

Tip Sheet for Tenants

My landlord wants to evict me because I owe rent

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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>

Can my landlord evict me because I owe rent?

Your landlord can evict you if you owe rent. But your landlord must follow certain steps set out in the law. This legal process involves 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.

The first step your landlord must take is to give you a written notice called the **Notice to End your Tenancy For Non-Payment of Rent**. The number **N4** will be at the top of this form.

The Notice to Terminate must say exactly how much money you owe and for which months.

The Notice to Terminate will also tell you the date your landlord wants you to move out. This is called the “termination date”. Your landlord must give you the Notice to Terminate at least **14 days** before the termination date if you rent your place by the month or by the year, or at least **7 days** before the termination date if you rent your place by the day or by the week.

Must I move out by the termination date?

No, you do **not** need to move out by the termination date. If you pay all the rent the Notice says you owe by the termination date, your landlord cannot evict you.

You can move out if you choose to. If you move out by the termination date in the Notice to Terminate, your tenancy will end. But if you owe rent, the landlord may still try to collect the amount you owe by taking you to Small Claims Court.

If you do not pay all the rent the Notice says you owe and you do not move out, your landlord can apply to the Landlord and Tenant Board for an “eviction order”. Your landlord cannot evict you unless the Board has made an eviction order.

To apply to the Board, your landlord fills in a form called **Application to Evict a Tenant for Non-payment of Rent and to Collect Rent the Tenant Owes – Form L1**. After your landlord files it with the Board, the Board will mail both you and your landlord a **Notice of Hearing** with a date for a hearing and a copy of the Application to Evict. There is more information about hearings later on in this tip sheet.

You should receive the Notice of Hearing at least **10 days before the hearing date**.

If you pay any rent to your landlord or superintendent after you receive the Notice to Terminate or the Application to Evict, make sure you get a receipt each time you pay. Bring the receipts with you to your hearing.

My landlord gave me a Notice of Hearing. Can I settle my case before the hearing?

Yes, once you get a Notice of Hearing, there are two ways you can work out a settlement with your landlord before your hearing. You can do it either on your own or with the help of a Board mediator.

1. Settling directly with your landlord

To work out a settlement on your own, you will need to come to an agreement with your landlord. This agreement can only be about when you will pay your

landlord the rent you owe. If you cannot pay the full amount right away, your landlord might agree to a “payment plan”. Keep reading to find out more about payment plans.

Put the agreement in writing and give it to the Board. Keep a copy for yourself. The Board will then make a “consent order”. A consent order is a formal Board order that shows that you and your landlord have agreed to settle the application for your eviction. If you choose to settle this way, you do not have to go to a hearing. The Board will mail you a copy of the order.

2. Settling with the help of a Board mediator

You can get the help of a Board mediator to work out a settlement with your landlord. Mediators are employed by the Board to help tenants and landlords settle conflicts. They act as go-betweens, helping to come up with a plan that both landlord and tenant can accept. They have to be fair and not take anybody’s side.

On your hearing day you can ask one of the mediators at the Board for help. If your landlord is willing, you may be able to make an agreement to settle the case. If you do make an agreement, you will not have to go to a hearing.

The agreement can be about when you will pay your landlord the rent you owe. If you cannot pay the full amount right away, your landlord might agree to a “payment plan”. This agreement can also deal with repair or maintenance problems in your apartment. Your landlord could agree to do the repairs. Your landlord could also agree to lower the amount of rent you owe because you have had these problems. This can be included in the agreement.

What is a payment plan?

A payment plan lets you pay the rent you owe in smaller amounts spread over time.

You can talk to your landlord and try to work out a plan together. You can also ask a mediator at the Board to help on the day of your hearing.

Your payment plan is a legal agreement between you and the landlord. You are expected to do what it says, so be careful what you agree to. You should make the plan official by having the Board mediator write it up or by presenting it to a Board member.

What should I agree to?

The payment plan shows payment dates and the amount of money you have agreed to pay on each date. Only agree to:

- Pay amounts that you can afford, and
- Dates when you will be able to make the payments.

Choose payment dates that are 1 or 2 days after you get money, for example:

- Pay day,
- When you get your Child Tax Benefit cheque, or
- When you get your ODSP or OW cheque.

Use the worksheet on the last page of this tip sheet to help you figure out a payment plan. **Be careful! Only agree to a plan that works for you.**

What if I do not keep to the payment plan?

You must pay the right amount and you must pay on time. If not, your landlord can get a fast order to evict you.

If you are going to be late with a payment, ask if your landlord will accept the late payment. If the landlord agrees, try to get it in writing. If your landlord will not put it in writing, write down the date, time, and what your landlord said. Keep this information in case you need it later.

If your landlord refuses to allow you to pay late and you have a good reason for being late with the payment, get legal help right away. Near the end of this tip sheet, you will find information about where to get legal help.

What if my landlord will not agree to a payment plan?

If your landlord will not agree to a payment plan, you can still ask for one at the Board hearing. Bring the payment plan that you need to the hearing and ask the Board member to order a payment plan.

What will happen at the hearing?

On the day of the hearing, your landlord must give you a copy of a form called **Information Update as of the Hearing Day for L1/L9 Application**. This form will show what the landlord will be asking the Board to do.

At the hearing, a Board member will listen to why your landlord wants to evict you and why you think you should not be evicted. You could say that you should not be evicted because you will be able to pay all the rent you owe. You may want to speak about other things as well. Keep reading to find out what kinds of things

you could speak about. The Board will decide your case based on the evidence presented at the hearing.

What is evidence?

Evidence is what you, your landlord, and your witnesses say at the hearing. Evidence is also any documents that you or your landlord 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,
- Report from a building inspector, and
- Witnesses, for example, family, friends, social worker, police officer, building inspector.

You must bring **3 copies** of any documents you want to use at your hearing. One copy is for you, one for your landlord, and one for the Board member who is hearing your case.

If your evidence is a photo or other still image on a camera, a phone, or a computer, make sure you print copies to bring to the Board. If your evidence is a video- or sound-recording on a computer disc, contact the Board in advance to ask for a computer to be available at the hearing or bring your own laptop computer, so that you will be able to show what is on the disc.

Usually, the police, building inspectors, and other officials cannot go to a hearing as witnesses unless they are “summonsed”. For information about how to summons a witness, contact the Board or your local community legal clinic.

You will find contact information for the Board and community legal clinics near the end of this tip sheet.

What should I say at the eviction hearing?

It is very important to organize your thoughts and evidence before the hearing.

- ✓ Write down everything that happened and when.
- ✓ Make a list of the evidence you want to present.
- ✓ Make a list of any witnesses you want to speak at the hearing and think about what you want them to say.

You can talk about different kinds of problems at your hearing. Here are some examples. Think about whether they apply to your case.

1. Did you get the legal forms from your landlord on time?

The landlord must follow certain rules when giving you an N4 Notice to Terminate.

If you pay rent once a month, your landlord must give you the N4 at least **14 calendar days** before the termination date on the Notice. Weekends and weekdays are included in calendar days. You must be given these 14 days so you can use this time to pay all the rent you owe, if possible.

If your landlord did not give you this form, or did not give it to you on time, you can ask the Board to dismiss the landlord's case.

2. Do you agree with the amount of rent the landlord is asking for?

The Form L1 will show the amount your landlord is asking for. The amount will be made up of:

- The rent you owe, plus
- The \$190 fee your landlord paid to the Board (or \$175 if your landlord used LTB e-file), and
- Charges for any cheques you gave the landlord that the bank could not pay because your account did not have enough money in it . These are called bounced or NSF cheques.

If you do not agree with the amount of rent the landlord is asking for, bring evidence to the hearing to show why you disagree. This evidence could include:

- Receipts,
- Bank statements,
- Cancelled cheques, and
- Witnesses.

3. Have you had problems with your landlord?

If you have had problems with your landlord you can speak about them at the hearing. Problems can include repair and maintenance issues, illegal entry, bedbugs, illegal lockout, and harassment.

It is good to let your landlord know, before the hearing, that you will be speaking about these problems. Give this information to your landlord in writing. Keep a copy for yourself.

Make sure to bring all your evidence to the hearing. Evidence could include:

- Requests to the landlord to do repairs,
- Photos or videos,

- Report from a building inspector,
- Copies of bills for money spent on repair, and
- Witnesses.

You must bring **3 copies** of any documents you want to use at your hearing. One copy is for you, one for your landlord, and one for the Board member who is hearing your case.

You can ask the Board to order the landlord to decrease your rent until all the problems are fixed. How much you should ask for depends on how much the problem affected you and how long you had to put up with it.

Based on your evidence and your landlord's evidence, the Board will decide if these problems mean that you owe less than the amount of money your landlord is asking for.

4. Is there a reason why eviction should be delayed or refused?

The Board can order that your eviction should be delayed or even refused.

Reasons for delay or refusal can include **any** of the following:

- You have small children,
- You have a mental or physical disability,
- You need more time to pay the rent you owe,
- You are a single parent, or
- You live in subsidized housing.

Tell the Board why the eviction should be delayed or refused. If you need more time to pay the rent you owe tell the Board why. If you have a payment plan ready, give the Board a copy.

5. Is there a reason the Board should refuse to evict you?

The Board must refuse eviction if they find that something in your apartment is in serious need of repair, for example, a broken stove, fridge, or toilet .

The Board must also refuse eviction if they find that your landlord is trying to evict you for **any** of these reasons:

- You have children,
- You complained to a government authority,
- You were trying to claim your rights, or
- You are part of a tenants' association.

The landlord got an eviction order against me. What should I do?

If you do not move out by the termination date in the eviction order, your landlord can ask a public official called the “Sheriff” to come and evict you. The Sheriff is the only person who is allowed to make you leave.

You can stop the Sheriff from coming by paying all the money you owe your landlord. This tip sheet gives a brief explanation of how to do this.

- 1. You can pay the full amount you owe on or before the termination date in the eviction order.** If you do not have the money, think about asking friends or family members if they can loan you money.

If you are on social assistance from OW or ODSP, call your worker and ask if you can get money to help you pay the rent you owe. If you have a regular source of income besides social assistance, you might be able to get a loan from your local Homelessness Prevention and Rent Bank Program.

You can pay all the money to the Board or to your landlord. When you pay the Board, you will be given proof that you paid. If you pay the landlord, be sure to get a receipt.

If you pay all the money on or before the termination date, it is best to ask the Board to “void” the eviction order, even though this is not something the law requires. Voiding cancels the eviction order.

To ask the Board to void the eviction order, you need to fill in a form called **Tenant’s Affidavit and Motion to Void an Eviction Order for Arrears of Rent** and give it to the Board. The Board will make a decision based on what you have written and the information you have provided. There is no hearing.

2. Or, you can pay what you owe after the termination date in the eviction order but before the Sheriff comes. You can do this only once in any place you rent.

Pay all the money you owe plus any more rent that has come due before the Sheriff locks you out. You can pay the money to the Board or to your landlord. When you pay the Board, you will be given proof that you paid. If you pay the landlord, get a receipt.

You **must** apply to the Board to void the eviction order. To do this, you need to fill in a form called **Tenant’s Affidavit and Motion to Void an Eviction Order for Arrears of Rent** and give it to the Board. You will have a hearing where the Board will decide whether to void the eviction order. The Board will also decide if you have to pay the Sheriff’s fees . You do not need to pay the Sheriff’s fees to void the eviction order unless the Board orders you to.

But if the Board decides that you have to pay the Sherriff's fees, you must pay the fees to the Board by the date they tell you to, or the eviction order will not be voided and you will be evicted.

Remember that paying what you owe after the termination date is something you are allowed to do only one time in each place you rent. **If you have done this before and still live at the same address, you cannot do it again.**

Keep reading to find out about another tip sheet that explains what to do if you get an eviction order.

I think the eviction order is wrong. What should I do?

You may disagree with the eviction order because the amount it says you owe is wrong or because the Board did not listen to what you were saying. If the error is serious, you can apply to the Board to review the eviction order.

To request a review, complete a form called **Request to Review an Order** and give it to the Board. You must request a review within **30 days** from the date of your eviction order. It costs \$55 to file this request.

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

Keep reading to find out about another tip sheet that goes into more detail about what to do if you think your eviction order is wrong .

You can also file an appeal at Divisional Court. This is more complicated.

If you file a Request to Review at the Board or an appeal at Divisional Court, you can get a “stay” of the eviction order. A stay puts the eviction on hold until your case is decided. Without a stay, the Sheriff can come to lock you out. You must take this document to the Sheriff’s office.

Where can I get help or more information?

Tip sheets for tenants

If you missed the deadline to file the Motion to Set Aside an Ex Parte Order – Form S2, see the tip sheet called *What should I do if I am late to file a form with the Board or if I need a hearing quickly?*

To find out more about payment plans, see the tip sheet called *My landlord wants to evict me because I owe rent.*

Are there mistakes in the Board’s decision? If so, you will find more information in the tip sheet called *I think my order from the Board is wrong. What should I do?*

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.

Payment plan worksheet

This worksheet can help you to get ready to talk to your landlord about a payment plan or to speak about one at your hearing. Fill in your answers below.

My monthly rent is

\$	
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The amount of rent I owe up to today is

\$

Plus the landlord's application fee

+ \$

190.00

The total I owe is

= \$

--

I got behind in the rent because

I will be able to pay the rent in the future and make extra payments to pay back what I owe because

I need _____ months to pay back what I owe.

I can pay my regular month's rent of \$ _____ on the date my rent is due each month.

I can also pay \$ _____ more every month to pay off what I owe. I will pay this extra amount on these dates:
