



MODULE 3

RENTAL HOUSING

OVERVIEW

This module invites students to understand how to rent an apartment and what factors impact the rental process for landlords and tenants. Renting is simply the granting of a right to possession of a space in exchange for money and subject to rules (be they imposed by the government, the community, the building or the landlord). Rental laws in Canada are mostly governed by the provincial laws and although alike, will differ in each province. This module introduces students to residential lease transactions and rental housing law in Ontario. Students will look at legislation that governs rental housing law, including the rights and responsibilities outlined in Ontario's *Residential Tenancies Act*. Students will have the opportunity to engage in experiential learning through a mock rental agreement negotiation where they will create a negotiation plan, as either landlords or tenants.

Learning Objectives

- To expose students to basic concepts relating to residential lease transactions.
- To enhance students' understanding of the rights and responsibilities of landlords and tenants, the Landlord and Tenant Board, and the law related to residential housing law in Ontario.
- To cultivate student listening, speaking, reasoning, and persuasive skills.
- To enhance students' critical-thinking and advocacy skills.

Materials

- Copies of *Rental Housing in Ontario* (one per student)
- Copies of the *Confidential Instructions for Landlord* (one for each landlord)
- Copies of the *Confidential Instructions for Tenant* (one for each tenant)
- Copies of the *Negotiation Timeline* (one per student)
- Copies of the *Negotiation Plan* (one per student)
- Copies of or on-line access to the Residential Tenancy Agreement (Standard Form of Lease); available at [http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/GetFileAttach/047-2229E~1/\\$File/2229E.pdf](http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/GetFileAttach/047-2229E~1/$File/2229E.pdf) (one per pair)

Teaching and Learning Strategies

1. Activate students' knowledge of this topic by having them complete a line up activity with one or more of the following statements. Instruct students to stand in a line, listen to the statement and step forward if they believe the statement is true and backward if they believe it is false. Ask students to give reasons for their answers and discuss as a class.
 - 1) A rental agreement is not the same thing as a lease.
 - 2) A tenant has the right to negotiate with a landlord to determine the amount of rent and services provided in the rental agreement.
 - 3) A tenant is allowed to change the locks on the rental unit without telling his/her landlord.
 - 4) If a landlord fails to make a repair to the rental unit, the tenant is allowed to withhold rent until the repair is made.
 - 5) In most cases, a landlord must provide a tenant with 24 hours notice before entering the rental unit.
 - 6) A tenant must provide his/her landlord with 30 days notice if they want to move out of the rental unit.
 - 7) A landlord can demand a damage deposit from the tenant when they rent a place.



- 8) A landlord may demand that a tenant leave the rental unit at any time.
- 9) A landlord can increase the amount of the rent at any time.

Teacher's Key

- 1. F – A rental agreement between a landlord and tenant is commonly referred to as a lease or tenancy agreement.
- 2. T – Landlords and tenants are free to negotiate their initial tenancy agreements in the same way two parties negotiate any other contract under the common law. Parties have the freedom to negotiate the amount of rent that is paid, the services included, and the provision of any other services at any time in the landlord-tenant relationship. A landlord is limited in rent increases with an existing tenant.
- 3. F – Tenants cannot change the locks on a door that gives entry to the rental unit unless the landlord agrees. Tenants cannot add locks that might prevent the landlord access in an emergency or for valid reasons.
- 4. F – A tenant is not entitled to withhold rent. If a tenant does, the landlord can give the tenant notice of termination for non-payment of rent and then file an application to evict the tenant. There are other options for dealing with repair issues. For example, the tenant could seek assistance from the Landlord and Tenant Board.
- 5. T – In most cases, before entering the unit, a landlord must give 24 hours written notice. There are some exceptions, however, such as in the case of an emergency or if the tenant agrees to allow the landlord to enter.
- 6. F – If a tenant wishes to terminate a tenancy, s/he must provide the landlord with at least 60 days notice of his/her intention to move out at the end of the tenancy. See "*Terminating a Tenancy*" later in this Module.
- 7. F – Landlords are limited in the security deposits they may request. The last month's rent deposit is strictly for the rent payable on the last month and cannot be applied to other uses.
- 8. F – The landlord may only terminate a rental agreement for limited reasons set out in the *Residential Tenancies Act 2006* (i.e., non-payment of rent) and even when permitted, the landlord must obtain an order to evict the tenant and cannot use self-help remedies.
- 9. F – The government has set strict rules about rent increases once the rental agreement is in place and generally limits increases to once every 12 months and may prescribe the amount of the increase.

Teaching and Learning Strategies

2. Using either a teacher- or student-centred reading strategy, have students review the handout, *Rental Housing in Ontario*. Check for understanding and clarify any points that are unclear.
3. Explain to students that they are going to be completing a mock negotiation of a residential lease agreement. Organize students into pairs, with one person playing the role of the landlord and the other the tenant. Distribute the *Negotiation Timeline*, *Negotiation Plan*, and *Residential Agreement to Lease* to each pair and review the documents with students, explaining the timeline for the activity as well as important terms such as: monthly rent; occupation date; term of lease; what is included; what is not included, etc. Explain to students that they will complete the *Residential Agreement to Lease* document in pairs once they have negotiated the final terms of the agreement.
4. Distribute the *Confidential Instructions for Landlord* separately to students playing the role of landlord, John Smith, and the *Confidential Instructions for Tenant* to students in the role of tenant, Vera Stevens. You may choose to review the scenario together as a class or have students review it on their own.
5. Before beginning the negotiation, give students time to develop their negotiation strategy and tactics, and complete all portions of the *Negotiation Plan* with the exception of the section on the final agreement. Have students refer to the *Introduction to Negotiation* handout from Module 2 as needed.
6. Have students negotiate the lease agreement using the strategies, tactics, and techniques they have learned about. Follow the *Negotiation Timeline* and give students about 30 minutes to complete the negotiation and *Residential Agreement to Lease*. Once they are finished, they should also complete the final portion of the *Negotiation Plan*.
7. Take up the activity as a class, noting points of similarity and difference between groups in terms of final agreements, strategies, and techniques. Optionally, circulate all of the *Negotiation Plans*, and have all students who represented the landlord, and all those who represented the tenant, vote for one. There will be many different results which will help highlight that there is no right answer to a negotiation but rather the answer is an agreement by the parties, which satisfies them. A discussion about “buyers remorse” might be appropriate. Once decisions are made and an agreement achieved, parties often start to second guess themselves once they speak to others who may criticise their decision. This highlights the importance of having every decision maker and possible influencer participate in the negotiations and the importance of properly preparing by considering all options before the actual negotiations.
8. As an optional follow up, have students write a reflection on their negotiation, commenting on their strengths, weaknesses, and what they would have done differently. Students should discuss both the appropriateness of their overall strategy as well as the tactics and techniques they used or should have used.

Extension

Enhance students’ understanding of residential housing transactions by having them complete the Landlord and Tenant Board Mock Hearing Scenario: *In the matter of 159 Alexander Street, Unit 5B, Between: John Smith and Vera Stevens*, available at: <http://ojen.ca/resource/2464>.





MODULE 3

RENTAL HOUSING IN ONTARIO

In Ontario, landlord and tenant rights and obligations are governed by the *Residential Tenancies Act 2006 (the Act)*¹. This legislation gives landlords and tenants specific rights and responsibilities, provides rules for increasing rent and for evicting a tenant, and creates the Landlord and Tenant Board (LTB).

The *Act* applies to most rental housing in Ontario. You are likely to be covered by the *Act* if you:

- Rent an apartment or a house;
- Rent the site that your mobile home or land lease home sits on;
- Are a roomer or a boarder and do not share a kitchen or bathroom with the owner or a close family member of the owner;
- Live in a “care home”, (e.g., retirement home or rest home); or
- Live in public housing, or, if your rent is subsidized or based on your income.

Some rental housing is not covered by the *Act*. For example, you might not be covered if you:

- Live in a place that is used for business;
- Share a kitchen or bathroom with the owner or a close family member of the owner;
- Stay temporarily in a hotel, motel, or seasonal housing;
- Live in certain kinds of student housing;
- Stay somewhere temporarily for rehabilitation; or
- Are a member of a housing co-operative.²

Tenants are also affected by *Ontario's Human Rights Code*, which protects people from discrimination in a number of areas, including when they are looking for an apartment and when they are dealing with their landlord.³

RENTING A NEW PLACE

WHAT IS A RENTAL AGREEMENT?

A rental agreement is a legal contract between a landlord and tenant in which the tenant agrees to pay rent for the right to live in a rental unit provided by the landlord. The rental agreement between a landlord and tenant is commonly referred to as a “lease” or “tenancy agreement.” It outlines how much rent will be paid for the unit and the landlord and tenant may also promise to do certain things for each other, and to follow certain rules.

The *Act* states that a tenancy agreement can either be oral or written.⁴ However, it is generally better to have a written agreement because it creates a record of the things agreed to by the landlord and tenant. If there is a dispute later on, the written agreement may clarify the obligations held by the tenant and landlord and help to settle the dispute.

¹ *Residential Tenancies Act*, SO 2006, c 17 [Act]. A copy of the Act and regulations can be found here: <<https://www.ontario.ca/laws/statute/06r17>>.

² “Renting a Place to Live” (May 2014), online: Community Legal Education Ontario <http://www.cleo.on.ca/sites/default/files/book_pdfs/rent-en.pdf>.

³ For more information, refer to Module 6: Housing and Human Rights.

⁴ *Act*, *supra* note 1, s 1(2).



WHAT SHOULD BE INCLUDED IN A RENTAL AGREEMENT?

As of April 30, 2018, the government requires that all rental relationships be evidenced by a standard lease document.⁵

The government created a standard form of lease for all landlords and tenants to use, which can be accessed at <http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/FormDetail?OpenForm&ACT=RDR&TAB=PROFILE&SRCH&ENV=WWE&TIT=2229E&NO=047-2229E>.

If another form of lease is used for a tenancy created after April 30, 2018, the tenant may ask for the standard form of lease and the landlord has 21 days to provide a lease on the standard form. If the landlord does not deliver the standard lease with 21 days of the request, the tenant may withhold one month's rent. If the landlord fails to provide the standard lease with 30 days after the tenant has begun withholding the rent, the tenant does not have to pay the one month's rent, but no further rent may be withheld. Although the tenant must then continue to pay rent, the tenant may give 60 days' notice to terminate a yearly or fixed-term tenancy early.

Any rules that are included in the lease must also be permitted under the *Act* or they will not be enforceable by the LTB if there is a dispute between the landlord and tenant.⁶ If the rental unit is part of a condominium, the rules of the condominium corporation must also be observed by the landlord and tenant.

If the rental agreement is in writing, it is important to read it carefully and ensure that you understand all of the terms of the agreement before signing it.

RIGHTS AND RESPONSIBILITIES

Under the *Act*, both landlords and tenants have rights and responsibilities. A landlord must provide all new tenants with information about the rights and responsibilities of landlords and tenants, the role of the LTB and how to contact the LTB.⁷ The LTB produces a brochure called *Information for New Tenants* that landlords must provide to new tenants on or before the day the tenancy begins.⁸

⁵ "Information for New Tenants" (April 2018), online: Landlord and Tenant Board <<http://www.sjto.gov.on.ca/documents/lrb/Brochures/Information%20for%20New%20Tenants.html>>.

⁶ *Act*, *supra* s 4.

⁷ *Ibid*, s 11(1).

⁸ *Ibid*, s 11(2).



TENANTS

Rights

- **Security of Tenancy** – Tenants are allowed to live in the rental unit until they provide the landlord proper notice that they intend to move out, come to an agreement with the landlord that the tenant can move, or the landlord gives the tenant a notice to end the tenancy for a reason allowed by the *Act*. A tenant does not have to immediately move if the landlord gives them notice to end the tenancy. The landlord must apply to the LTB to get an order to evict the tenant. The tenant has the right to attend a hearing and explain why the tenancy should not end.
- **Privacy** – A landlord can only enter the rental unit for the reasons allowed by the *Act*. In most cases, before entering the unit, the landlord must give 24 hours written notice. There are some exceptions, however, such as in the case of an emergency or if the tenant agrees to allow the landlord to enter.
- **Negotiate with Landlords** – Landlords and tenants are free to negotiate tenancy agreements in the same way two parties negotiate any other contract under the common law. Parties have the freedom to negotiate the amount of rent that is paid,⁹ the services included, and the provision of any other services at any time in the landlord-tenant relationship.¹⁰

Responsibilities

- **Paying Rent on Time** – Rent is considered late if not received by the end of the day that it is due.¹¹ If rent is not paid on time, the landlord may give the tenant a Notice to End a Tenancy Early for Non-Payment of Rent (Form N4). This notice gives the tenant who pays rent monthly 14 days to pay rent or to move out.¹² If the rent is not paid and the tenant has not vacated the unit, the landlord can make an application to the LTB for an order requiring the payment of the arrears and evicting the tenant if the entire payment is not received by a specified deadline.¹³ If a tenant is repeatedly late paying rent, the landlord may give a Notice to Terminate a Tenancy at the End of Term (Form N8) for persistently paying rent late. Daily or weekly tenants must be given 28 days' notice and in all other cases, the tenant must be given 60 days' notice.¹⁴ The landlord can apply to the LTB for an order to evict the tenant after giving the tenant the notice.¹⁵ If a tenant's rent cheque is returned Non-Sufficient Funds (NSF), the landlord may ask the tenant to pay for the charges the landlord's bank has invoked, plus an administrative charge of up to \$20.¹⁶

⁹ Although the parties are free to set the amount of rent, they cannot agree to a higher amount than any maximum outlined by legislation.

¹⁰ As provided by section 17, other than as provided for in the *Act*, landlords and tenants are free to negotiate tenancy agreements in the same way two parties negotiate any other contract under common law. Section 113 of the *Act* stipulates that lawful rent for a new tenant is whatever the two parties agree upon. Section 123 provides the parties with freedom to negotiate the provision of any other services at any time in the landlord-tenant relationship.

¹¹ The *Act* does not define when rent becomes due. Rather, this is determined by the terms of the tenancy agreement, which is interpreted according to the laws of contract.

¹² *Act*, *supra* note 1, s 59(1)(b).

¹³ "If a Tenant Does not Pay Rent" (1 July 2015), online: Landlord and Tenant Board <[http://www.sjto.gov.on.ca/documents/ltb/Brochures/If%20a%20Tenant%20Does%20Not%20Pay%20Rent%20\(EN\)%20Revised_Bill140_June15_2015.pdf](http://www.sjto.gov.on.ca/documents/ltb/Brochures/If%20a%20Tenant%20Does%20Not%20Pay%20Rent%20(EN)%20Revised_Bill140_June15_2015.pdf)>.

¹⁴ *Act*, *supra* note 1, s 44.

¹⁵ *Ibid*, s 69(1).

¹⁶ *Ibid*, s 87(5); O Reg 516/06, s 17 at para 5 [ON Regulation].



TENANTS

Rights	Responsibilities
	• Keeping the Rental Unit Clean – The <i>Act</i> is vague on what constitutes clean,¹⁷ however common sense prevails. A tenant is responsible for repairing damage and failing to clean might, in fact, result in damages to the unit. • Repairing any Damage to the Rental Property Caused by the Tenant or their Guests – A tenant is not responsible for “normal wear and tear” to a unit (e.g., carpet usage), however if the floors are never cleaned causing the carpets to be replaced sooner than normally required would be considered damage for which the tenant is liable. TENANTS ARE NOT ALLOWED TO: • Withhold Rent – A tenant is not entitled to withhold rent.¹⁸ If a tenant does, the landlord can give the tenant notice of termination for non-payment of rent¹⁹ and then file an application to evict the tenant.²⁰ There are other options for dealing with problems. • Change the Locks – Tenants cannot change the locks on a door that gives entry to the rental unit unless the landlord agrees.²¹ Tenants cannot add locks that might prevent the landlord access in an emergency or for valid reasons.

¹⁷ *Act*, *supra* note 1, s 33.

¹⁸ This rule is not explicitly stated in the *Act*. Rather, sections 58 and 59 simply state that non-payment of rent is due cause for the landlord to give the tenant notice of termination. The *Act* doesn't create any exceptions to this rule.

¹⁹ *Ibid*, s 58(1) at para 1.

²⁰ *Ibid*, s 59(1).

²¹ *Ibid*, s 35(1).



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Rights

- **Set the Rental Amount** – When the unit is vacant, the landlord can set the rental amount. The landlord can negotiate with the new tenant, including deciding what the rental amount is and what services are or are not included (e.g., hydro, parking, etc.).
- **Ask for Personal Information** – When a tenant applies to rent a unit, a landlord can ask the applicant to provide information such as current residence, rental history, employment history, personal references, and income information (if credit references and rental history information are also requested).²² The *Ontario Human rights Code* has special rules about asking for information about the income of a prospective tenant, and landlords must follow them.²³
- **Collect a Rent Deposit** – A landlord is only permitted to collect a rent deposit if it is requested on or before they enter into the tenancy agreement.²⁴ The deposit cannot be more than one month's rent or the rent for one rental period, whichever is less.²⁵ A rent deposit can only be applied to the last month's rent before the tenancy ends and cannot be used to pay damages or anything else.²⁶ The landlord must pay interest on the deposit every 12 months equal to the rent increase guideline that is in effect when the interest is due.²⁷ The landlord can request that the tenant update the deposit amount after a rent increase in order that the deposit is the same as the amount of the new rent.²⁸

Responsibilities

- **Maintenance and Repairs** – Landlords are obligated under the *Act* to keep the rental property in a good state of repair and obey health, safety, and maintenance standards. This could include repair and maintenance of items such as electrical, plumbing or heating systems, appliances, carpets in the unit or common areas, walls, roofs, ceilings, windows, doors, locks, lighting, garages, laundry rooms, patios, walkways, or pools. If something no longer works because of normal “wear and tear,” the landlord must repair it so that it works properly, or replace it. When something is replaced, however, the landlord does not have to supply a new or better model.²⁹
- **Providing Tenants with the Tenancy Agreement** – Landlords must provide a copy of the written tenancy agreement within 21 days of the tenant signing the agreement. If the tenancy agreement is not in writing, landlords must give written notice of their legal name and address within 21 days of the tenancy commencing.
- **Heating Requirements** – If a landlord provides heat, the *Act* requires the landlord to keep the heat to at least 20 degrees Celsius from September 1 to June 15.³⁰ In addition, many municipalities have their own property standards or by-laws that set minimum standards for heat.

²² *Ibid*, s 10.

²³ See “Human Rights for Tenants” (2011), online: Ontario Human Rights Commission <<http://www.ohrc.on.ca/en/human-rights-tenants-brochure>>.

²⁴ *Act*, supra note 1, s 106(1).

²⁵ *Ibid*, s 106(2).

²⁶ *Ibid*, s 106(10).

²⁷ *Ibid*, s 106(6).

²⁸ *Ibid*, s 106(3).

²⁹ This is a complex matter. See generally “Maintenance and Repairs” (31 January 2007), online: Landlord and Tenant Board <[http://www.sjto.gov.on.ca/documents/lrb/Brochures/Maintenance%20and%20Repairs%20\(EN\).pdf?20b805](http://www.sjto.gov.on.ca/documents/lrb/Brochures/Maintenance%20and%20Repairs%20(EN).pdf?20b805)>.

³⁰ *ON Regulation*, supra note 17, s 4(1)-(3).



LANDLORDS

Rights	Responsibilities
• Collect a Key Deposit – A landlord is allowed to get a key deposit provided: (1) the deposit is refundable, and (2) the amount of the deposit is not more than the expected cost of replacing the key(s) if they are not returned to the landlord.³¹ The key deposit is refunded at the end of the tenancy on the return of the key(s).³² • Change the Locks – A landlord can change the locks while the tenant is living in the unit provided they give the tenant a key for the new lock.³³ Once a tenant is evicted, the landlord can change the lock, even if the tenant has left property in the unit and is not required to give the tenant a key.³⁴ • Increase the Rent – There are special rules that limit how often a landlord can increase the rent and by how much. In most cases, a landlord can increase the rent only once a year by the guideline that is set by the Minister of Municipal Affairs and Housing.³⁵ A landlord must give a tenant at least 90 days notice in writing of any rent increase and this notice must be on the proper form. New units, non-profit and public housing units, residences at schools, colleges and universities, and certain other accommodation are not covered by all the rent rules.	• Enter the Unit without Notice – The Act only allows a landlord to enter a tenant's unit under specific circumstances.³⁶ In most cases, the landlord must first give the tenant 24 hours written notice, stating when they will enter and for what reason. There are exceptions, such as in case of an emergency or if the tenant agrees to allow the landlord to enter the unit. The tenant is not allowed to refuse if the Act permits the entry or the landlord may give a notice of termination.³⁷ • Shut Off or Deliberately Interfere with the Supply of a Vital Service – Landlords cannot shut off or interfere with vital services such as heat, electricity, fuel, gas, or hot or cold water that the landlord must provide under the tenancy agreement. However, a landlord is allowed to shut-off services temporarily if this is necessary to make repairs. • Take a Tenant's Personal Property – A landlord cannot take a tenant's personal property for refusal to pay rent while the tenant is still living in the unit. • Lock out a Tenant – A landlord can only lock out a tenant if they have an eviction order from the LTB and the Sheriff comes to the rental unit to enforce it. • Insist that Rent is Paid by Post-Dated Cheque or Automatic Debit – A landlord can suggest a preferred method of payment, but a tenant cannot be refused a rental unit or evicted for refusing to pay rent by that means. • Collect a Damage Deposit – The landlord cannot collect a deposit to satisfy any damages caused to the unit during the tenant's tenure, nor apply the rent deposit.³⁸ If damage is caused to the unit, the landlord can give the tenant a notice asking that the damages be paid. If the tenant does not pay, the landlord may apply to have the LTB determine if there are damages and what should be done about them.³⁹

³¹ ON Regulation, *supra* note 17, s 17 at para 3.

³² *Ibid.*

³³ Act, *supra* note 1, s 24.

³⁴ If a landlord recovers possession the rental unit, he or she may change the locks and deal with any abandoned property according to the directions in the Act, *supra* note 1. Section 39 governs recovering possession of a unit; sections 41 and 42 deal with abandoned property.

³⁵ Act, *supra* note 1, ss 116-117.

³⁶ Act, *supra* note 1, ss 25-27.

³⁷ *Ibid.*, s 36.

³⁸ *Ibid.*, s 106(1). See also "A Guide to the Residential Tenancies Act" (31 January 2007), online: Landlord and Tenant Board <[http://www.sjto.gov.on.ca/documents/Ltb/Brochures/Guide%20to%20the%20Residential%20Tenancies%20Act%20\(EN\).pdf?20b805](http://www.sjto.gov.on.ca/documents/Ltb/Brochures/Guide%20to%20the%20Residential%20Tenancies%20Act%20(EN).pdf?20b805)> (see the "About Rent" section).

³⁹ Act, *supra* note 1, s 89(1).



TERMINATING A TENANCY

The *Act* has rules on how both tenants and landlords can end a tenancy.

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If a tenant wishes to terminate their tenancy, they must provide the landlord with at least 60 days notice of their intention to move out at the end of the tenancy.⁴¹ A tenant cannot terminate the tenancy prior to the end of their lease without the landlord's consent.⁴² If the landlord does not consent, the tenant may assign the unit to a new tenant with the landlord's consent. Here, the tenant would have two options: they could either *sublet* or *assign* the tenancy to another tenant. Under a **sublet**, the original tenant remains fully liable to the landlord whereas in an **assignment** all of the tenant's obligations remain the same and are passed on to the new tenant. Although a landlord cannot reject the idea of subletting, the landlord can refuse to consent to the new tenant if they have a good reason.⁴³ If the tenant sublets or assigns the unit without the landlord's consent, the landlord may file an application with the LTB to evict both the tenant and the unauthorized occupant. If the landlord does not file within 60 days of discovering the unauthorized occupant, the unauthorized occupant will become a tenant.⁴⁴

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Generally, before a landlord can apply to the LTB to evict a tenant, they must provide the tenant with a Notice of Termination that tells the tenant what the problem is.⁴⁵ For some termination notices, the landlord must wait a specific number of days to see if the tenant corrects the problem before they can file an application with the LTB. The number of days the tenant has to correct the problem is set out in the notice. If the tenant does not correct the problem or move out, the landlord can file an application with the LTB and, in most situations, a hearing will be scheduled for the parties to appear and explain themselves. Some types of applications can be made without notice to the tenant and the LTB may issue an order without holding a hearing. Contrary to popular belief, there is no restriction against evicting a tenant during the winter or any other time of the year. The landlord may evict a tenant at the end of the term, even if the tenant has done nothing wrong, or during the term where the tenant has breached a provision of the tenancy agreement.

WHEN CAN A LANDLORD EVICT A TENANT?

- **Eviction for Having a Pet** – A tenant cannot be evicted simply for having a pet.⁴⁶ However, a tenant may be evicted for having a pet in their unit if the pet is making too much noise, damaging the unit, or causing an allergic reaction, or the animal or species is considered to be inherently dangerous.⁴⁷ Furthermore, a condominium that has a "no pet" rule can force the tenant to remove the pet from the unit or move out.⁴⁸

⁴⁰ How a Tenant Can End Their Tenancy" (31 January 2007), online: Landlord and Tenant Board <[http://www.sjto.gov.on.ca/documents/lrb/Brochures/How%20a%20Tenant%20Can%20End%20Their%20Tenancy%20\(EN\).pdf](http://www.sjto.gov.on.ca/documents/lrb/Brochures/How%20a%20Tenant%20Can%20End%20Their%20Tenancy%20(EN).pdf)>.

⁴¹ *Act*, *supra* note 1, s 44(1)-(4). 28 days' notice is required in the case of a daily or weekly tenancy. The termination date must be the last day of the tenant's rental period or their lease, even if more than the notice period required.

⁴² *Ibid*, s 47.

⁴³ *Ibid*, s 95(5).

⁴⁴ *Ibid*, s 100(2).

⁴⁵ See different types of Notices available online at: <http://www.sjto.gov.on.ca/lrb/forms/>

⁴⁶ *Act*, *supra* note 1, s 14.

⁴⁷ "How a Landlord Can End a Tenancy" (1 July 2015), online: Landlord and Tenant Board <[http://www.sjto.gov.on.ca/documents/lrb/Brochures/How%20a%20Landlord%20Can%20End%20a%20Tenancy%20\(EN\)%20Revised_Bill140_June15_2015.pdf?20b805](http://www.sjto.gov.on.ca/documents/lrb/Brochures/How%20a%20Landlord%20Can%20End%20a%20Tenancy%20(EN)%20Revised_Bill140_June15_2015.pdf?20b805)>.

⁴⁸ Under the *Condominium Act*, SO 1998, c 19, s 58, a condominium board may pass rules as long as they are reasonable and for the purpose of protecting the property, security, and welfare of residents and guests. Generally, this section allows condominiums to pass rules restricting pets so long as they are reasonable and consistently applied. See also *Durham Standard Condominium Corp No 187 v Morton*, 2012 ONSC 161, 14 RPR (5th) 300 and *Niagara North Condominium Corp No 125 v Kinslow*, 2007, 2007 CanLII 49188 (ONSC), CarswellOnt 7444 (Ont Sup Ct J).



- **Eviction for Having a Roommate** – A tenant cannot be evicted simply for having a roommate.⁴⁹ However, a tenant may be evicted if the roommate is causing a problem for the landlord or for other tenants (e.g., excessive noise, damaging the unit, overcrowding).⁵⁰ Landlords may seek enforcement of overcrowding rules and have persons who are not on the lease removed or the rental agreement terminated early if there are too many people living in the apartment.⁵¹ Also, condominiums may provide in their Declaration to renters that the unit may only be used for “Single Family Use.” Such Declarations may prohibit renting to unrelated parties, and these restrictions are often determined by Courts not to infringe the *Ontario Human Rights Code* (which you will learn about in Module 6).
- **Eviction for Landlord’s Own Use** – A tenant can be evicted at the end of their tenancy if the landlord “in good faith” requires the unit for a period of at least one year for:
 1. Their own use,
 2. The use of an immediate family member, or
 3. The use of a person who will provide care services to the landlord or a member of the landlord’s immediate family, if the person who will be receiving the care services lives in the same building or complex.⁵²

As of September 1, 2017, only a landlord who is an individual may evict for this purpose. Tenants in units owned by a corporation cannot be evicted. In addition, a landlord must compensate the evicted tenant in the amount of one month’s rent or offer the tenant another unit acceptable to the tenant.
- **Eviction to Sell the Unit** – A tenant can be evicted at the end of their tenancy if the landlord has agreed to sell the rental property that contains no more than three residential units and the purchaser requires the rental unit for: (1) their own use, (2) the use of an immediate family member, or (3) the use of a person who will provide care services to the landlord or a member of the landlord’s immediate family, if the person who will be receiving the care services lives in the same building or complex.⁵³
- **Abandoned Unit** – A landlord should make reasonable efforts to contact the tenant to determine if they have in fact left the unit (e.g., write or call them). If the landlord believes the tenant has abandoned the unit, the landlord may apply to the LTB for an order terminating the tenancy.⁵⁴ If the landlord rents the unit to another tenant without the order, the tenant who has not abandoned the unit may take legal action against the landlord.⁵⁵ There are special rules that a landlord must follow before disposing of any property a tenant has left in an abandoned unit.⁵⁶

⁴⁹ The term “roommate” is not used in the Act, *supra* note 1. However, having guests and other occupants visit or stay in a unit may be categorized as a tenant’s right to reasonable enjoyment of the rental unit. See “Guideline 21: Landlords, Tenants, Occupants and Residential Tenancies” (6 January 2012), online: Landlord and Tenant Board <<http://www.sjto.gov.on.ca/documents/Ltb/Interpretation%20Guidelines/21%20-%20Landlords,%20Tenants,%20Occupants%20and%20Residential%20Tenancies.pdf>>.

⁵⁰ The tenant’s right to reasonable enjoyment must be balanced with the landlord’s and other tenants’ rights. Therefore, the Act, *supra* note 1, s 64(1) permits a landlord to give a tenant notice of termination if the tenant or another occupant is interfering with the “lawful right, privilege, or interest of the landlord or another tenant.”

⁵¹ The landlord may give a “N5 Notice,” i.e., a notice to end tenancy, if the number of people living in the rental unit is more than permitted by health, safety or housing standards. See “Notice to End Tenancy For Interfering with Others, Damage, or Overcrowding” (form), online: Landlord and Tenant Board: <<http://www.sjto.gov.on.ca/Ltb/forms/>>.

⁵² Act, *supra* note 1, s 48(1).

⁵³ *Ibid*, s 49(1).

⁵⁴ See the Landlord and Tenant Board, online: <<http://www.sjto.gov.on.ca/Ltb/faqs/>> (see the “Abandoned Unit” section).

⁵⁵ Act, *supra* note 1, s 41(6); *Ibid*.

⁵⁶ Act, *supra* note 1, s 42; “Property Left Behind When a Tenant Moves Out” (4 January 2010), online: Landlord and Tenant Board <[http://www.sjto.gov.on.ca/documents/Ltb/Brochures/Property%20Left%20Behind%20When%20a%20Tenant%20Moves%20Out%20\(EN\).pdf?20b805](http://www.sjto.gov.on.ca/documents/Ltb/Brochures/Property%20Left%20Behind%20When%20a%20Tenant%20Moves%20Out%20(EN).pdf?20b805)>.



WHAT SHOULD A TENANT DO AFTER RECEIVING A NOTICE OF TERMINATION?

The tenant should first read the Notice to see why and when the landlord is asking him/her to vacate. The Tenant may:

- Talk to the landlord to see if he/she can correct the problem by any other means;
- Leave the unit as directed in the Notice;
- Call the LTB's call centre to learn more about the eviction process and/or get some legal advice from a lawyer or legal clinic;
- Attend the LTB's mediation session to attempt to mediate a solution with the landlord; or
- Stay in the unit and see if the landlord files an application with the LTB. If an application is filed, the tenant can attend the hearing and explain his/her situation to the LTB and follow any order it renders.⁵⁷

⁵⁷ See *Act, supra* note 1, ss 80-85 for rules about eviction and the Board's orders.



MOCK RENTAL AGREEMENT NEGOTIATION

CONFIDENTIAL INSTRUCTIONS FOR LANDLORD

You will work in pairs to complete a mock negotiation of a residential tenancy agreement. One student will play the role of the landlord and the other will play the role of the tenant. Review the scenario and confidential facts below. Before beginning the negotiation, take time to develop your negotiation strategy and tactics, and record the details in the *Negotiation Plan*. Negotiations are always more successful if undertaken after considering what is at stake, what the options are, and what strategies might be best. Complete all portions of the *Negotiation Plan* with the exception of the 'Final Negotiation Agreement' section. You may want to refer to the *Introduction to Negotiation* handout from Module 2. When both parties are ready, begin the negotiation. The goal is to finalize the terms of your residential tenancy agreement and record the details in the *Residential Agreement to Lease*.

SCENARIO

Mr. John Smith is the owner and landlord of a townhouse complex at 159 Alexander Street that contains multiple apartments. His last tenant moved out one month ago and he has since completely cleaned and refreshed Unit 5B, a three-bedroom apartment, and posted a 'FOR RENT' sign in the window. He has also posted the rental unit online and on the bulletin boards at the local supermarket and community centre. The unit is advertised for \$1600 per month including outside parking, plus utilities.

Ms. Vera Stevens needs to find a new apartment for her and her three sons. She contacted a real estate agent to help her identify appropriate places for her. Her friend, Naomi Trainer, has found the listing online and recommends that Ms. Stevens go view it. Although this is not a listed apartment, the agent agrees to go with Ms. Stevens to see it.

SPECIAL FACTS

- Your name is John Smith.
- You have been the owner of a complex of ten townhouses for the past 10 years.
- You make a decent income from renting nine of the units out to various tenants, while keeping one of the units as your home and office.
- During the past 10 years, you have negotiated many leases with various people for your units.
- You have advertised the three-bedroom unit for \$1600 per month, including parking for one vehicle and water. For a good tenant, you are prepared to rent the unit for as little as \$1500. Heating and electricity are additional costs, which the tenant must pay directly. Your experience is that the heating and electricity cost is \$425 per month on average.



MOCK RENTAL AGREEMENT NEGOTIATION

CONFIDENTIAL INSTRUCTIONS FOR TENANT

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SPECIAL FACTS

- Your name is Vera Stevens.
- You are 39 years old and a single mother of three boys ages 12, 15, and 17.
- Following your divorce, you and your sons decided to move into a bigger place that gave your teenage boys more space.
- You wish to find a new apartment that is closer to your work and the boys' school.
- Upon seeing the three-bedroom unit, you are happy that it will suit your purposes and that it is in a convenient location for your transportation requirements.
- You cannot pay more than \$1500 per month in rent and more than \$500 in utility payments.
- You need to move in within one month's time.
- You have a car and need a parking space.



NEGOTIATION TIMELINE*

Preparing for the Negotiation		
Develop Your Negotiation Plan	Each student (landlord and tenant) individually completes their Negotiation Plan.	10 mins
Landlord & Tenant Negotiation		
Step 1	The landlord and tenant should set out the issues to be discussed and negotiated.	5 mins
Step 2	The landlord and tenant meet to discuss the available unit and the rental details. The students negotiate the terms under which they will agree to rent the unit. During this stage, generate settlement proposals that satisfy the interests of both parties. Agree to the identified issues individually or as a package.	20 mins
Step 3	Put the agreed points for the rental of the unit into the Residential Agreement to Lease for the parties to sign. Have both the landlord and the tenant sign the agreement with the teacher or another student signing as the witness.	5 mins
Debrief		
Class Discussion	Debrief with the whole class by comparing the results of the negotiations. There will be many different results which will help highlight that there is no right answer to a negotiation but rather the answer is an agreement by the parties, which satisfies them.	15 mins

*Times are approximate/suggested. Sometimes the negotiation process can lead to an agreement at the first meeting, but often this meeting lasts several hours or longer. Depending on the complexity of the case, it can also take many meetings before an agreement is reached.



NEGOTIATION PLAN

OBJECTIVES/ISSUES:

OVERALL STRATEGY:

TACTICS AND TECHNIQUES:

OFFERS:

Opening Offer	Target	Bottom Line

FINAL NEGOTIATION AGREEMENT:

