

Tip Sheet for Tenants

I want to move out before the end of my rental agreement. What can I do?

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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>

The law that applies to most rental housing in Ontario is known as the Residential Tenancies Act or RTA. It sets the rules that tenants and landlords must follow. If you rent your apartment, room, or house, and you do not use the same kitchen or bathroom as the owner or a close relative of the owner, the RTA probably applies to you.

When tenants and landlords have conflicts because the rules in the RTA are not followed, they can take the matter to a special court called the Landlord and Tenant Board. In this tip sheet, “Board” means the Landlord and Tenant Board.

One of the rules in the RTA says that if a tenant wants to move out, the tenant must give the landlord at least 60 days’ notice before the end of the rental period.

What is a “rental period”?

A rental period is the amount of time covered by your rent payment. For example, if you pay rent on the first day of the month, your rental period runs from the first day to the last day of the month. The last day of the 60-day notice must be the last day of your rental period.

A special rule applies if you want to move out in February or March. If you want to end your tenancy on the last day of February, you must give your landlord notice no later than January 1st. And if you want to end your tenancy on the last day of March, you must give your landlord notice no later than February 1st.

Sometimes a rental period can be less than 1 month long. For example, if you pay your rent every day, your rental period is 1 day, or daily. If you pay every week, your rental period is 1 week, or weekly. If your rental period is shorter than 1 month, then you must give your landlord at least 28 days' notice. The last day of the notice must be the last day of your rental period.

If you and the landlord signed a rental agreement for a fixed period, then the last day of the 60-day notice must be the last day of the rental agreement. "Lease" is another name for a written rental agreement.

If you do not want to wait 60 days to move out of the place you rent, what you need to do depends on whether you want to move out and not come back, or you want to leave for some time and then return. The rest of this tip sheet is divided into three parts:

Part 1 talks about what to do if you want to move out and end your tenancy. It goes from page 3 to page 8.

Part 2 explains what to do if you want to move out for a while and then return to live in the place you rent. It goes from page 9 to page 16.

Part 3 tells you where to get help and more information. It is on page 16.

Part 1

Moving out and not coming back

If you know you will not want to return once you move out, for example, if you are taking a new job in another city, you can “assign” your tenancy.

When you assign, you or your landlord finds another tenant to take over your rental agreement and you move out of the place you rent. The new tenant is called an “assignee”. There are no changes to the rental agreement or to the amount of rent the assignee has to pay.

When you assign, your tenancy ends. This means that:

- you are no longer responsible for the rental place.
- you no longer have to pay the rent.
- you have no more rights to the rental place after you move out.
- you cannot move back in.

How do I assign my tenancy?

You need to ask your landlord for permission to assign your tenancy. It is important to make your request in writing. Sign and date your request. Keep a copy so that you have proof of when you made the request.

If you already know who you want to suggest as the new tenant, you can ask for permission to assign to that particular person. If not, ask for general permission to assign.

The landlord has up to **7 days** from the date you ask for permission to give you an answer.

If you let someone move into the place you rent without your landlord's permission and you move out, the person who moves in is considered to be an "unauthorized occupant".

Your landlord can apply to the Board to evict both you and the unauthorized occupant. The landlord must do this within 60 days of discovering that the unauthorized occupant is living in your rental place. The landlord is also allowed to ask the Board to make the unauthorized occupant pay for the time they have lived in the rental place. If the lease is for a fixed period, you may be responsible for paying the rent to the end of the lease.

What if the landlord does not reply to my request to assign?

Your landlord must respond to your request within **7 days** from the date you ask for permission to assign your tenancy. If you do not get a reply within 7 days, you can give your landlord 30 days' notice that you will be ending your tenancy and moving out. If your tenancy is daily or weekly, you must give your landlord at

least 28 days' notice before you move out. The last day of your notice does not have to be the last day of your rental period. And you do not have to find anybody to take over your tenancy.

To give notice, you can fill in a **Tenant's Notice to Terminate the Tenancy - Form N9** and give it to your landlord. The form is available to download from the Board's website at www.sjto.gov.on.ca/lfb. You can also pick it up at a Board office or at your local ServiceOntario Centre. The form is free.

You must give notice even if the landlord does not reply to your request within 7 days. If you move out without giving notice and let someone else move in, the person who moves in is an unauthorized occupant. Your landlord can apply to the Board to terminate the tenancy and evict both you and the unauthorized occupant. The landlord must do this within 60 days of discovering that the unauthorized occupant is living in your rental place.

What if the landlord refuses my general request to assign?

If your landlord does not agree to let you assign your tenancy, you can give your landlord at least 30 days' notice that you will be moving out. If your tenancy is daily or weekly, you must give your landlord at least 28 days' notice before you move out. The last day of your notice does not have to be the last day of your rental period.

To give notice, you can fill in a **Tenant’s Notice to Terminate the Tenancy - Form N9** and give it to your landlord. The form is available to download from the Board’s website at www.sjto.gov.on.ca/lfb. You can also pick it up at a Board office or at your local ServiceOntario Centre. The form is free.

If your landlord refuses your request, but you allow someone else to move in and you move out, the person who moves in is an unauthorized occupant and your landlord can apply to the Board to terminate the tenancy and evict you and the unauthorized occupant. The landlord must do this within 60 days of discovering that the unauthorized occupant is living in your rental place.

What if the landlord refuses to let me assign my tenancy to a particular person?

Your **landlord is not allowed to deny your request unreasonably or arbitrarily**. In other words, your landlord must have a good reason to refuse to let you assign your tenancy to the person you suggest. For example, if your landlord insists that the person must sign a new lease, or that you must pay more than what it cost the landlord to assign the tenancy, these actions could be considered unreasonable denial.

If your landlord refuses your request to assign the place you rent without a good reason, you can apply to the Board for a remedy. In this situation, a “remedy” is something the Board can order the landlord to do or to pay to make up for not following the law and being unreasonable.

To ask the Board for a remedy, you must fill in a form called an **Application About a Sublet or an Assignment- Form A2** and give it to the Board. It costs \$50 to apply. You may not have to pay the \$50 to file your application. To find out if you need to pay, you must fill in a **Fee Waiver Request** and give it to the Board with your application.

You must file your application with the Board within **1 year** from the date of the landlord's refusal.

You can get the Application about a Sublet or an Assignment - Form A2, **A2 Instructions**, and the 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/ltb.

How do I complete the Application about a Sublet or an Assignment – Form A2?

The A2 Instructions show you how to fill in the Form A2. What follows here is a brief explanation. It is important to read the Form A2 and the A2 Instructions carefully before you begin and to go over your Form A2 again when you have finished filling it in.

On page 1 of the Form A2 under **Applicant Information**, mark the box that says you are a tenant. Then fill in:

- your first and last name.
- the address where you want to Board to send your mail.

- a phone number where you can be reached.
- the address of the place you are renting.

Under **Other Parties to the Application** on page 2 of the Form A2, mark the box that says Landlord, and fill in the landlord's full legal name, address and phone number.

Sometimes the landlord is a company, and sometimes there is more than one landlord. One way to find the legal name and address of the landlord is to look on your lease. Another way is to contact the Municipal Property Assessment Corporation Office or visit the Registry Service at your local City Hall or Civic Centre to search for who owns the place that you rent.

You must fill out a **Schedule of Parties** form and add it to your application if

- there are more than 2 tenants living in the place you rent and you want to include them in your application, or
- there is more than 1 landlord or you want to include other people in your application such as the superintendent or someone else who works for your landlord.

You can get a Schedule of Parties form from the Board, a ServiceOntario Centre, or the Board's website at www.sjto.gov.on.ca/lrb.

In **Part 2: Reasons a Tenant can Apply** mark the box next to "Reason 1: the landlord has arbitrarily or unreasonably withheld consent to the assignment or sublet of the rental unit to another person". In section (a) mark the box that says

“Assign”, and explain how your landlord unreasonably refused to allow you to assign your tenancy.

In section (b) mark the box next to the remedies you want the Board to consider. The Board can order one, two, or all of the following remedies:

1. **Allow the assignment** - The landlord will have to allow you to assign your tenancy to the person you suggested.
2. **End your tenancy** - The landlord will have to let you leave without giving 60 days' notice. Your tenancy will be “terminated” or ended.
3. **Rent abatement** - The landlord will have to pay you back some of the rent you paid to make up for not respecting your legal rights.

On page 6, mark the box that says you are a tenant, sign, and date the form. **The Board will not accept your application if you do not sign it.**

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 help.

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 do I do with my completed application?

When you have filled in the Form A2 and you have attached any documents you want the Board to consider, hand it to the staff at the front counter of the Board or a ServiceOntario Centre. Your documents will be stamped with the date you give them to the Board.

When your application is accepted, the Board will set a date for your hearing. The **Notice of Hearing** tells you the date, time, and place of your hearing. In most cases, the Board will mail copies of your Form A2 application and the

Notice of Hearing to you and your landlord and anyone else listed in your application. In some cases, the Board may order you to deliver these documents instead.

If you have to deliver the documents, the Board will give you an **Order to Serve Documents**. It will tell you what documents you are responsible for delivering and when you must deliver them. Deliver the documents as soon as possible, but **no later than the deadline** listed in the Order to Serve Documents. **If you do not follow the instructions in the Order, the Board may delay your hearing or dismiss your application.**

After you have delivered the documents, fill in the **Certificate of Service** and give it to the Board.

What if I live in a mobile home and want to assign my tenancy?

The land your mobile home is on is called a “mobile home site”. If you own your mobile home and you rent the land it stands on, special rules apply to assigning the site.

If you sell your mobile home, or have an agreement to sell your mobile home, you must ask your landlord for permission to assign the site.

Your landlord cannot refuse to let you assign the mobile home site without good reason. The landlord has to convince the Board that the refusal is reasonable. To

do this, your landlord must file an application with the Board explaining why the refusal is reasonable within **15 days** from the date you ask for permission.

Part 2

Moving out for a time and then moving back in

If you know you want to return to the place you rent after moving out for a short time, you can “sublet” the place. That way, you remain the tenant.

When you sublet the place you rent, you find another tenant who agrees to move in for a certain amount of time while you move out and leaves at the end of that time so **you can move back in**. The person you sublet to is called a “subtenant”.

How do I sublet the place I rent?

Before you sublet your place, you need to ask for your landlord’s permission in writing. Keep a copy of the letter and your landlord’s reply for your records.

You and the subtenant have to agree on the date the subtenant will move out. This “sublet agreement” between you and the subtenant should be in writing and signed by both of you. If you have a lease, the sublet agreement must end before the end of the lease.

You can charge the subtenant rent, but it cannot be more than the amount your landlord charges you.

You are still your landlord's tenant. The lease or rental agreement between you and the landlord remains the same. This means that you are still responsible for paying the rent you owe on time. If the landlord does not get all the rent, or does not get the rent on time, the landlord can apply to the Board to end your tenancy and evict you. You are also responsible for any damage the subtenant may do to the rental place while you are away.

What should the sublet agreement say?

Your sublet agreement is a legal contract between you and the subtenant about the rules the subtenant will follow while renting your place. This agreement should include:

- the subtenant's legal name.
- the date the agreement begins and the date it ends.
- the amount of the monthly rent and when it must be paid.
- how the rent will be paid, for example, by cash or cheque, in person or by mail.
- the name and address of the person or company the rent must be paid to.
- what the subtenant will be responsible for while living in your place, for example, any damage the subtenant causes.
- what the subtenant cannot do while they live there, for example, smoking, illegal activities.
- that the subtenant must follow the rules set out in the rental agreement between you and your landlord . Give a copy of your rental agreement to the subtenant so they know what those rules are.

- that the subtenant must follow the rules set out in the Residential Tenancies Act.

Be sure that you and the subtenant sign the agreement. Give one copy to the subtenant and keep a copy for yourself.

What if the subtenant does not move out on time?

A subtenant who stays beyond the date they agreed to move out is a type of unauthorized occupant called an “overholding subtenant”. You can apply to the Board for a remedy. In this situation, a “remedy” is something the Board can order the subtenant to do or to pay to make up for breaking the subtenant agreement and not following the law. And if the overholding subtenant has not paid rent for the time they continued to live in your rental place after the date they agreed to move out, you are also allowed to ask the Board to make the subtenant pay you.

To apply for a remedy from the Board, you must fill in a form called an **Application about a Sublet or an Assignment- Form A2** and give it to the Board. It costs \$50 to apply. You may not have to pay the \$50 to file your application. To find out if you need to pay, you must fill in a **Fee Waiver Request** and give it to the Board with your application.

You can get the Application about a Sublet or an Assignment - Form A2,

A2 Instructions, and the Fee Waiver Request from the Board or a ServiceOntario Centre. They are also available to download from the Board's website at www.sjto.gov.on.ca/ltb.

On page 1 of the Form A2 under **Applicant Information**, mark the box that says you are a tenant. Then fill in:

- your first and last name.
- the address where you want to Board to send your mail.
- a phone number where you can be reached.
- the address of the place you are renting.

Under the heading **Other Parties to the Application** mark the box that says "Subtenant", and fill in the subtenant's full legal name, address and phone number.

In **Part 2: Reasons a Tenant can Apply** mark the box next to "Reason 2: The subtenant did not move out on the date we agreed to" and fill in the date the subtenant was supposed to move out.

You must fill out a **Schedule of Parties** form and add it to your application if

- there are more than 2 subtenants living in the place you rent and you want to include them in your application.

You can get a Schedule of Parties form from the Board, a ServiceOntario Centre, or the Board's website at www.sjto.gov.on.ca/ltb.

In section (b) mark the box next to the remedies you want the Board to consider. The Board can order one, or all of the following remedies:

1. End the tenancy

2. Compensation

The Board can order the subtenant to pay you for each day they stayed without paying rent after the date they were supposed to leave. Fill in the boxes showing how much rent the subtenant pays you and how often they pay rent.

On page 6, mark the box that says you are a tenant, sign, and date the form. **The Board will not accept your application if you do not sign it.**

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 do I do with my completed application?

When you have filled in the Form A2 and you have attached any documents you want the Board to consider, hand it to the staff at the front counter of the Board or a ServiceOntario Centre. Your documents will be stamped with the date you give them to the Board.

When your application is accepted, the Board will set a date for your hearing. The **Notice of Hearing** tells you the date, time, and place of your hearing. In most cases, the Board will mail copies of your Form A2 application and the Notice of Hearing to you and your subtenant and anyone else listed in your application. In some cases, the Board may order you to deliver these documents instead.

If you have to deliver the documents, the Board will give you an **Order to Serve Documents**. It will tell you what documents you are responsible for delivering and when you must deliver them. Deliver the documents as soon as possible, but **no later than the deadline** listed in the Order to Serve Documents. **If you do not follow the instructions in the Order, the Board may delay your hearing or dismiss your application.**

After you have delivered the documents, fill in the **Certificate of Service** and give it to the Board.

What if the landlord refuses to let me sublet?

Your landlord must have a good reason to refuse your request to sublet your place to another person. If your landlord is arbitrary or unreasonable in refusing your request to sublet, you can apply to the Board for a remedy. In this situation, a “remedy” is something the Board can order the landlord to do or to pay to make up for not following the law and being unreasonable.

To ask the Board for a remedy, you must fill in a form called an **Application about a Sublet or an Assignment- Form A2** and give it to the Board. It costs \$50 to apply. You may not have to pay the \$50 to file your application. To find out if you need to pay, you must fill in a **Fee Waiver Request** and give it to the Board with your application.

You must file your application with the Board within **1 year** from the date of the landlord’s refusal.

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The A2 Instructions show you how to fill in the Form A2. What follows here is a brief explanation. It is important to read the Form A2 and the A2 Instructions carefully before you begin and to go over your Form A2 again when you have finished filling it in.

On page 1 of the Form A2 under **Applicant Information**, mark the box that says you are a tenant. Then fill in:

- your first and last name.
- the address where you want to Board to send your mail.
- a phone number where you can be reached.
- the address of the place you are renting.

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You must fill out a **Schedule of Parties** form and add it to your application if

- there are more than 2 tenants living in the place you rent and you want to include them in your application, or
- there is more than 1 landlord or you want to include other people in your application such as the superintendent or someone else who works for your landlord.

You can get a Schedule of Parties form from the Board, a ServiceOntario Centre, or the Board's website at www.sjto.gov.on.ca/ltb.

In **Part 2: Reasons a Tenant can Apply** mark the box next to “Reason 1: the landlord has arbitrarily or unreasonably withheld consent to the assignment or sublet of the rental unit to another person”. In section (a) mark the box that says “Sublet”, and explain how your landlord unreasonably refused to allow you to sublet your tenancy.

In section (b) mark the box next to the remedies you want the Board to consider. The Board can order one, two, or all of the following remedies:

1. Allow the Sublet

The landlord will have to allow you to assign your tenancy to the person you suggested.

2. End your tenancy

The landlord will have to let you leave without giving 60 days' notice. Your tenancy will be "terminated" or ended.

3. Rent abatement

The landlord will have to pay you back some of the rent you paid to make up for not respecting your legal rights.

On page 6, mark the box that says you are a tenant, sign, and date the form. **The Board will not accept your application if you do not sign it.**

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.
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What do I do with my completed application?

When you have filled in the Form A2 and you have attached any documents you want the Board to consider, hand it to the staff at the front counter of the Board or a ServiceOntario Centre. Your documents will be stamped with the date you give them to the Board.

When your application is accepted, the Board will set a date for your hearing. The **Notice of Hearing** tells you the date, time, and place of your hearing. In most cases, the Board will mail copies of your Form A2 application and the Notice of Hearing to you and your landlord and anyone else listed in your application. In some cases, the Board may order you to deliver these documents instead.

If you have to deliver the documents, the Board will give you an **Order to Serve Documents**. It will tell you what documents you are responsible for delivering and when you must deliver them. Deliver the documents as soon as possible, but **no later than the deadline** listed in the Order to Serve Documents. **If you do not follow the instructions in the Order, the Board may delay your hearing or dismiss your application.**

After you have delivered the documents, fill in the **Certificate of Service** and give it to the Board.

Part 3

Where to get more help or information?

Tip sheets for tenants

Free tip sheets for tenants are available online at www.acto.ca. They deal with a variety of housing problems tenants face.

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

Landlord and Tenant Board

You can contact the Board to get their forms and for general information about landlord and tenant issues. All the Board's forms and other brochures are

available on their website at www.sjto.gov.on.ca/lrb. The Board cannot give you legal advice.

Toll-free. 1-888-332-3234

Toronto area. 416-645-8080

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.