

Tip Sheet for Tenants

I got an eviction order because I owe rent. If I pay, can I stop the Sheriff from coming?

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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>

Eviction orders come from 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 Board expects you to pay the full amount ordered by the Board on or before the “termination date” in the eviction order. If you do not pay the full amount, the Board expects you to move out by the termination date. If you stay without paying the full amount, your landlord can call the “Sheriff”, a public official who is in charge of seeing that eviction orders are followed. The Sheriff is the only person who is allowed to make you leave or lock you out. It is against the law for your landlord, a security guard, or anyone else to do this.

You can stop the Sheriff from coming, but you must act fast.

How can I stop the Sheriff from coming?

To stop the Sheriff from coming you must:

1. pay all the money you owe your landlord by a certain date, and
2. ask the Board to “void” the eviction order. Voiding cancels the eviction order.

When should I pay the money I owe?

You can pay the full amount you owe either:

- **on or before** the termination date in the eviction order, or
- **after** the termination date in the eviction order but **before** the Sheriff comes. You are allowed to do this only once in any place you rent.

What happens next is different in each of these situations. The rest of this tip sheet is divided into three parts:

Part 1 talks about what happens when you pay on or before the termination date. It goes from page 4 to page 8.

Part 2 explains what happens when you pay after the termination date but before the Sheriff comes. It goes from page 9 to page 15.

Part 3 tells you where to get help and more information. It is on page 16 and is for everyone, no matter when you pay.

Part 1: Paying 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 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.

How do I make a payment to the Board?

These are the steps to follow **each time** you make a payment to the Board:

1. Get a deposit slip from the Board.
 - Go to your nearest Board office and tell staff at the front counter that you

- want to “make a payment into the Board, in trust”. These staff members are sometimes called Customer Service Representatives or CSR.
- Give the CSR your Board file number. It is the number in the top right-hand corner of the Board order or Notice of Hearing and looks something like this: EAL-12345-12, TNL-23456-11, SOL-34567-13.
 - The CSR will give you a deposit slip to take to any branch of the Canadian Imperial Bank of Commerce. This bank is often called the CIBC. You must pay at the CIBC. No other bank will accept these payments. The money goes into a special type of account called a “trust account” from which the Board will pay your landlord.
2. Take the deposit slip to any branch of the CIBC and make your payment.
- Tell the bank teller that you want to “make a payment into the Board, in trust”.
 - Give the bank teller the deposit slip you received from the Board and say how much money you want to pay.
 - When you have paid, the bank teller will fill in how much money you paid and the date you paid. The teller will stamp the completed deposit slip and give it back to you. It is your proof of payment.
3. Return the completed deposit slip to the Board.
- You **must** do this so that the Board has proof that you paid all the money that the Board ordered you to pay. The deposit slip will go into your Board file.
 - Keep a copy of the deposit slip for your own records.

What should I do next?

Once you have paid all the money you owe and have a receipt for each payment, it is time to void the eviction order. Even though this is not something the law requires when you pay what you owe **on or before** the termination date in the eviction order, it is best to ask the Board to void the eviction order. Voiding cancels the eviction order.

How do I void the eviction order?

You need to apply to the Board to void the eviction order. Fill in a form called **Tenant's Affidavit and Motion to Void an Eviction Order for Arrears of Rent**. You can get the form online from the Board's website at www.sjto.gov.on.ca/ltb or you can pick it up at a Board office or at your local ServiceOntario Centre. The form is free.

On the first page of this form, you need to include:

1. your Board file number.
2. your name.
3. your landlord's name.
4. the address of the place you are renting.
5. proof of payment. If you paid the Board at the bank, your proof is the deposit slip that the bank teller filled in. If you paid your landlord directly, your receipts are proof that you paid. You should make copies of your proof of payment and keep the original papers for your own records.
6. a phone number where you can be reached.

The last page of this form is an Affidavit .The Affidavit asks for information about your payments. **List each payment you made since your hearing separately**, and include:

1. the amount of the payment,
2. the date you paid,

3. who you made the payment to, and
4. how you paid, for example, by cheque, certified cheque, cash, or money order.

Only list payments you made **after** the hearing.

The Affidavit must be signed in front of a witness, such as a commissioner of oaths, a lawyer, or a notary. By signing, you are swearing or affirming that what you have said in the form is true. The witness watches you sign and signs after you. Most legal clinics can do this for you. You will find contact information for legal clinics in Part 3 at the end of this tip sheet.

Remember to bring some photo identification with you to show the person who witnesses your Affidavit.

When you have filled in the Tenant's Motion to Void and the Affidavit, and you have attached copies of receipts for all your payments, go to the Board and hand them in. Your documents will be stamped with the date you give them to the Board.

How will the Board decide?

A Board member will look at your documents and decide whether you have paid all the money you were ordered to pay. There is no hearing. The decision will be based on what you write and the information you have provided. Ask the staff at the Board's front counter how long it will take to get the decision.

The Board's decision will be written in an order that tells you whether the Board has denied or granted your Motion to Void. You can pick up a copy of the new order from the Board or you can ask the Board to send you a copy by mail. The Board will also send your landlord a copy of the order.

If the Board denies your Motion to Void, it means that the Board did **not** cancel the eviction order. You should get legal advice as soon as you can.

If the Board grants your Motion to Void, it means that the Board cancelled the eviction order. The Board will make a new order saying that the eviction order is void. You **must** deliver a copy of this order to the Sheriff so they know the eviction order is void.

What if my landlord does not agree with the Board's decision to void the eviction?

If your landlord does not agree that you paid all the money you owed before the termination date, your landlord can challenge the Board's order to void the eviction. To do this, your landlord has to file a form called **Landlord's Motion to Set Aside an Order to Void**.

If this happens, the Board will hold a hearing and decide whether you paid the right amounts at the right time. If the Board decides you did, the eviction order will be void. If not, the landlord may be able to get the Sheriff to come and evict you.

Part 2: Paying the full amount you owe *after* the termination date in the eviction order but *before* the Sheriff comes.

Remember that paying what you owe **after** the termination date but **before** the Sheriff comes 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. You cannot do this after the Sheriff locks you out or if you have already moved out.

Pay all the money you owe before the Sheriff locks you out. The amount you pay will be made up of:

- all the rent you owe plus any new rent that has come due since the hearing date,
- the application fee your landlord paid to the Board, 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.

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.

How do I make a payment to the Board?

These are the steps to follow **each time** you make a payment to the Board: 1. Get a deposit slip from the Board.

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money goes into a special type of account called a “trust account” from which the Board will pay your landlord.

2. Take the deposit slip to any branch of the CIBC and make your payment.
 - Tell the bank teller that you want to “make a payment into the Board, in trust”.
 - Give the bank teller the deposit slip you got from the Board and say how much money you want to pay.
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3. Return the completed deposit slip to the Board.
 - You must do this so that the Board has proof that you paid all the money that the Board ordered you to pay. The deposit slip will go into your Board file.
 - Keep a copy of the deposit slip for your own records.

What should I do next?

You **must** apply to the Board to void the eviction order. Voiding cancels the eviction order.

You will have a hearing where the Board will decide whether to void the eviction order.

How do I void the eviction order?

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6. a phone number where you can be reached.

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1. the amount of the payment,
2. the date you paid,
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Only list payments you made **after** the hearing.

The Affidavit must be signed in front of a witness, such as a commissioner of oaths, a lawyer, or a notary. By signing, you are swearing or affirming that what you have said in the form is true. The witness watches you sign and signs after

you. Most legal clinics can do this for you. You will find contact information for legal clinics in Part 3 at the end of this tip sheet.

Remember to bring some photo identification with you to show the person who witnesses your Affidavit.

When you have filled in the Tenant's Motion to Void and the Affidavit, and you have attached copies of receipts for all your payments, go to the Board and hand them in. Your documents will be stamped with the date you give them to the Board.

How will the Board decide?

The Board will set a date for a hearing. You must go to the hearing. Your landlord is also expected to be there.

In most cases, the Board will mail you and the landlord a **Notice of Hearing**, but sometimes the Board will direct you to give the papers to your landlord.

If you need to deliver the documents, the Board will give you an **Order to Serve Documents**, 3 copies of the Notice of Hearing, and a **Certificate of Service**.

You are responsible for giving out the copies as follows:

1. You **must** deliver a copy of the Notice of Hearing to the Sheriff so that they do not come to lock you out. The Notice lets the Sheriff's office know that there is a "stay" on the eviction. A stay puts the eviction on hold until the Board makes a decision. Without a stay, the Sheriff can come to lock you out.

2. You **must** give your landlord a copy of the Notice of Hearing **no later than** the deadline that is listed in the Order to Serve Documents
3. Keep one copy for your own records.

After you give the papers to your landlord, you must fill in the Certificate of Service and give it to the Board.

What can I expect at the hearing?

At the hearing, the Board will decide whether you have paid all the money you were supposed to pay. The Board will want to see all your receipts. Bring your receipts to the hearing in case they are needed.

The Board will also ask the landlord questions to find out whether the landlord took the eviction order to the Sheriff and how much the landlord paid the Sheriff.

Sheriff's fees

When a landlord contacts the Sheriff to come and lock a tenant out after the termination date in the eviction order, the landlord must pay the Sheriff an amount called “Sheriff’s fees”. If your landlord has already paid the Sheriff’s fees and you want to remain in your home, the Board will order you to pay back these fees by a certain date.

The Board's order

After the hearing, the Board will make an order showing the results of what happened at the hearing. The Board will send the order to you by mail. If you do not get the order in the mail, you can get a copy from the Board.

Order denying the Motion to Void

If the Board finds that you did not pay all the money you were supposed to, your Motion to Void will be denied. The stay on the eviction order will end, which means that it will no longer be on hold and the Sheriff can now lock you out.

If the Motion to Void is denied, you should get legal advice as soon as you can.

Order granting the Motion to Void

If the Board finds that you paid all the money you were supposed to, your Motion to Void will be granted. The Board will make an order saying that the eviction order is void, but void **only** if you pay the Sheriff's fees by a certain date.

Sheriff's fees have to be paid to the Board. To find out how, see the answer to "How do I make a payment to the Board?" on page 9.

If you pay the Sheriff's fees on or before the date in the order, the Board will send a notice to the landlord and to you saying that the eviction order is void. The Board will then pay the money to the landlord.

You **must** deliver a copy of the order and the notice to the Sheriff so they know the eviction order is void.

If you do not pay the Sheriff's fees on time, the eviction order will not be void. The stay on the eviction order will end, which means that it will no longer be on hold, and the Sheriff can now lock you out.

Part 3: Where to get more help or information

Tip sheets for tenants

Are there mistakes in your eviction order? If so, you will find more information in the tip sheet called *I think my order from the Landlord and Tenant Board is wrong. What should I do?*

This 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.