



The Appeal Process for Loss of Rent-Geared-to- Income Assistance

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Terminology

- ▶ RGI = rent-geared-to-income (assistance or subsidy)
- ▶ Household = tenants/occupants of the RGI unit
- ▶ Housing Provider = landlord/co-op
- ▶ Service Manager = Housing Division Manager of the City of London
- ▶ HSA = *Housing Services Act, 2011*

Overview

- ▶ RGI housing is governed under *HSA*
 - ▶ (as well as the *Residential Tenancies Act* and *Human Rights Code*)
- ▶ Many of the RGI rules are local - The City of London is the “Service Manager” for London and Middlesex RGI housing
- ▶ Our local rules are called “Housing Division Notices” or “HDNs” and are found on the City of London website
 - ▶ Google “Housing Division Notices” to easily find them
- ▶ Rules for appealing RGI decisions apply to most social housing, including London & Middlesex Housing Corporation, co-ops, and rent supplement programs (i.e. single RGI units in private market complexes)

A Few Common Issues for RGI Households

- ▶ 1) Failure to provide information
- ▶ 2) Being overhoused
- ▶ 3) Having an unauthorized occupant



1) Failure to Provide Information

- ▶ Failing to submit the annual review package on time (“Income and Assets Review Form”) may result in a loss of RGI assistance
- ▶ Changes disclosed in the package may also result in a loss of RGI assistance or change in RGI calculation
 - ▶ E.g. change in income, a person moving in or out
- ▶ The household still has to report changes to circumstances within 30 days of when the changes occurred
 - ▶ HDN 2002-23

2) Being Overhoused

- ▶ Also known as “ceasing to meet occupancy standards” (HDNs 2012-177 & HDN 2012-178)
- ▶ A household may be deemed overhoused if there are more bedrooms in the unit than it qualifies for, e.g. single person living in a multi-bedroom townhouse
- ▶ The household only loses its RGI assistance if it is not following the process to be transferred to an eligible unit
- ▶ The household is entitled to remain living in their current unit for a year after being notified by the housing provider that they are overhoused
- ▶ After a year, the household must apply onto the waitlist
- ▶ The household is given 3 offers to transfer, if all three offers are rejected the household loses its subsidy
- ▶ Examples of when a household may qualify for an additional bedroom:
 - ▶ For disability/medically necessary accommodations
 - ▶ Joint custody/visitation requirements
 - ▶ Dependent child at an educational institution

3) Unauthorized Occupant (“Illegal Boarder”)

- ▶ Housing providers have discretion over guest policies to assist them in determining when a guest becomes an “unauthorized occupant”
- ▶ If a household is deemed by the housing provider to have an unauthorized occupant, the housing provider may agree to add the occupant onto the lease and re-determine eligibility of the household, or may remove the RGI subsidy

Other Examples

- ▶ Household no longer meets initial eligibility requirements
- ▶ Household's RGI calculation the equivalent of market rate for 12 consecutive months
- ▶ Failure to obtain income
- ▶ Failure to divest residential property
- ▶ Absence from the unit for 60 consecutive days or 90 total days in a year
- ▶ Convicted of an offence under the HSA or the *Criminal Code of Canada* relating to the fraudulent receipt of RGI assistance (for 2 years from date of conviction)

Appealing a Decision of Loss of RGI Assistance

- ▶ A household can appeal a decision:
 - ▶ that they are not eligible for RGI assistance or that they lost their subsidy
 - ▶ of the size and type of unit that they are allowed to live in
 - ▶ that they are not included in a “priority status” category
 - ▶ of the amount of rent payable
 - ▶ that they are not eligible for special needs housing
- ▶ The appeal process is called a “Review” and it goes through an Internal and (if necessary) a Final Review process
- ▶ HDN 2013-194 “Notices and Reviews of Decisions” sets out the rules and timelines

Appealing a Decision of Loss of RGI Subsidy

- ▶ Please refer to handout entitled “APPENDIX 1: QUICK REFERENCE CHART FOR NOTICES AND REVIEWS INCLUDING OVERVIEW OF TIMELINES” (“Notices and Reviews of Decisions”, HDN 2013-194)
- ▶ Overview of Review process:
 - ▶ 1) **Notice of Decision** is issued to the household within 5 days a decision is made
 - ▶ Household is required to “talk about” the decision with the housing provider if they disagree
 - ▶ 2) **Internal Review** must be filed within 10 days the Notice of Decision is received
 - ▶ Housing provider is to issue a decision within 10 days and issued to the household within 5 days
 - ▶ 3) **Final Review** must be filed within 10 days the Internal Review decision is received if the household is not satisfied with the decision
 - ▶ Final review may be conducted as a written review (i.e. just a written decision is provided) or an oral review (an in-person hearing is conducted)

Appealing a Decision of Loss of RGI Subsidy

- ▶ Requests for extension of time possible if the household is a reasonable reason why they did not file the request within 10 days
- ▶ A Final Review decision is final
 - ▶ No right to appeal to a higher court
 - ▶ Judicial review application possible on the issue of procedural fairness
- ▶ If a household loses its RGI subsidy and owes arrears to a housing provider, this will impact its eligibility for future RGI
 - ▶ A household is ineligible for RGI if they owe rental arrears or amount for damage caused to a rental unit from a previous tenancy
 - ▶ A household must enter into a repayment plan in order to be deemed eligible (unless the service manager is satisfied that extenuating circumstances exist)

Eviction After Losing RGI Assistance

- ▶ A housing provider cannot evict a household simply for losing its RGI subsidy
- ▶ However, once a household loses its subsidy, the rent will substantially increase (*from 30% (or less) of market rate to 100% market rate*) and it is typically unaffordable for that household to pay
- ▶ Once the subsidy has been removed, the regular eviction process under the *Residential Tenancies Act, 2006* comes into play
 - ▶ A household can expect to receive an N4 for nonpayment of rent
- ▶ If the household has not exhausted the appeal process by the time they are at an eviction hearing, an adjournment can be requested to allow the household to appeal the arrears under the HSA as the Landlord and Tenant Board do not make determinations regarding RGI subsidy
- ▶ However, a household should get legal advice ASAP if its receives a decision under the HSA that cannot otherwise be remedied by the household

Questions?

▶ *Thank you* 😊

