



Tip Sheet For Tenants

ILLEGAL EVICTION

Prepared by the Tenant Duty Counsel Program and funded by Legal Aid Ontario

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

HAVE I BEEN EVICTED ILLEGALLY?

- An illegal eviction happens when your landlord does not follow the legal steps in the *Residential Tenancies Act* and takes the law into his/her own hands.
- If you have been locked out of your apartment or forced to leave in another way, talk to a lawyer or a legal worker right away.

WHAT IS AN ILLEGAL EVICTION?

If you are a tenant covered by the *Residential Tenancies Act*, you have been **illegally evicted** if:

- Your landlord has changed the locks and did not give you a key; OR
- Your landlord moved your belongings out of your apartment without your permission; OR
- Your landlord, or someone acting on the landlord's behalf (such as the super), has evicted you without notice or without a hearing at the Landlord and Tenant Board (the "Board").

Generally, you have **NOT** been illegally evicted if the Sheriff, following an order from the Board, has evicted you. If you feel an eviction by the Sheriff was unfair, then talk to a lawyer or legal worker *right away* (especially since, following an eviction by the Sheriff, you still may only have 72 hours to retrieve any belongings left in your unit).

CAN I GET BACK INTO MY PLACE BY MYSELF?

Even if you have been illegally evicted, you still have rights as a tenant. You still have a right to live in your home. This means that you can take "reasonable" steps to get back into your apartment.

"Reasonable" self-help measures include:

- Calling the police for help;
- Hiring a locksmith to change the lock;
- Removing the lock from the door yourself.

TIP FOR TENANTS: *Do not cause damage* to the property. If you damage the property, the landlord might call the police and have you charged under the *Criminal Code* with mischief or break and enter. **It is very important not to break the door or break a window if you use self-help to get back into your apartment.**

If you need the help of the police, telephone them first and then send a letter by fax or mail. Use the letter to the police at the end of this Tip Sheet as a guide.

I COULDN'T GET BACK IN USING SELF-HELP. WHAT CAN I DO NOW?

You can ask the Board for a hearing to try to get a "re-possession" order.

WHAT DO I NEED TO DO?

Get help from duty counsel or a legal aid clinic right away. Here is some information to get you started on your application.

TIP FOR TENANTS: Ask for an "interim order" letting you back in your apartment if the hearing is not scheduled within the next 24 hours.

STEP 1- FILL IN THE FORMS

Fill in these two forms (attached):

- The "**Application About Tenants Rights**" (T2 form) - you need this form to ask for a hearing to get you back into your apartment.
- The "**Request to Extend or Shorten Time**" form - you need this form to help you get a hearing right away.

This application is **free**. See other Tip Sheets for tips on how to fill in the forms. Be sure to make **two** photocopies of each of these forms: one for you and one for your landlord.

STEP 2 - FILE THE FORMS WITH THE BOARD

It is very important to get these forms to the Board office as soon as possible so that you can get a hearing quickly.

- Bring the application and forms to the nearest Board office OR
- Fax the application and forms to the Board regional office in your area

STEP 3 - GET A HEARING DATE

When you file these forms, the Board will schedule a hearing date. **Try to go in person so that you can get a hearing date right away.** Ask for a hearing the next day. If you have problems, ask to speak to Duty Counsel or to the Board's Regional Manager.

STEP 4 - SERVE THE LANDLORD

Give a copy of the documents to the landlord IMMEDIATELY. You can fax, courier, mail or deliver the documents in person. If you are not able to get the documents to the landlord the same day, telephone the landlord to tell them about the hearing. However, even if you telephone the landlord, you must still send them copies of the documents.

File a "Certificate of Service" with the Board by bringing it to the hearing or faxing it to the Board office.

STEP 5 - ATTEND THE HEARING

You will be asked to speak first. Tell the story of how you were evicted to the Board member judging your case. Ask for an immediate "re-possession" order. A sample order is attached for you to take with you.

STEP 6 - GET YOUR ORDER ENFORCED

If the Board gives you a Repossession Order (and if the landlord refuses to comply with it), then take your Order to the Court Enforcement Office (the Sheriff). Ask the Board staff for the address of the Court Enforcement Office.

It may cost approximately \$300 to have your order enforced (however, you can request that the Sheriff waive this enforcement fee in the circumstances of an illegal lockout). Your local legal clinic *may* be able to help you if you can't afford to pay this fee. Ask Tenant Duty Counsel about this.

HOW DO I FILL IN THE FORMS

When completing Board forms, you must print clearly and in CAPITAL letters, and be careful not to touch edges of the boxes.

1. FORM T2

(Please see the LTB's document "Application About Tenant Rights, Form T2 Instructions" for more instructions on completing the form.)

Part 1: General Information

- Fill in all information they are asking for

Part 2: Reasons for your application

- Check boxes 1, 2, 3, and 5
- In the box "**Explanation of Reasons**" put the basic facts of your case. Here is some sample language:
 - I am a tenant at [address of apartment]
 - On [date] the lock to my apartment was changed, and I was not given a key.
 - I did not give my consent to my landlord to change the locks on the apartment.
 - I still am a tenant of the apartment, and wish to remain a tenant.
 - I have not been able to get back into my apartment since [date], and I have been homeless.
 - To the best of my knowledge, my belongings are locked in my apartment; OR
 - My belongings have been removed from my apartment, and are at risk of loss or destruction.
 - To the best of my knowledge the apartment is empty.
 - I asked the landlord to give me a key and let me back into my apartment, but the landlord refused.

Part 3: Remedies

- Check box 1
 - In the boxes beside the \$ put "TBD" (i.e. to be determined).
 - In the explanation box, write: "100% rent abatement until I regain possession of the unit".
- Check box 2
- Check box 3
- Check box 5
 - In the boxes beside the \$ put "TBD"
 - In the explanation box write:

- "Evidence of damage to be provided at hearing" or
- set out facts relating to the damage if known.
- Check box 8
 - In the boxes beside the \$ put "TBD"
 - In the explanation box write: \$100 per day in damages for pain and suffering until restored to possession of unit.
- Check box 9
- Check box 11
 - In the explanation box write:
 - The Tenant may file this order with the Court Enforcement Office (Sheriff).
 - On a priority basis, the Court Enforcement Office shall put the tenant back into possession of their unit [unit address], without further notice to the landlord.
 - The tenant may serve the landlord by alternate service, e.g. telephone, under Rule 5.2

2. REQUEST TO EXTEND OR SHORTEN TIME

You need this form so that you can ask for the Board to schedule a hearing very quickly.

- Complete "Requesting Party's Information"
- In the middle of the form you will see two rows of eight small check boxes.
 - Put a check mark in "the time for serving a Notice of Hearing and schedule an early hearing for my application" and
 - Write beside it "request abridgement of time to serve landlord to 12 hours and request abridgement of time to hold hearing to 1 day."
- In the explanation box print the reasons for your request. Some of the reasons may be:
 - I have been illegally evicted from my home.
 - I am homeless.
 - I did not have access to my belongings.
 - I have reason to believe that my landlord will attempt to re-rent my apartment in my absence.
 - I have reason to believe that my landlord may change or destroy my belongings.
- Sign the second page.

3. CERTIFICATE OF SERVICE

You need to fill in this form before you come to the hearing. This form lets the Board know that you tried to let the landlord know about the hearing.

- In the boxes at the top of the form, write in the landlord's name, your name and the address of your apartment.
- Underneath this, you will see a sentence that starts with "I ... certify". Write you full name in the blank and the correct date in the spaces provided.

Fill in the following checkboxes:

- **I gave a copy of the following document(s):** check off "Application" and "Notice of Hearing".
- **to the following person(s):** check off "the landlord".
- **by the following method of service:** check off whichever method you used to deliver the forms to the landlord.
- Check off "Tenant" and print your name underneath in CAPITAL letters.
- Sign and date the form in the spaces provided.

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

**SAMPLE
STANDARD ORDER
IN CASE OF ILLEGAL EVICTION**

It is ordered that:

1. Alternate service to the landlord by way of _____ is allowed under Rule 5.2;
2. The Landlord must reinstate the tenant immediately;
3. The Landlord shall refrain from illegally locking out this or any other tenant in the residential complex;
4. The Landlord shall not re-rent the unit;
5. The Tenant may file this order with the Court Enforcement Office (Sheriff);
6. The Court Enforcement Office shall put the tenant back into possession of the unit [unit description] on _____ [day], [date] of [month], [year] at o'clock, without further notice to the landlord. The Court Enforcement Officer may use such reasonable force as is necessary to obtain entry to the unit;
7. The execution and filing fee of this Order should, in the circumstances of this case, be waived and there should be no charge to the Tenant for the execution of this order;
8. The Landlord shall pay to the Tenant \$100.00 per day for each day the Tenant is not permitted to take back possession of the rental unit beginning the date of this order;
9. The Landlord shall provide compensation to the Tenant for out of pocket expenses, damage or lose of property, estimated increase in rent and other costs of re-location caused by the Landlord's illegal lockout; and
10. The Landlord shall pay an administrative fine to the Board, which if unpaid by the due date accrue interest at the rate of 6.0% per annum, and until the fine is paid the Landlord may not apply to the Board for applications.