



Motion to Set Aside an Ex Parte Order

What is an ex parte order?

An order that is issued by the Landlord and Tenant Board (the Board) without holding a hearing and without notice to the person who is affected by the application (the respondent) is called an ex parte order. The respondent is not informed that the application has been filed and the order is issued based only on the information that is filed by the person making the application (the applicant).

The Board can issue an ex parte order if:

- a landlord applies for an order to end the tenancy because the tenant agreed to move out on a specific date or the tenant gave the landlord a notice saying that they would move out on a specific date (L3 application),
- a landlord applies for an order to end the tenancy because the tenant did not meet the terms of an order or a mediated agreement (L4 application), or
- a tenant files a motion to void an eviction order for arrears of rent because they paid all the money owed, before the order became enforceable.

Filing a motion to set aside an ex parte order

If an ex parte order is issued and the respondent does not agree with the order, they may file a motion with the Board to have the order set aside.

A motion to set aside an ex parte order must be in writing. In the motion, you should explain your reasons for making the request. The motion must be signed by you or your representative.

You should use the forms approved by the Board for this purpose. These forms are available at any Board office or from the Board's website at www.LTB.gov.on.ca.

Deadline to file motion

A motion to set aside an ex parte order must be filed no later than 10 days after the date the order was issued.

If this deadline has passed, you must file a written request to extend time, along with your motion. In your request, you must explain why you missed the deadline and why you believe you should be given more time to file the motion.

A Member of the Board will decide whether or not to grant your request to extend time.

If the Member grants your request to extend time, you will be allowed to file the motion to set aside the order with the Board. However, if the Board denies your request to extend time, the motion will not be accepted and it will be returned to you.

A hearing will be scheduled

When a motion to set aside an ex parte order is filed with the Board, a hearing will be scheduled.

You will have to give a copy of the motion and the Notice of Hearing to the other parties named in the application. There are special rules for serving these documents. See the Board’s brochure called **How to Serve a Motion to Set Aside and Notice of Hearing** for information about these rules.

Order stayed until the hearing

When a motion to set aside an ex parte order is filed, the order is put on hold or “stayed” until the Board has made a decision about the motion. This means that the person who filed the application (the applicant) cannot enforce the order.

The Decision

After the hearing, a Member of the Board will decide whether or not to set the ex parte order aside.

If the Member does **not** allow the set aside, any stay of the order will be cancelled. The ex parte order will remain in effect and if the order allows for eviction, the landlord will be able to ask the Sheriff to enforce it.

If the Member does set the ex parte order aside, the Member will replace the ex parte order with a new order.

For More Information

Contact the Landlord and Tenant Board

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

- visit the Board's website at www.LTB.gov.on.ca,
- call the Board at **416-645-8080** or toll-free at **1-888-332-3234**, or
- visit your local Landlord and Tenant Board office. A list of Board office locations can be found on our website, or you may call us at the numbers listed above.