

Tip Sheet for Tenants

Due to the pandemic, the Landlord and Tenant Board has switched in-person hearings to digital hearings, held over Zoom. For more information on digital hearings please see the following guide: <https://www.acto.ca/documents/remotehearings/>
Until further notice, reference to in-person hearings should be replaced with digital hearings.

The Board is making changes to how they deliver services, including how to file an application and disclose evidence. Thus, it is always important to carefully read the information that has been provided to you by the Board and to follow those instructions. Updates can also be found on the Board's website at tribunalsontario.ca/ltb/.

My landlord wants to evict me because I owe rent

Contents

Can my landlord evict me because I owe rent?	2
Must I move out by the termination date?	2
My landlord gave me a Notice of Hearing. Can I settle my case before the hearing?	4
What is a payment plan?	5
What will happen at the hearing?	7
The landlord got an eviction order against me. What should I do?	12
I think the eviction order is wrong. What should I do?	14
Where can I get help or more information?	15
Payment plan worksheet	16

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 that are set out in the law. This legal process involves the Landlord and Tenant Board, a special tribunal 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 – Form N4](#). The form number **N4** will be at the top right corner of this form.

The Form N4 must say exactly how much money you owe and for which months.

The Form N4 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 Form N4 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 Form N4 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 Form N4, 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, or by taking you to the Board if you moved out on or after September 1, 2021.

If you do not pay all the rent the Form N4 says you owe and you do not move out, your landlord can apply to the 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 an [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 send both you and your landlord a **Notice of Hearing** with a date, time and place for your hearing and a copy of the Form L1. If your landlord filed the Form L1 using the [Tribunals Ontario Portal](#), you will find information about your hearing in the Portal.

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 do not receive a Notice of Hearing from the Board but think your landlord has filed a Form L1 against you, you should [contact](#) the Board.

If you pay any rent to your landlord or superintendent after you receive the Form L1, make sure you get a receipt each time you pay. Send a copy of your reply evidence (in this case, your receipts) to the Board and to your landlord **at least 5 calendar days** before your hearing.

There are a few ways to submit evidence to the Board. One option is through the [Tribunals Ontario Portal](#). If you are not using the Portal, you can email your evidence to LTB.Evidence@ontario.ca. If you cannot submit your evidence by email, you can mail or courier it to the address that is on your **Notice of 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. Before working out a settlement, get legal advice so you are aware of what the law says and you are fully informed of your options. Information about where to get legal advice can be found at the end of this tip sheet

On your hearing day

On your hearing day, but before your hearing takes place, you can ask for a Board mediator to assist with working out a payment plan 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 your landlord and you can accept. They have to be fair and not take anybody's side.

Mediation is voluntary. If your landlord is willing, you may be able to make an agreement (also called a "Consent Order") 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. 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.

Most hearing blocks for eviction for non-payment of rent will have mediators present. If you want to find out for sure, you can [contact the Board](#) before your hearing.

What is a payment plan?

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

Your payment plan is a legal contract between you and the landlord. You are expected to do what it says. The [tip sheet](#) provides important information on how to negotiate a payment plan with your landlord. The key points are:

- It is important you only agree to a payment plan you can afford.
- The landlord may include a s.78 clause in a payment plan.

- A s.78 clause allows the landlord to evict a tenant without notice and without a hearing if the tenant misses a payment – even by a dollar or a day.
- If you do not agree with the landlord’s proposed payment plan, you can provide a counter-offer you can afford.
- If no agreement is reached, you will have a hearing at the Board.

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, and your agreement includes a s.78 clause, your landlord can get a fast order to evict you **without** a hearing or any notice.

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. If your landlord gets an “ex parte” eviction order against you (an eviction order without notice of a hearing), you will have **10 calendar days** after it was issued to file a [Motion to Set Aside](#) and request a hearing.

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. At the hearing, the Board member will also ask the landlord if they have attempted to negotiate a payment plan with you. If the landlord has and you refused it because it was unaffordable, you should let the Board member know. Also, tell the Board member about the terms of a payment plan that you can afford and ask them to order this payment plan..

What will happen at the hearing?

At least five days before your hearing, your landlord must give you a copy of a form called **L1/L2 Application – Information Update**. The information on this form lets the Board know of any changes since your landlord filed the application.

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 or videos 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.

For remote hearings, you will need to provide the Board and your landlord a copy of your evidence **7 days before** the hearing (or 5 days for reply evidence). It is a good idea to also have an email-ready file of all your evidence in case you need to re-send it to the Board.

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 a Form N4.

If you pay rent once a month, your landlord must give you the Form 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.

Also make sure your name and address, including the unit number, are listed correctly on the Form N4.

If your landlord did not give you this form, or did not give it to you on time, or it contains any errors, 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 L1/L9 Application – Information Update will show the updated amount your landlord is asking for. The amount will be made up of:

- The rent you owe,
- The rent that has become due since your landlord filed the application, plus
- The \$201 fee your landlord paid to the Board (or \$186 if your landlord filed using the Tribunals Ontario Portal), 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.

Note that any payments you made between the date the landlord filed the application and the date of the L1/L9 Application – Information Update, should be reflected in this update.

Make sure the rent you are being charged is the legal amount. Did you get written notice when the rent was last increased? Did you get 90-days notice before the rent increase took effect? Was your rent increase calculated correctly by applying the correct [annual guideline increase percentage](#)? If you answered 'no' to any of these questions, then your rent amount may not be the correct amount.

If you do not agree with the amount of rent the landlord is asking for, send your reply evidence to the Board and to your landlord (at least 5 days before 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. These are called s.82 issues. Problems can include repair and maintenance issues, illegal entry, bedbugs, illegal lockout, and harassment.

You must provide the Board and the landlord advance written notice of any s.82 issues you intend to raise, and a copy of the evidence you will rely on, at least 7 days **before** the hearing. Keep a copy for yourself. If you do not provide advance written notice, the Board might not allow you to raise these issues at the hearing.

Again, your 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.

One of the remedies you can ask for at the hearing, is for 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. These are called s.83 circumstances. 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.
- You have important connections and supports in the community

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, let the Board member know and be prepared to explain the terms of the payment plan to them.

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:

- the landlord does not want your children in the unit;
- the landlord is in serious breach of their responsibilities under the Act or lease;
- 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 enforcement 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 financial help from your local Homelessness Prevention and Rent Bank Program.

If you pay all the money you are owing to 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 enforcement 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 Motion to Void an Eviction Order for Arrears of Rent](#) and send 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 enforcement 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 Motion to Void an Eviction Order for Arrears of Rent](#) and send 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 Sheriff'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 enforcement 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.**

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 \$58 to file this request.

You may not have to pay the \$58 to file your request if you qualify for a [fee waiver](#).

If you think your eviction order is wrong, please see [I think my order from the Landlord and Tenant Board is wrong. What should I do?](#) More tip guides and sheets can be found at <https://www.acto.ca/for-tenants/tip-sheets/>.

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 the stay 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 agreements, see the tip sheet called [How to Negotiate a Repayment Plan with my Landlord.](#)

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

\$

The amount of rent I owe up to today is

\$

Plus the landlord's application fee

+ \$

201 or

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:

During this repayment time are there any possible circumstances or other expenses that might cause me to miss a payment? (ie. Hours at work decreasing? Medical expenses? Back to school expenses etc)

If so, how can I still make my payment? Should a change during that month(s) be reflected in the repayment schedule?