

# Fighting an eviction

It is against the law for your landlord to force you to move out without an order from the Landlord and Tenant Board. This booklet explains what your landlord must do to get an order and what you can do to stop it.





## DOES THIS BOOKLET APPLY TO YOU?

This booklet is about tenants' rights under the **Residential Tenancies Act (RTA)**. The RTA applies to most rental housing in Ontario, such as rooms, apartments, houses, mobile home parks, and retirement homes.

But some rental housing is **not covered** by the RTA. For example, you might not be covered if you live in a place that is supposed to be used for business, share a kitchen or bathroom with the owner or a close family member of the owner, or live in some types of temporary or seasonal housing.

Also, the RTA does not cover some types of shared living. If you share rental housing or you rent from another tenant, we have an online tool at [www.cleo.on.ca/roommates](http://www.cleo.on.ca/roommates) that can help you find out if you are covered.

**If your housing is not covered by the RTA, the information in this booklet does not apply to you.** If you are not sure, see page 13 to find out [where to get legal advice](#).

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## If your landlord wants to evict you

To evict you, your landlord must follow certain steps set out in the Residential Tenancies Act (RTA).

If you do not want to move out, your landlord will have to apply to the Landlord and Tenant Board. The Board is like a court but less formal. It deals with conflicts between landlords and tenants.

Below are some papers you might get if your landlord is trying to evict you:

### Notice to Terminate a Tenancy or Notice to End a Tenancy

This tells you the date your landlord wants you to move out and the reason why.

### Application to Terminate a Tenancy or Application to evict a tenant

This tells you that your landlord has applied to the Board to evict you. (The Board might also send you a separate letter telling you that your landlord has applied.)

### Notice of Hearing

You will get this with the **Application to Terminate a Tenancy** or **Application to evict a tenant**. It tells you when and where the hearing about your eviction will be held. **If you miss the hearing, the Board will probably order that you be evicted.**

## Order of the Landlord and Tenant Board

After the Board holds a hearing, it puts its decision in writing. This is called an order. The Board mails copies of the order to the tenant and the landlord.



The following pages tell you more about the eviction process and what you can do.

## If your landlord gives you a notice

If your landlord wants to evict you, usually the first step is to give you a written notice. Your landlord can do this in a number of ways, for example, by putting it in your mailbox or handing it to you.

Usually the notice will have a name that starts with **Notice to Terminate** or **Notice to End a Tenancy**. It may have one of these numbers at the top: N4, N5, N6, N7, N8, N12, or N13.

The notice must tell you the reason why your landlord wants you to leave. It must be one of the reasons listed in the RTA. The notice must also give you details about the reason.

The notice must tell you the date your landlord wants you to move. Your landlord must give you the notice a certain number of days before that date. The number of days depends on which reason for eviction your landlord has put on the notice. There are some examples in the chart on the next page.

If the reason for eviction is that your landlord claims:	Your landlord must give you this much notice:
<ul style="list-style-type: none"> <li>• you owe rent</li> </ul>	<ul style="list-style-type: none"> <li>• <b>14 days</b> (but <b>7 days</b> if you pay your rent by the week or by the day)</li> </ul>
<ul style="list-style-type: none"> <li>• you often paid your rent late</li> </ul>	<ul style="list-style-type: none"> <li>• <b>60 days</b> (but <b>28 days</b> if you pay your rent by the week or by the day)</li> </ul>
<ul style="list-style-type: none"> <li>• you broke the law or ran an illegal business, caused damage by being careless, or disturbed other tenants</li> </ul>	<ul style="list-style-type: none"> <li>• <b>20 days</b> the first time</li> <li>• <b>14 days</b> if it is the second notice within 6 months</li> </ul>
<ul style="list-style-type: none"> <li>• you seriously risked the safety of others in the building, or were making or selling an illegal drug</li> </ul>	<ul style="list-style-type: none"> <li>• <b>10 days</b></li> </ul>
<ul style="list-style-type: none"> <li>• your landlord or your landlord's family member or a caregiver wants to move in</li> </ul>	<ul style="list-style-type: none"> <li>• <b>60 days</b></li> </ul>
<ul style="list-style-type: none"> <li>• your landlord wants to tear down the building or use it for something else</li> </ul>	<ul style="list-style-type: none"> <li>• <b>120 days</b></li> </ul>

In some cases, the notice must also tell you what you can do to cancel it. For example, if the notice says you owe rent, it must tell you exactly how much and when you must pay it to cancel the notice.

Even if you are not able to cancel the notice, that does not mean you have to move out. But it means your landlord might take the next step and apply to the Board.

## If your landlord applies to the Board

If you do not cancel the notice or move out, your landlord can apply to the Landlord and Tenant Board for an eviction order. Your landlord does this by giving an application form to the Board and paying a fee of \$170. The name of the form usually starts with **Application to Terminate a Tenancy** or **Application to evict a tenant**. It may have one of these numbers at the top: L1, L2, L3, L4, L7, A1, or A2.

Your landlord must give you a copy of this form, together with a **Notice of Hearing**. Your landlord can do this in a number of ways, for example, by putting it in your mailbox or handing it to you.

Getting these papers does not mean you have to leave. You can be evicted only if the Board makes an eviction order after holding a hearing.

**EXCEPTION** *In some situations, your landlord is allowed to apply to the Board without giving you any notices, and the Board can order your eviction without holding a hearing. For more information, see [If there was no hearing](#) on pages 10 and 11.*

The **Notice of Hearing** tells you the date, time, and place of your hearing. It is **very important that you go to the hearing**, or send someone who can represent you. If you

send someone, give them written permission to represent you and make sure they take it with them. If you do not go or send someone, the Board will probably decide to evict you.

**IF YOU SPEAK FRENCH**, you might have the right to get services from the Board in French or to have your hearing in French. To ask for this, you should tell the Board in writing as soon as possible.

## What you can do before the hearing

Whatever you decide to do, make sure to get more information and legal help. See the **Key Point** box on page 7.

### **Stop the application by paying what your landlord says you owe**

If your landlord has applied to evict you because you owe rent, you can stop the eviction if you pay what your landlord says you owe, before the hearing. The form your landlord gave you (usually a Form L1) should have details about the amount you have to pay to stop the application. Usually this includes the \$170 fee your landlord paid to the Board and charges for any bounced or NSF cheques.

You can pay the full amount to your landlord or to the Board. Get a receipt. Bring the receipt to the hearing to make sure the landlord's application is stopped.

## **Make an agreement with your landlord**

If you cannot pay what you owe, do not agree with the amount, or the application is not about owing rent, you can try to make an agreement with your landlord to stop the eviction. This is sometimes called a “settlement” agreement.

The Board has employees called mediators who will try to help you and your landlord reach an agreement. A mediator might phone you before your hearing or speak to you on the day of your hearing. In some areas of Ontario, it is up to you or your landlord to ask the Board for a mediator if you want one.

You do not have to go to mediation. You and your landlord can try to work out an agreement with a mediator’s help or without it. Either way, you can bring a lawyer or someone else to help you, such as a family member, a friend, or a social worker.

You do not have to make an agreement with your landlord. But sometimes making an agreement with your landlord is the best thing. For example, if you owe rent but cannot pay it before the hearing, an agreement might include a payment plan that gives you more time.

It is important to be very careful about signing an agreement, especially in mediation. If you sign a mediated agreement but then do not follow it, your landlord might be able to apply for an eviction order without giving you any notice and without you having a hearing.

Before you sign any settlement agreement, try to get legal advice, and make sure the agreement:

- says exactly what you agreed to, and
- does not include anything you think is not fair or that you will not be able to do.

If you sign an agreement, make sure you get a copy of it.

## Prepare for the hearing

If you cannot stop the application from going ahead, then you will have to prepare for the hearing. You might need to arrange for witnesses to come to the hearing, or you might need to make copies of papers or photographs you want to use at the hearing.

The Board will mail you information about how to prepare for your hearing and what will happen at your hearing. If you do not receive this, call the Board at **1-888-332-3234** or look on its web site at [www.ltb.gov.on.ca](http://www.ltb.gov.on.ca).

### KEY POINT

There is important information about payment plans, mediation, preparing for a hearing, and other topics in the Tenant Tip Sheets produced by the Tenant Duty Counsel Program. To find them online, go to [www.acto.ca](http://www.acto.ca), click on “Tenant Info”, then on “Tenant Tip Sheets”. See pages 13 and 14 of this booklet to find out [where to get legal advice and information](#).

## What happens at the hearing

If there is a hearing, a Board member will listen to why your landlord wants to evict you and why you think you should not be evicted.

It is up to your landlord to prove to the Board that there is a legal reason to evict you. You have the right to question or challenge any witnesses or evidence your landlord brings to the hearing. And you have the right to speak and to bring your own evidence and witnesses.

Even if the Board member agrees that there is a legal reason to evict you, the member can still decide not to evict you. The Board member must always look at all the facts, for example, how being evicted would affect you or your family. The Board member must also look at whether your landlord has been following the law and the rental agreement.

In some situations, the Board **must** let you stay even if there is a legal reason to evict you. This applies if the Board member agrees that your landlord:

- has seriously failed to follow the law or the rental agreement, or
- is trying to evict you because you did something to protect your legal rights or because you have children.

So, at your hearing, make sure to tell the Board member everything that you want the member to think about when deciding whether to evict you. You might want to make notes and take them to the hearing so you can remember everything you want to say.

### KEY POINT

To help you prove what you are saying, it is very important to bring evidence to your hearing, such as witnesses, photos, audio or video recordings, inspectors' reports, work orders, letters, or receipts.

If your landlord's application is about you owing rent and if the Board member decides that your landlord has not been following the law or the rental agreement, the member can also make orders to deal with those problems. For example, if the Board member decides that there are repair problems, the member could order your landlord to fix the problems or cancel some of the rent that you owe.

The Board will almost never cancel **all** the rent you owe. So, if you do owe rent, you should still try to suggest a payment plan that you think you will be able to follow.

The Board member will make a decision either at the end of the hearing or later. The Board will put this order in writing and send copies to you and your landlord.

## If there is an eviction order against you

If you do not want to move, you must do something about the eviction order right away. What you must do depends on whether or not there was a hearing.

### If there was a hearing

The Board may have made the eviction order because the Board member at the hearing agreed with your landlord or because you missed the hearing. If either of these things happened, you might be able to stop the eviction by asking the Board to review the decision or by filing an appeal in court. If the eviction is based on you owing rent, you might also be able to stop it by paying everything you owe plus your landlord's legal expenses.

But you must act very quickly and you must follow exactly the right steps. So it is best to get more detailed information or legal help first. See [Where to get help and information](#) starting on page 13.

### If there was no hearing

In some situations, the Board can make an eviction order without holding a hearing. This is called an “ex parte” order. Your landlord is allowed to apply for an ex parte order, without giving you any notices, if your landlord claims that:

- you and your landlord agreed that you would move out,
- you gave your landlord a notice saying you would move out, or
- you have not followed a Board order or mediated agreement related to an earlier eviction application, and that order or agreement says that your landlord can do this.

If your landlord applies for an ex parte order, you might not find out about it until the Board sends you a copy of the order. You will then have to act very quickly to try to stop the eviction. You must file a **Motion to Set Aside an Ex Parte Order** with the Board as soon as possible. But to be safer, you must do this within 10 days after the date of the order.

You can get forms for filing this motion from the Board. You might be able to get help from a community legal clinic. The Tenant Duty Counsel Program has a tip sheet called **How To Fill Out The “Motion To Set Aside an Ex-parte Order (S2)” Form**. To find the tip sheet online, go to <[www.acto.ca](http://www.acto.ca)> and click on “Tenant Info”, then on “Tenant Tip Sheets”. There is [information about the Tenant Duty Counsel Program, finding a community legal clinic, and contacting the Board](#) starting on page 13 of this booklet.

## Enforcing an eviction order

If the eviction order is not stopped, the Sheriff is the official who is in charge of enforcing or carrying out the order.

If you have not moved out by the date the eviction order says you must move, the Sheriff can make you leave and can let your landlord change the locks. The law does not let your landlord, a private bailiff, or a security guard physically evict you or lock you out — only the Sheriff can do this.

## Your belongings

If you are evicted by the Sheriff, you have only 72 hours (3 full days) to take your belongings. This rule applies even over a weekend or a holiday. During those 72 hours, your landlord must keep your things in or near your place, and must let you get them any time between 8 a.m. and 8 p.m.

But if you move out after the Board makes an eviction order but before the Sheriff comes to change the locks, the law is not clear about whether you have 72 hours to get your things out of your place. So try to take everything with you.

If you move out at any other time, for example, after getting a notice from your landlord, you must take all your things with you when you move. Your landlord can sell, keep, give away, or throw out anything you leave behind, even if you leave it behind for only one day.

## Where to get help and information

There are **community legal clinics** across the province that give free legal help to tenants who have low incomes.

You can usually find the community legal clinic for your area by looking under “Legal Aid” in your phone book. You can also check Legal Aid Ontario’s web site at <[www.legalaid.on.ca](http://www.legalaid.on.ca)> or phone them:

- Toll-free outside Toronto ..... **1-800-668-8258**
- In Toronto ..... **416-979-1446**
- Toll-free TTY ..... **1-866-641-8867**
- TTY in Toronto..... **416-598-8867**

There are **tenant duty counsel** at many Landlord and Tenant Board locations. The Tenant Duty Counsel Program is paid for by Legal Aid Ontario. Tenant duty counsel are lawyers and community legal workers who can give basic advice, help work out settlements with landlords, and review and help fill out some forms and documents, especially ones related to eviction. Sometimes they can help at hearings with simple or emergency steps.

To find out if there will be tenant duty counsel at the Board location you are going to, call your local community legal clinic before you go to the Board.

The Tenant Duty Counsel Program also has a series of tip sheets for tenants with detailed information about different parts of the eviction process. To find the tip sheets online, go to <[www.acto.ca](http://www.acto.ca)> and click on “Tenant Info”, then on “Tenant Tip Sheets”.

You can contact the **Landlord and Tenant Board** for forms and for general information. The Board cannot give you legal advice.

The Board's web site address is <[www.ltb.gov.on.ca](http://www.ltb.gov.on.ca)>. You can call the Board at **1-888-332-3234** or **416-645-8080**.

In some areas of Ontario, there are programs, such as **rent banks**, that might help if you are having a temporary problem paying your rent.

To find the rent bank in your area, you can contact your local government office, the local Social Services or Ontario Works office, or a community organization, such as a housing help centre or community legal clinic. You can also check the Ontario Rent Bank Network web site at <[www.ontariorentbank.net](http://www.ontariorentbank.net)>. For rent banks in the Toronto area, you can call **416-924-3862**.

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**This publication** contains general information. It is not a substitute for getting legal advice for your particular situation.

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