

March 14, 2009

LANDLORD AND TENANT INFORMATION



Residential Tenancies Act

- ❑ The law in Ontario that sets out the tenant's responsibilities and the landlord's responsibilities
- ❑ Does NOT apply to tenants renting from other tenants
- ❑ Does NOT apply to tenants who share a kitchen or bathroom with the landlord



Terms and Definitions

TENANT: the individual who has a rental agreement with the landlord



LANDLORD: owner of the property

- Tenant will often deal with agents of the landlord instead of the landlord him/herself.
 - Superintendents, property managers, etc.
 - People who you pay your rent to



Terms and Definitions

LEASE: an agreement between the landlord and Tenant about the amount to be paid per month, and the period that the tenant will occupy the property



RENTAL UNIT: the room, apartment, or house that is occupied by the tenant



Terms and Definitions

EVICTION: the process of removing the tenant from the rental unit



LANDLORD & TENANT BOARD: a tribunal that hears disputes between landlords and tenants, and provides orders and remedies





BEGINNING THE TENANCY



Situation 1: Required Deposits & Payments



- ❑ Provides a copy of a lease
- ❑ landlord and tenant sign the lease
- ❑ landlord requires the tenant to pay last month's rent AND a security deposit
- ❑ landlord requires that the tenant leave post-dated cheques

What can landlord require from the tenant?

What should the tenant require from the landlord?



Payment Forms and Required Deposits



What can the landlord require from the tenant?

- Landlord **CAN** require that the tenant pay last month's rent
- Landlord **CANNOT** require that the tenant provide post-dated cheques
- Landlord **CANNOT** require that the tenant pay a security deposit – this is an illegal charge



Rent Receipts

What should the tenant require from the landlord?

- Tenants almost always ask for a **rent receipt!**
 - ▣ Rent receipts can be used as proof of payment in case that landlord accuses the tenant of non-payment





DURING THE TENANCY



Situation 2: Illegal Entry



- ❑ The tenant leaves their rental unit in the morning and returns in the afternoon
- ❑ Tenant finds landlord inside the rental unit
- ❑ Landlord explains that you entered the unit to do an inspection
- ❑ Tenant feels like the landlord should not enter whenever the landlord wishes, but the tenant recognizes that the landlord does own the unit

Can landlord enter the rental unit whenever he wants?



Amount of Notice Required



Can landlord enter the rental unit whenever landlord wants?

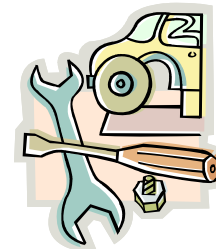
- ❑ landlord has illegally entered the tenant's unit
- ❑ landlord must provide **24 hours written notice** before entering the unit **UNLESS** it is an emergency



Situation 3: Maintenance Issues



- Maintenance issues within the rental unit
 - ▣ Pests, rodents
 - ▣ Mould
 - ▣ No electricity, gas, or hot water
- Landlord will not fix the problem
- Tenant stops paying rent



Can the landlord ignore maintenance problems? Can the tenant refuse to pay rent?

Responding to Maintenance Issues



Can the landlord ignore maintenance problems? Can the tenant refuse to pay rent?

□ Tenant **CANNOT** stop paying rent due to maintenance issues

□ If tenant stops paying, tenant can be evicted

□ Tenant should inform the landlord of the problem immediately and in writing.



Responding to Maintenance Issues



- If the landlord does not fix the problem, the tenant may:
 - ▣ Contact city authorities and collect reports
 - ▣ Collect photos, witnesses, letters from witnesses, letters from the tenant informing the landlord of the problem
 - ▣ Record the dates on which events occurred
 - ▣ File a T6 application at the Landlord & Tenant Board
 - Cost is \$45



Situation 4: Rent Increase



- The tenant's lease expires in 1 month
- The tenant wants to continue to live in the unit, so the tenant wants to re-sign the lease
- Tenant receives a notice from the landlord saying that rent will be increasing by 5%
- Tenant feels like this is a large increase, but tenant does not know if it is illegal

How much can the landlord increase the rent?

Increases in Rent

How much can the landlord increase the rent?

- If the tenant is re-signing the lease in 2009, the legal rent increase is **1.8%**
- The landlord cannot charge higher than this amount without getting permission from the Landlord and Tenant Board
- Also, the landlord must give **90 days** notice of any rent increase



Situation 5: Eviction for Non-payment of Rent



- Tenant has recently lost his/her job
- Tenant cannot pay the rent
- The landlord tells the tenant that the tenant must move out because the rent has not been paid



Does the tenant have to move out?

Eviction Procedure

Does the tenant have to move out?

- If landlord wishes to evict:
 - ▣ He/she must serve N4 notice
 - ▣ **Tenant does NOT have to move out**
 - ▣ Tenant has time to pay rent owing
- Landlord may file L1 application
- Hearing at Landlord and Tenant Board



Decision to Stay or Move



**Does the Tenant want to stay? Or
does the Tenant want to move out?**

If the Tenant wants to move...



- Move out due to N4
- Attend the hearing at the Landlord & Tenant Board
- Tenant will ask the Board to give tenant more time to move out (young children, disability)
- The board will give an order that gives tenant **11 days** until the landlord can give the order to the Sheriff to evict the tenant

If tenant wants to move...

- After the landlord gives the order to the Sheriff, the Sheriff will place the notice on the tenant's door telling the tenant when the tenant has to leave
- The Sheriff will come to the door on that date and change the locks
- Tenant has **72 hours** after that time to collect tenant's property
- The landlord must make the tenant's property available to the tenant between **8 AM to 8 PM** during the 72 hours



If tenant wants to stay...



- ▣ Find a way to pay the rent owing
- ▣ If tenant makes the payment before the date written on the N4, the landlord cannot evict the tenant

If tenant wants to stay...



- If the landlord applies to have the tenant evicted, the Board will order that the tenant pay rent, plus the cost of the landlord's application (\$150)
- The tenant still does not have to move out if the tenant pays that amount before the Sheriff places a notice on the door
- After the Sheriff places the notice on the door, the tenant can still stay if the tenant pays these amounts plus the Sheriff's fee and file a motion to void



MOVING OUT



Situation 6: Deposits to Pay for Damage



- Landlord collected last month's rent at the beginning of the tenancy
- Landlord also collected (illegally) a security deposit at the beginning of the tenancy
- The landlord tells tenant that there has been damage to the rental unit, and that he/she will not return the deposit



Can the landlord keep the last month's rent or security deposit because of damage?

Deposits Used to Pay for Damages



Can the landlord keep the tenant's last month's rent or security deposit because of damage?

- ❑ A last month's rent deposit can only be used to pay for the last month
- ❑ A security deposit is an illegal charge, and cannot be used to pay for damages
- ❑ ALSO, if a last month's rent deposit was paid, the landlord must pay INTEREST on the deposit

Issues Specific to Condominiums



- **Declaration** - Tenant will have to sign tenant's acknowledgment in Declaration
 - **Bylaws** – May stipulate that Landlord cannot use recreational facilities during certain periods (eg. 0-12 months)
 - **Rules** – May require a minimum rental period
- If renting to students you may be violating single-family use
- In most cases the Landlord cannot make alterations or improvements without the consent of the board

Issues Specific to Condominiums



Where a condominium unit owner leases his or her unit to a tenant the rights and responsibilities of the parties are affected under the Condominium Act in the following ways:

S. 51 (6) Owner-occupied units only are entitled to elect one of the directors

S. 83 Notice of lease, terminations of lease and record of notices

□ Within 30 days of entering into the lease or the renewal, as the case may be,

□ (a) notify the corporation that the unit is leased;

□ (b) provide the corporation with the lessee's name, the owner's address and a copy of the lease or renewal or a summary of it in the form prescribed by the Minister; and

□ (c) provide the lessee with a copy of the declaration, by-laws and rules of the corporation.

□ (d) If a lease of a unit is terminated and not renewed, the owner of the unit shall notify the corporation in writing.

S. 87 (1) Tenant is required to pay rent to the condominium corporation when notice is delivered that the owner is in arrears of common expenses

Issues Specific to Condominiums



Where a condominium unit owner leases his or her unit to a tenant the rights and responsibilities of the parties are affected under the Act in the following ways:

S. 119 (1) Tenants are bound by the Act and the condominium documents

S. 119 (2) Owners have to take reasonable steps to ensure their tenants comply with the Act and the condominium documents

S. 119 (3) If actions for enforcement are brought against tenants, Landlords are typically named in the litigation as well. Cost of court may be assessed against Landlord.

S. 134 (4) Court can terminate a tenancy where the court has issued an order and the tenants has not complied or the tenant fails to remit rent pursuant to a notice under S. 87(1)

For more information go to www.ghccci.org

Moving Out

- Towards the end of the lease term, if tenant wants to move out, tenant must give **60 days** notice
- The high rise condominiums have rules when tenants can move in, pre-booking elevators and supplying damage deposits

What Tenant should expect from the Landlord



- Tenant will always collect rent receipts
- If there are maintenance issues, tenant will notify landlord in writing immediately and keep copies of written letters between landlord and tenant
- The landlord cannot evict the tenant without first serving a notice and a hearing at the Landlord & Tenant Board
- The tenant has rights to privacy. The landlord must give 24 hours written notice before entering the unit, unless it is an emergency

What the Landlord will expect of the Tenant



- Tenant will keep the rental unit clean
- Tenant will pay the rent on time
- Tenant will not damage the rental unit
- Tenant will not cause disturbances for other tenants

Call Us for More Information

Please contact Hussein A. Hamdani – SimpsonWigle Law LLP:

- 200-1 Hunter Street East, Hamilton, Ontario L8N 3W1
Tel: **(905) 528-8411 Ext. 336** Toll Free: 1(800)434-4414
- hamdanih@simpsonwigle.com
- www.simpsonwigle.com