



Tip Sheet for Tenants

MOTION TO VOID AN EVICTION ORDER BEFORE IT BECOMES ENFORCEABLE

Prepared by the Tenant Duty Counsel Program & Funded by Legal Aid Ontario

This publication contains information intended to assist the general public. It is not legal advice about your situation. You should talk to a lawyer or legal worker for advice on your particular situation.

WHAT IS A MOTION TO VOID?

A Motion to Void is a form you can fill out to ask the Landlord and Tenant Board (the “Board”) to void or stop an eviction order because you have paid **all** the money that you owe. The amount you owe may include back rent, additional rent that has become due, NSF cheque charges from the financial institution, NSF cheque administration charges of the landlord not greater than \$20 for each cheque, and costs ordered by the Board.

You *must* pay every single penny that is stated on the eviction order, on or before the void date, to *void* that eviction order. The “void date” is the date written in the eviction order which states when you have to pay all the money. If you are one day late or one penny short with your payment, you cannot void the eviction order. If you do not void the eviction order, the landlord can contact the Sheriff and have you locked out of your home.

WHO CAN I MAKE THE PAYMENTS TO?

You can make the payment(s) directly to your landlord in whole, to the Board in whole, or to your landlord in part and to the Board in part.

HOW CAN I MAKE A PAYMENT INTO THE BOARD?

You can make a payment into the Board, in trust by doing the following:

1. Go to your nearest Board location and tell the person at the front counter, also called a Customer Service Representative (“CSR”) that you wish to make a payment into the Board, in trust.
2. The CSR will ask you for your Board file number (for example TSL-12345, TNL-23456, TEL-34567). You can find the file number in the top right-hand corner of the order or notice of hearing.
3. The CSR will give you a form which you must take to any CIBC branch. You must make the payment(s) at the CIBC. No other bank will accept this payment.
4. Once at the CIBC, line-up to speak with a bank teller. Tell her/him you wish to make a payment into the Board, in trust. Give the bank teller the form and indicate how much money you wish to pay. Once you make the payment, the bank teller will fill out this form, indicating how much money was paid and the date the payment was made.
5. You **must** return a copy of this completed form to the Board. The copy will go into your file.
6. You should keep a copy of this form for your records.

WHICH FORMS DO I NEED TO DO A MOTION TO VOID?

You will need:

1. A “Tenant’s Motion to Void an Eviction Order for Arrears of Rent” form; and
2. An Affidavit.

WHERE CAN I GET THESE FORMS & HOW MUCH DO THEY COST?

All of the forms are available online at www.ltb.gov.on.ca. If you do not have access to a computer, you can pick-up the forms at a Board office, or at your local ServiceOntario Centre (SOC). The forms are free.

BESIDES THE FORMS, WHAT ELSE WILL I NEED?

You will require receipt(s) or other form(s) of proof of payment.

If you paid your landlord directly, you should obtain a receipt which contains the following information:

1. The signature of the person you made the payment to
2. The amount of the payment
3. The date the payment was made

If you paid your money at a CIBC (to the Board, in trust), you will require an acknowledgement of payment from the CIBC.

You will also require a copy of the eviction order. If you did not receive a copy in the mail or have misplaced your copy, you can obtain a copy directly from the Board. There is information on the order which you will have to put onto the “Tenant’s Motion to Void an Eviction Order for Arrears of Rent” form.

TIP FOR TENANTS: Remember to bring some photo identification with you. Whoever assists you with swearing or affirming the affidavit will want to see your photo identification.

I’VE MADE THE PAYMENTS & I’VE GOT MY RECEIPT(S). WHAT IS NEXT?

Now it is time to fill out the forms. You will require the following information to complete the forms:

1. Your file number (for example: TSL-12345, TNL-23456, TEL-34567)
2. Your name (tenant’s name);
3. Your landlord’s name;
4. The address of the rental unit (your home address);
5. A copy of the eviction order;
6. All of your receipts;
7. A phone number where you can be reached;
8. An affidavit; and
9. Photo identification

WHAT IS AN AFFIDAVIT & HOW DO I FILL IT IN?

An affidavit is a form which contains a written statement that you swear or affirm to be true. Likely, one of the Board staff will be able to swear or affirm the affidavit for you. The affidavit must contain the following information:

1. The date(s) the payment(s) were made;
2. Who the payment(s) were made to;
3. How the payment(s) were made (cash, cheque, money order, etc.); and
4. The amount of each payment

NOW THAT I HAVE ALL THE FORMS FILLED OUT & HAVE ATTACHED THE RECEIPT(S), WHAT NEXT?

You must go to the Board and hand-in all the forms and receipts. Your documents will be stamped and then given to a Board Member. The Board will decide whether to grant or deny your motion to void. This decision is based on the written information you have provided. Ask the Board’s front counter staff how long it will take to have an answer. This will affect your decision whether to wait or not.

WHAT IF THE MOTION TO VOID IS GRANTED?

If the motion is granted, then the Board will issue an order saying that the eviction order is “void”. You can either pick-up a copy of the order or you can request that a copy be mailed to you. You **must** deliver a copy of the order to the Sheriff so they know the eviction order has been stopped or is void.

WHAT IF THE MOTION IS DENIED?

If the motion is denied, you should obtain legal advice as soon as you can.

IS IT ALWAYS NECESSARY TO DO A MOTION TO VOID?

No. If you pay all the rent you owe to the Board then the Board will issue a notice to you and to your landlord advising that the eviction order is void. **However, if you pay all of the rent you owe to your landlord or in part to your landlord and in part to the Board then you should file a motion to void the eviction order.**

CAN THE LANDLORD CHALLENGE MY MOTION TO VOID?

Yes. If you file a motion to void the eviction order and the Board makes an order, your landlord may file a motion to set aside the Board’s order. In this case, the Board will hold a hearing and decide whether the order should remain void or whether the eviction order should be enforceable by allowing your landlord to go to the Sheriff.

WHERE CAN I GET MORE INFORMATION?

Contact your local **Community Legal Clinic** for free advice on landlord and tenant matters. To find the telephone number for your clinic call Legal Aid Ontario at (416) 979-1446 or 1-800-668-8258.

You can also call the **Tenant Hotline** at 416- 921-9494 for free information and referrals to your local legal clinic.

You can find information on line at www.acto.ca or www.cleo.on.ca.

You can call the Landlord and Tenant Board toll free at 416-645-8080 from within Toronto calling area or 1-888-332-3234 from outside Toronto. Their internet address is www.ltb.gov.on.ca