page of the order.

You may not have to pay the \$55 to file your request if you qualify for a fee waiver. To find out whether you qualify, you must fill out a form called **Fee Waiver Request** and give it to the Board with your Request to Review an Order.

You can get the Request to Review an Order form and a Fee Waiver Request form from the Board or a ServiceOntario Centre. These forms are also available to download from the Board's website at www.sjto.gov.on.ca/lfb.

It is also a good idea to request a copy of the recording that the Board made of the hearing. You can make this request to the Board or at any ServiceOntario Centre. Fill out a form called **Request for Hearing Recording**, which you can

get from the Board, a ServiceOntario Centre, or online at www.sjto.gov.on.ca/ltb. The recording costs \$16.15 and will be sent to you on a CD. It can take several days or even weeks to get the recording, so it is best not to wait until the last minute to request it.

Listening to the recording before you prepare your request for a review will help you to be sure of exactly what was said at the hearing. It will help you to see whether you have good reason to ask for a review.

What if I miss the deadline to request a review of my eviction order?

If you miss the 30-day deadline, you can ask for more time. Fill out a form called **Request to Extend or Shorten Time**. This request is free. You can get the form from the Board, a ServiceOntario Centre, or online at www.sjto.gov.on.ca/ltb.

In the form, you will need to explain why you did not request the review of the eviction order within the 30-day time limit. Keep reading to find out about another tip sheet that explains how to complete the form.

The Board does not usually allow extra time, so try to ask for a review before the 30 days end.

What should I say when I fill in the Request to Review an Order?

You get only one chance to ask for a review of the eviction order, so you should get legal advice before completing the form. At the end of this tip sheet there is information about where to get legal help.

In the Request to Review an Order, you will have to explain what serious error you believe the Board made when making the decision to evict you. Since you get only one chance to ask for this review, it is important to include enough information to make the error clear to the Board. If possible, include proof of the error. For example, if the Board decided that you did not pay rent in August and September 2015, and if you have receipts for rent paid in August and September 2015, attach a copy of each receipt to the form.

There is a section in the Request to Review an Order where you can ask the Board to put a “stay” on the order you want reviewed. A stay is a document that puts an order on hold for a short time.

Why should I ask the Board to stay the order?

When the Board puts a stay on an order, the order cannot be carried out until the Board ends the stay.

If you have an eviction order and you want to stop the Sheriff from coming before the Board reviews your order, you MUST ask the Board to put a stay on the eviction order.

If the Board decides to stay the eviction order, you will get an “interim order” that says the Sheriff cannot lock you out until the Board has made a decision at the review hearing.

You can also ask the Board to put a stay on other types of Board orders you want the Board to review. For example, if the order is about paying money to the landlord by a certain date, the landlord can take steps at Small Claims Court to collect the money. If you ask the Board to review that order, you may want to ask the Board to put a stay on the order so the landlord will not be able to collect any money before your order is reviewed.

On the page called **Request for Accommodation or French Language Services**:

- If you want your hearing to be in French, check the box marked "French-Language Services".
- If you have special needs, you can use this page to tell the Board what kind of help you need. If your special needs are related to grounds listed in the Ontario Human Rights Code, the Board must make special arrangements to help you use the Board's services. For example, if you are not from Canada and have difficulty speaking or understanding English or French, you can ask the Board to provide an interpreter to help you participate in your hearing. Or, if you have a physical or mental disability that may affect your use of the Board's services, you can ask the Board for special assistance.

On the page called **Payment and Scheduling Information Form**:

Fill in the box that says how you want to pay the filing fee. Remember, if you get a fee waiver, you will not have to pay.

List any days when you cannot attend a hearing. For example, list any days when you have medical appointments or will be out of town.

What happens next?

Once you have filled in your form and attached proof, hand it in to the staff at the front counter of the Board or a ServiceOntario Centre. This is called “filing a Request to Review”.

A Board member will review your case and decide whether you had a good reason for not being at the hearing or if there is an error in your eviction order that is serious enough for you to get a new hearing. This will not be the same Board member who made the eviction order.

If you file your Request for Review at the Board, you can wait for the Board member’s decision or you can ask for the decision to be sent to you by mail. If you file at a ServiceOntario Centre, the decision will be sent to you by mail.

What if the Board does not believe that there is a serious error?

If the Board member who reviews your case does not believe that there is a serious error in the eviction order or that you had a good reason for not being at the hearing, your Request to Review will be denied. You will not get a new hearing. This could be the end of the eviction process at the Board.

You will **not** get a stay, which means that the eviction order will not be put on hold and the Sheriff can come to your home and lock you out.

What happens if the Board grants my request for review?

If the Board member who reviews your case believes that there may be a serious error in the eviction order or that you had a good reason for not being at the hearing, your Request to Review will be granted. You will get a review hearing and a stay of the eviction order.

The Board will set a hearing date. You will get:

- A copy of the Notice of Hearing telling you the date and time of your hearing,
- A copy of your Request to Review, and
- 2 copies of the interim order giving you a stay. One copy of the stay is for you and one copy is for you to give to the Sheriff.

You **must** take a copy of the stay to the Sheriff so they know that the eviction is on hold. If not, the Sheriff will come to lock you out.

What can I expect at the review hearing?

At the review hearing, the Board member will listen to you and your landlord and decide whether there really is a serious error in the eviction order or if you had a good reason for not being at the hearing.

If the Board decides that YES, there is a serious error in the eviction order or you had a good reason for not being at the hearing:

The Board will cancel the order and there will be a new hearing of your landlord's original application to evict you.

The new hearing is usually held **right after** the review hearing, so you should be ready to present your case on the same day as your review hearing. Make sure you bring all your evidence and witnesses with you to the review hearing.

If the Board decides that NO, there is no serious error in the eviction order or you did NOT have a good reason for not being at the hearing:

You will not get a new hearing. If the Board put a stay on the eviction order, the stay will end and the Sheriff can now come and lock you out.

Is there anything else I can 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 date of the Board's decision to do this.

Going to Divisional Court can be very expensive. If you lose, you could be made to pay your landlord's legal costs. That could be thousands of dollars.

Get legal advice before going to court.

Where can I get help or more information?

Tip sheets for tenants

Three other tip sheets deal with being evicted for not paying rent. They are:

- “My landlord wants to evict me because I owe rent.”
- “I got an eviction order because I owe rent. If I pay, can I stop the Sheriff from coming?”
- “What should I do if I am late to file a form with the Board or if I need a hearing quickly?”

These and other tip sheets for tenants are available online at www.acto.ca

Community legal clinics

Across Ontario, legal clinics give free legal advice to people with low incomes. Contact your local community legal clinic for help with landlord and tenant matters.

To find the community legal clinic for your area, go to Legal Aid Ontario’s website at www.legalaid.on.ca. Click on “Contact LAO” then on “Community legal clinics”.

Or call Legal Aid Ontario:

Toll-free	1-800-668-8258
Toronto area.	416-979-1446
Toll-free TTY.	1-866-641-8867
TTY, Toronto area	416-598-8867

Other sources of information

You can find information for tenants online at www.yourlegalrights.on.ca and at www.stepstojustice.ca.

In Toronto, you can also call the Tenant Hotline at 416-921-9494 for free information and referrals to your local legal clinic.