

## Landlord and Tenant Tip Sheet

Please check out the website for the Landlord and Tenant Board at [www.LTB.gov.on.ca](http://www.LTB.gov.on.ca). The site contains forms and information regarding the Board and the rules that govern tenancies and may answer some of the questions you have about your rights and obligations.

*ALWAYS GET YOUR LANDLORD'S FULL AND CORRECT NAME, ADDRESS AND TELEPHONE NUMBER UPON ENTERING INTO YOUR TENANCY. USE THE INFORMATION SHEET FOR THIS PURPOSE AND IT IS A GOOD IDEA TO ASK THE LANDLORD TO FILL OUT THE NAME AND ADDRESS PART SO YOU ARE SURE IT IS CORRECT.*

*IF YOU DO NOT GET THIS INFORMATION, YOU WILL NOT BE ABLE TO GO TO THE LANDLORD AND TENANT BOARD SHOULD YOU NEED TO TAKE THE LANDLORD TO THE BOARD BECAUSE YOU WILL NOT BE ABLE TO SERVE THE LANDLORD.*

### Keeping Track of your Rental Payments

1. Keep a folder for all matters related to your tenancy. Keep receipts in an envelope with the year on the front and keep the envelope in your folder. If you should ever have to prove payment, then all things are in one easily locatable spot. If you ever have to come to the Landlord and Tenant Board, you will have all your paperwork in one spot to bring to the hearing. If you are going to the Board for arrears in rent, it is best to bring ALL receipts even if the notice only refers to a single month or a few months, that way a chain of payments can be established.

If you provide your receipts to OW or ODSP or any other agency, you should make copies BEFORE you give them over. That way you always have readily available proof of payment. As an aside, NEVER give anything to OW or ODSP without first making a copy for your records.

2. ALWAYS get a receipt for your rent at the time you pay your rent. If your landlord refuses to give you a receipt, write up your own receipt and have the landlord sign and date it before you provide the rent. After that initial refusal by the landlord, write the landlord and outline his refusal and your future expectation that he will provide receipts AT THE TIME you pay. Make sure to sign, date and retain a copy of the letter for your records.

Receipts should have the date and amount of the payment and they should be signed by the landlord or the landlord's agent who is authorized to collect the rent.

It should also detail what the payment relates to. For example, if you have paid a Last Month's Rent Deposit (an LMR), then show on the "Re" line that the money paid is for the LMR. If you are making a partial payment on your rent, state that on the receipt. For example, if your rent is \$500 per month and you are paying half at the beginning of the month and the remainder later because you are short, state: "Partial payment for October, 2010 rent; \$250 owing for October". When you pay the rest, state: "Payment for October, 2010 rent, paid in full".

3. DO NOT PAY IN CASH. If you can get your landlord to agree, it is a good idea to pay your rent directly at the landlord's bank. That way you have an immediate receipt that shows the date and amount of the rent. Get an agreement in writing to deal with

rent that is due when the bank is not open (i.e. on weekends or holidays). Another good method of payment is by cheque where your account provides copies of all cancelled cheques with your monthly statement. At my bank (TD) the fee for providing copies of my cheques each month is an extra \$2.00—well worth the cost when you consider the protection it affords you. Make sure the “Re” line on your cheques provides the details as outlined above.

### **When you Decide to Rent**

#### ***Repairs that Need to Be Done***

Often, I encounter tenants who say that their landlord promised to make certain repairs to the unit before they moved in only to find that the repairs were not done and the landlord is refusing to do them. The tenant then withholds rent, hoping that the landlord will then do the repairs. The landlord then moves to terminate the tenancy for non-payment of rent. The tenant states that she does not have the rent because she has spent it on other things.

First of all, you cannot withhold your rent for non-repair.

Secondly, if you have withheld your rent, you should put it aside and not spend it. That way, if the landlord gives you a Notice to Terminate for Non Payment of rent, you will be able to pay by the due date and thus avoid a hearing and an order to pay the filing fee of \$170.00.

That aside, if your landlord has promised to make repairs before you move in, before you enter into a tenancy agreement, list all the repairs that need to be done, state a date when the repairs will be done and state the consequences for not doing the repairs. Put this in writing, have the landlord sign it and make copies for each of you. If the landlord is not prepared to agree to this procedure, I believe you are being forewarned that the landlord is not to be relied upon to meet his end of the bargain and you should walk away.

#### ***Condition of the Premises***

In addition to looking at what may need to be done to repair the unit before you move in, I recommend a pre-move-in inspection of the premises with your landlord. Take pictures of the unit, room by room to show the state of the walls, the ceilings and the flooring; the windows and screens and any other areas such as the state of the appliances. If you have a checklist, it also assists in showing what state the property was in before you moved in. Again, the checklist should be signed by both you and the landlord with each having a copy. Doing this preliminary work before you move in could assist you should the landlord allege that you have damaged the property either while you are living there as a way to have you evicted or after you move out as a way to claim damages for repair costs.

Another recommendation is to list any limitations on what you may do with the property. If you would like to paint or wallpaper, get the landlord to agree in writing prior to doing the work and find out if she will charge for removing the wallpaper or repainting when you move or will expect you to remove it yourself, etc.

### ***A Warning About Multiple Tenants or Roommates***

A misconception among many renters involves roommates. You and your buddies decide to rent a place that you can only afford if all of you split the rent. All of you sign a one year lease and you agree amongst each other to split the rent evenly. Three months into the tenancy, one of you loses his job, flunks out of school or has an argument with the other roommate and moves out.

While that roommate is still legally obligated under the lease, it is the remaining tenants who must face the landlord. Those remaining tenants must make up the rent paid by the roommate who left and often cannot afford to do so.

Too often, the remaining tenants come to me, not understanding why they have to make up the rent for the absent roommate since "all of us signed the lease".

It is rare that a landlord would have a lease that does not require each of the tenants to be responsible for the rent as a whole. While the legal term is known as "joint and several liability", the effect really is that *each* roommate is responsible to the landlord for *all* of the rent.

As an aside, you likely have a claim in Small Claims Court against your fleeing roommate for running out on the lease but that does not assist you with the immediate problem of coming up with the rent. You may try to find another roommate but the landlord must agree to the new person moving in.

### **Repairs**

During your tenancy, you may find that the unit requires repairs. Some repairs are your responsibility. For example, anything you or your guest damage has to be repaired by you at your own cost. If you accidentally break a window, for example, it is your responsibility to make sure it is repaired and put into the same condition as it was prior to it being damaged.

Other things are the landlord's responsibility. For example, a leaky roof is usually the responsibility of the landlord to maintain.

When it comes to repairing your unit, it is important that you have evidence that the landlord is aware of the problem. Too often, tenants will tell me that they "spoke" to the landlord about the problem but he did nothing about it for months on end. The tenant often tells me this in the context of an application to evict on the grounds of non payment of rent. Because the Board hears this argument consistently in eviction proceedings, it may be a tad sceptical of its legitimacy if no other evidence exists.

It is therefore crucial that you have a "paper trail" that shows you have alerted the landlord to the problems with the unit *prior* to being brought to the Board in an

eviction proceeding. The best way to do this is to write the landlord. Sign and date the letter and keep a copy for your records. Your letter should list each repair that needs to be done and provide the landlord with a date when you expect the work to be done. If the problem has caused damage to your personal property, state what has been damaged and your expectation with respect to compensation.

You should also take pictures of the damage. If you have personal property that needs replacing, go to the store where you bought the item and get a duplicate receipt if you no longer have one and the item is a relatively recent purchase. If the item is older, go to a store and get written prices for similar items. You may not get the full amount to replace the item but it will be a guideline for the Board should you have to go to a hearing to force the landlord to repair the problem and compensate you for your losses.

### **Payment Plans**

#### ***Before You are Taken to the Landlord and Tenant Board (the Board)***

If you and your landlord have agreed to a payment plan for arrears of rent, put it in writing. For example, your landlord may say that if you pay a certain amount of money by a certain date, he will not take you to the Landlord and Tenant Board. Make sure the amount, the dates of payment and the promise not to take you to the Board if you meet the plan is in writing and you and your landlord sign and date it and keep a copy for each of you. That way, if you meet your end and the landlord takes you to the Board anyway, you will be able to show the Board the agreement and avoid paying the \$170.00 filing fee that the Board charges for applications.

If you find that you may be a bit late or a bit short on the plan, COMMUNICATE with your landlord and get any modification to the plan in writing (again, sign, date and keep a copy for each). The number one complaint I get from landlords is that their tenants do not communicate with them and they are left with no alternative but to take the tenant to the Board. Avoiding the problem may give you short term relief but in the end you will face more embarrassment, wasted time and MONEY if the landlord has to resort to formal proceedings against you.

#### ***Once you are at the Board***

Even though your landlord has taken you to the Board, he or she may still agree on a payment plan. If the landlord agrees to a payment plan, it is important that you set a plan that is realistic. I often advise tenants to tell me what they CAN pay, not what they would like to pay or what they wish they could pay. Do not make a plan that is based on money that MAY come in (for example, you have applied for disability benefits and IF you are approved you will be getting more money. Same with the hope that you will get EI soon or Workers'

Compensation). Deal with the resources that you know you have coming in on a regular basis. If you are starting a new job, anticipate a delay in your first paycheque when setting out the timing of the plan.

The Landlord and Tenant Board has a form called "Payment Agreement to Settle". This form allows the parties to enter into a payment plan to settle the hearing and if it is received by the Board in time, the Board will issue a consent order and the parties will not have to attend the hearing. If the Board does not issue an order, you should still attend the hearing to ensure that the payment plan was received by the Board. This type of payment plan cannot end the tenancy or evict the tenant, include payment of an amount of money that is not rent or the cost of the filing fee (i.e. repair costs) or allow the landlord to apply to the Board to evict the tenant without first giving notice to the tenant.

If you do not enter into the "Payment Agreement to Settle" prior to the hearing, you can still attempt to settle the matter with a payment plan and a consent order before the adjudicator at the Board. The landlord will usually ask that the payment plan include a clause that requires you to meet deadlines for payment, failing which the landlord can get an order without notice to you for eviction, pursuant to s. 78 of the *Residential Tenancies Act*. I must emphasize that you must meet the payment plan to the penny and to the date. You may think that being only a day late or a dollar short is no big deal but remember, your landlord may ultimately want you out more than he wants the money, so he could rely on your default to achieve this goal.

At the Board, you also have the option to mediate a settlement with your landlord. A Board mediator will be present to assist the parties to come to an agreement that will settle the matters you have with your landlord.

Again, I must emphasize the need to communicate with your landlord. If you have a payment plan as ordered by the Board or as agreed to in a mediated settlement, and you find that you may be late or short, speak to your landlord and outline the changes you wish to have her accept. Put the changes in writing, have the landlord sign it as well as yourself, date it and make a copy for yourself and the landlord. This will protect you should the landlord try to evict you.