



If a Tenant Does Not Pay Rent

Information in this brochure

The *Residential Tenancies Act* allows a tenant to be evicted if they have not paid their rent.

This brochure provides information about rent payments, and what can happen when rent is not paid. It is not a complete summary of the law and it is not intended to provide legal advice.

If you require more information about the law, please see **For More Information** at the end of this brochure.

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About Rent Payments

Tenancy agreement should be clear

When a landlord agrees to rent a unit to a person, the following information about rent payments should be made clear:

- the day that rent payments are due,
- how each rent payment is to be delivered to the landlord, and
- the acceptable methods for paying the rent.

Paying rent on time

It is very important that rent payments are made on time.

The rent is late if the full amount is not paid by midnight on the day it is due. A landlord does not have to accept partial payment of rent.

If partial payment is accepted, the landlord can still take steps to collect the rest of the rent that is owing, including serving a notice that asks the tenant to pay the rent they owe, or move out of the unit.

Delivering the rent

In most cases, the tenant must deliver the rent payment to a place agreed to or set by the landlord.

This might be to the landlord's residence or place of business. In a larger building, the tenant might be required to deliver the rent payment to the superintendent of the building.

If a rent payment is mailed, the tenant should mail it far enough in advance so that it gets to the landlord by the due date. The tenant should allow at least five days for delivery.

Once a decision is made about how rent payments should be delivered, it cannot be changed unless both the landlord and tenant agree.

How the rent payment is made

When a landlord and a new tenant agree to enter into a rental agreement, they usually discuss how the rent will be paid.

Payments are usually made by either cash or cheque. If rent payments are made in cash, tenants should make sure to get a rent receipt from their landlord.

Although the landlord and tenant can agree that the rent will be paid by post-dated cheques or automatic payments (such as debits from a tenant's account or by credit card), a landlord cannot require the tenant to pay by either of these methods.

Once a method for making rent payments has been decided, it cannot be changed unless both the landlord and tenant agree.

Rent receipts

A landlord must give the tenant a receipt for any rent payment, rent deposit or other charge, if the tenant asks for one.

A landlord must also give a former tenant a receipt if that person asks for one within 12 months after the end of their tenancy.

Rent receipts
(continued)

A rent receipt must contain the following information:

- the address of the rental unit,
- the tenant's name and the landlord's name,
- the amount paid,
- the date the payment was made,
- what the payment was for (such as arrears, rent, rent deposit, etc.), and
- the signature of the landlord or the landlord's agent.

The landlord cannot charge a fee for giving a receipt.

Withholding rent due to maintenance concerns

A tenant should **not** withhold any part of the rent because the tenant feels that maintenance is poor or a necessary repair has not been done. A tenant could be evicted, if they withhold rent without getting approval from the Board.

For more information on this topic, see the brochure on **Maintenance and Repairs**. This brochure is available from the Board.

What a Landlord Can Do if a Tenant Does Not Pay Rent

Landlord options

If a tenant does not pay their rent:

- The landlord can give the tenant a notice to pay the rent they owe or move. If the tenant does not pay or move in response to the notice, the landlord can apply to the Board for an order to evict the tenant **and** to collect the rent that the tenant owes.

OR

- The landlord can apply to the Board **only** for an order to collect the rent that the tenant owes, and **not** ask the Board to evict the tenant.

Give Tenant Notice to Move

A landlord can give the tenant notice to move

If a tenant does not pay the full rent by the end of the day that it is due, a landlord can ask the tenant to pay the money they owe or move out of the rental unit.

The landlord must give the tenant a notice in writing, in a form called a **Notice to End a Tenancy Early for Nonpayment of Rent (N4)**. A copy of this form is available from the Board.

A landlord can give the tenant notice to move
(continued)

A Notice to End a Tenancy Early for Non-payment of Rent (N4) tells the tenant:

- how much rent the landlord believes the tenant owes,
- the date that the landlord wants the tenant to pay the overdue rent by (this is called the termination date), and
- that if the tenant does not pay the rent or move by the termination date in the notice, the landlord can apply to the Board to evict the tenant.

| If a tenant rents.... | Then the termination date must be at least... |
|------------------------------------------------------|-----------------------------------------------|
| By the day or week | 7 days after the notice is given. |
| Month by month or has a lease for more than 1 month. | 14 days after the notice is given. |

Notice will be void if tenant pays

If the tenant pays all the rent they owe **before** the landlord files an application to the Board, the N4 notice to end the tenancy is void and the tenant does not have to move.

The amount the tenant must pay to void the notice is:

- the amount of arrears in the N4 notice, plus
- any additional rent payments that have come due after the notice was given to the tenant.

For example: A tenant did not pay May's rent and the landlord gave the tenant an N4 notice with a termination date of June 4th. If, on June 2nd, the tenant wants to pay the landlord everything they owe to void the notice, the tenant must pay the rent for the months of **May and June**.

File an Application to the Board

Landlord may apply to the Board to evict the tenant

If the tenant does not pay the full amount of rent owing, or they do not move out by the termination date in the notice, the landlord can apply to the Board for an order that:

- requires the tenant to pay all of the money they owe, and
 - allows the tenant to be evicted, unless the tenant voids the order by paying all the money they owe.
-

Landlord may apply to the Board to evict the tenant
(continued)

The landlord must apply using the proper form (L1). It is called an **Application to Evict a Tenant for Non-payment of Rent and to Collect Rent the Tenant Owes**. This form is available from the Board.

Note: The earliest day this application can be filed is the day **after** the termination date in the notice and the tenant must be in possession of the unit at the time the application is filed.

Landlord may apply to the Board just for the rent owed

If the landlord does not want to ask the tenant to move, they can apply to the Board **only** for an order requiring the tenant to pay the money they owe. In this case, the landlord would **not** have to give the tenant a notice to end the tenancy.

The landlord must apply using the **Application to Collect Rent the Tenant Owes (L9)** form. This form is available from the Board.

Note: This application can only be filed if the tenant is still in possession of the rental unit.

The Board will schedule a hearing

If the landlord files an application with the Board, a hearing will be scheduled.

The Board will send the landlord(s) and tenant(s), a copy of the application and the Notice of Hearing that tells them when and where the hearing will be held.

It is important that both the landlord and tenant go to the hearing.

What a Tenant Can Do if the Landlord Applies to the Board

Tenant Options

If the landlord files an application with the Board because the tenant has not paid their rent, the tenant can do one of the following:

- pay everything they owe,
 - work out a payment plan with the landlord and file a copy of the agreement with the Board or
 - go to the hearing.
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Pay everything that is owed

If the tenant agrees with the amount that the landlord says they owe, the tenant can pay everything they owe before the Board issues an order. (The Board usually issues an order after holding a hearing.)

In this case, the amount the tenant must pay includes:

- the amount the landlord is claiming in the application (this includes the landlord’s \$190 application fee) plus
- any new rent that came due after the application was filed.

| If the landlord applied to... | Then the tenant can pay the money they owe to... |
|----------------------------------------------------|--------------------------------------------------|
| evict the tenant for non-payment of rent (form L1) | the landlord directly or to the Board in trust. |
| collect the rent the tenant owes (form L9) | the landlord directly. |

If the tenant pays everything to the landlord, they should make sure to get a receipt.

Once everything has been paid, the tenant should contact the Board to see if the hearing has been cancelled. If it has not been cancelled, the tenant needs to go to the hearing.

If tenant disagrees with the amount the landlord is asking for

If the tenant disagrees with the amount the landlord is asking for, they can talk to the landlord to see if the landlord will agree with the amount the tenant thinks they owe.

If the landlord is not willing to agree, the tenant should go to the hearing to explain why they disagree with the amount that the landlord is claiming in the application.

Work out a payment plan

If the landlord applies to the Board and the tenant cannot pay everything they owe right away, they can contact their landlord to see if the landlord is willing to work out a payment plan.

If the tenant and landlord reach an agreement, the tenant or the landlord can file a copy of the agreement with the Board prior to the hearing. The Board can issue an order based on the payment plan they have agreed to. If the Board issues an order, the hearing will be cancelled.

The Board has a **Payment Agreement** form that can be used.

Work out a payment plan
(continued)

If the landlord is not willing to work out a payment plan, the landlord and tenant will need to go to the hearing.

Go to the hearing

The tenant can go to the hearing to challenge the landlord's application. The date, time and location of the hearing are shown on the Notice of Hearing, which the tenant received from the landlord.

Mediation services

The Board offers mediation services to landlords and tenants on the day of the hearing at most hearing locations.

In mediation, a Board Mediator talks to the landlord and tenant to see if they can come to an agreement to settle some or all of the issues in the application. If all of the issues are settled a hearing does not need to be held.

Mediation is voluntary – which means that both the landlord and tenant must agree to mediate in order for mediation discussions to take place.

For more information about mediation, see the brochure called **Mediation by the Board**. This brochure is available from the Board.

At the Hearing

What the Board Member will do

A Member of the Board is the person in charge. The Member will listen to both parties and make a decision about the application and other issues raised at the hearing.

More detailed information about the hearing process can be found in the brochure called **Important Information About Your Hearing**. This brochure is available from the Board.

What the landlord can do

The landlord can explain why the Board should order what was asked for in the application. The landlord may discuss such things as:

- the tenant's failure to pay rent, and
- how much money the landlord believes the tenant owes.

The landlord can also respond to any other issues that the tenant raises at the hearing.

What the tenant can do

The tenant can respond to the issues in the landlord's application, and explain why the landlord should not get what they asked for. For example, if the tenant disagrees with the amount of rent the landlord claims they owe or if the tenant needs more time to pay the rent, they can raise these issues.

What the tenant can do
(continued)

In addition, the tenant can also raise any other issues that they could have raised if they had filed their own application with the Board. This means that if the tenant has concerns about issues such as disrepair, harassment or the lawfulness of their rent, they can raise them at the hearing and the Board can make an order to remedy those issues if appropriate.

The Board encourages tenants to tell their landlord before the hearing if they are going to raise issues about their tenancy at the hearing. A tenant can do this in writing, or by talking to the landlord in person or by phone. This helps to ensure that hearings can proceed smoothly. A tenant, however, is not required to tell their landlord ahead of time about any additional issues they want to bring up at the hearing.

For more information on this topic, see the brochure on **Issues a Tenant Can Raise at a Hearing for a Landlord's Application for Non-payment or Rent (Form L1 or L9)**. This brochure is available from the Board.

A Member may delay or refuse eviction

If the landlord is applying to evict the tenant, the Member will consider all the information presented by the landlord and tenant. The Member will decide if the eviction of the tenant should be refused (provided that this would not be unfair to the landlord). If the Member decides the tenant should be evicted, they will also consider whether the tenant should be given more time to pay the amount owing or move.

For More Information

Other related publications

The Board also has brochures on these related topics:

- Important Information About Your Hearing
- Issues a Tenant Can Raise at a Hearing about a Landlord's Application for Non-payment of Rent (Form L1 or L9)
- Maintenance and Repair
- Mediation

Contact the Landlord and Tenant Board

This brochure provides general information only. For more information about the law, or to obtain copies of the Board's forms and publications, you may:

- visit the Board's website at sjto.ca/LTB,
- call the Board at **416-645-8080** or toll-free at **1-888-332-3234**, or
- visit your local Landlord and Tenant Board office. For a list of Board office locations visit the Board's website, or call the numbers listed above.