

Tenants Rights During COVID-19

OTTAWA ACORN



Introductions – Norma

- Wave your hands if you're from x neighbourhoods!

Zoom Ground Rules – Kowsar

- To avoid background noise, we'll keep people on mute until there's a group discussion after each section
- If you are here online with Zoom, please use the chat to ask any questions. We have law students from the University of Ottawa who will be helping answering questions today
- We will mute people if there's more than one person talking and then call on people to speak one at a time
- If you're joining by phone it's *6 to unmute but please only unmute during group discussion

What is ACORN- Trish

- We're a community and tenant union of low and moderate income families
- We work on a lot of issues like tenants rights, payday lending, affordable housing, disability and a whole lot more!
- We are a **local, national, and international** organization with groups across the country and beyond!
- We're a **member driven organization**, meaning we don't rely on money from government or corporations so we can stay independent
- We're primarily funded by membership dues and individual donations so we can support our campaigns, stay independent and hold governments accountable when we have to
- Membership dues gives you a say in what's important like what issues we work on and how
- We are **32,000 members strong in Ottawa and Gatineau and 140,000 strong across Canada**
- If you're not a member yet, join today! Let us know in the chat if you want to become a member!

SECTION 1: Evictions and Bill 184

Issues: Norma

- Eviction notices for non-payment of rent
- Bill 184
- Harassment
- Tenants facing illegal lockouts

MY LANDLORD JUST SERVED ME AN N4 NOTICE HELP! – Abdoul

- **You don't have to move out.** This notice is a warning. It is only the first step of the eviction process.
- **What is a N4 notice?**

An N4 notice is the start of the eviction process, due to non-payment of rent. If you do not pay the money you owe the landlord by the termination date on the notice, the landlord can apply to the Landlord and Tenant Board (LTB) for an eviction hearing.
- **What happens at the hearing?**
 - At a hearing, the landlord will make arguments about why they believe you owe them money and why you should be evicted.
 - You will have an opportunity to make counter-arguments about why you should not be evicted.
 - If you receive a Notice of Hearing from the LTB, **you should contact your local community legal clinic immediately** to get legal advice.

Eviction Moratorium – Kowsar

Thanks to widespread public pressure from groups like ACORN, the Alliance and the legal clinics across Ontario, we had a second eviction ban that came into effect on Thurs, Jan 14th. However, the eviction ban ended for Ottawa renters on Feb 16th with the end of the stay at home order and will end for Toronto and Peel on Feb 22nd.

It is important to note that ACORN worked with MPP Suze Morrison to introduce a motion to extend the eviction ban for the next year but the conservative majority voted against it yesterday. ACORN members and our allies are continuing to fight back!

Bill 184: How does it affect tenants' rights? - Norma

Prior to Bill 184	After Bill 184
<p>Mediation In order for tenants and landlords to enter into mediation, both parties need to agree to this type of dispute resolution. If they did not agree, or, were unable to reach a decision, the case would proceed to a hearing.</p>	<p>Section 194 (1) is amended to say that the Board can decide to require mediation or alternative dispute resolution as part of its power.</p>
<p>Hearing for nonpayment of rent: Tenants' right to defend themselves Section 82 of the RTA provides tenants with the right to talk about problems with their unit at an arrears hearing, which may have contributed to the tenant falling into rent arrears or may reduce the amount of the arrears owed by the tenant. The most common issue raised by tenants is their landlord has not done necessary repairs.</p>	<p>Tenants are now required to provide advance written notice to their landlord to inform them of the issues they plan to raise at the hearing. Tenants who do not provide notice will need to explain to the Board why they failed to provide the landlord with advance written notice of their issues. If the LTB bars the tenant from raising their issues at the hearing, a tenant would have to file their own tenant application against the landlord to raise these issues.</p>

Prior to Bill 184	After Bill 184
<p>Section 83: As per Section 83 of the RTA, the LTB must consider a tenant’s “extenuating” circumstances to weigh whether or not it would be fair to proceed to an eviction. For eg. Illness, Job Loss, Tragedy etc. The Board often considers ordering a repayment plan as a condition of the continuation of tenancy.</p>	<p>Now, it allows the LTB adjudicator to consider whether or not a tenant entered into a repayment plan with a landlord between the period of March 17, 2020 (ending on a yet-to-be-determined date).</p>

Illegal rent increase made legal

Bill 184 allows for an illegal rent increase to be considered legal if the tenant does not challenge it within 12 months of the increase. If the tenant learns that their rent increase was illegal after the 12 months of paying that rent amount, they are no longer able to dispute the increase.

- Tenants should carefully read their Notice of Rent Increase.
- The landlord must give tenants 90 days notice before the rent increase takes effect.
- Tenants in rent regulated units should look up the annual rent guideline and confirm the landlord calculated the rent increase correctly. If the notice is incorrect a tenant does not have to pay the rent increase. If a tenant discovers an error after starting to pay the new rent amount, they can bring an application to the LTB to have the funds returned.

Bill 184: Repayment Agreements/Plans - Trish

Bill 184 changes the Residential Tenancies Act provisions regarding repayment agreements made outside of the Landlord and Tenant Board (LTB).

Now, a landlord can give a tenant (**without prior consent**) a take-it-or-leave-it repayment plan, with terms that are unaffordable for the tenant, and includes a **section 78 clause** that permits the landlord to seek an eviction order ('ex parte') **without a hearing or notice if the tenant breaches the agreement.**

What can tenants do to oppose the repayment agreements? Kowsar

- A tenant is not required to sign anything if they do not understand or cannot afford it.
- Tenants also have the right to present their own repayment plan to the landlord with terms they are confident they can meet on their income.
- Tenants who are offered repayment plans by their landlords should proceed with caution.
- Tenants should seek advice from their legal clinic or Tenant Duty Counsel. They must carefully read and understand every term and its consequences.
- If the landlord and tenant cannot agree on a reasonable repayment plan, the matter will be heard at the LTB. **At the hearing, the adjudicator will consider whether the landlord offered the tenant a repayment plan in their decision. A tenant should explain why they felt it was not fair or feasible for them to sign it.**

Bill 184: Motion to set aside: Tenants' right to challenge the eviction order – Norma

- If a tenant receives an Eviction Order because they have breached the terms of the repayment agreement, they have the right to file a document called Motion to Set Aside (Ex Parte).
- This must be done **within 10 days of receiving the Eviction Order**. Once a tenant has filed, there will be a "stay" of the Eviction Order and an emergency hearing will be scheduled to deal with the matter.
- The "Motion to Set Aside" document is on the LTB's website as Form S2.
- This will give you the potential to save your tenancy and organize your affairs, despite the alleged breach of your repayment plan/order.
- You must explain why you believe the Eviction Order should be set aside & provide all supporting document(s)
- Attach any disability related accommodation requests and supporting documentation. If you require language interpretation in language that is not English or French, contact your local legal clinic.

Set Aside Eviction Order: If you made the payment – Norma

If a tenant has breached the Eviction Order, they can still file a motion to void the Eviction Order up until the Sheriff enforces the eviction on the conditions that:

- They have paid all money ordered and rent that has become due since the Eviction Order was issued; and
- They have not previously filed this in their tenancy with their current landlord.

Form: Tenant's Motion to Void Eviction Order for rent arrears

Re-Open the LTB Application decision - Abdoul

- Tenants can request that the LTB re-open an application decision that was reached by the Board on an application filed by the landlord.
- You can indicate here why you believe the LTB should re-open the file. Some of these reasons can include: the party forced me to enter into an agreement or gave me false information, the party making the request lacked the capacity to enter into a mediated agreement.
- You must include additional information and explanation to illustrate the reason you are requesting the application to be re-opened.

MY LANDLORD IS HARASSING ME

HELP! – Norma

- Threats and harassment are **unacceptable**.
- The *Residential Tenancies Act* governs residential tenancies in Ontario. Provides protection for tenants to live free from harassment and threatening behaviour from their landlord and their landlord's representatives.
- If your landlord is harassing or threatening you, **ORGANIZE** – it's likely they're also harassing their other tenants. Let us know and we can help organize your building to fight back.
- If your landlord is harassing you:
 - **document your landlord's behaviour** and keep a copy of any written correspondence, such as emails or texts, with your landlord.
- Unless there is an emergency, the landlord should not show up at your unit without 24 hours written notice. If they insist on showing up, record any interactions where it's possible to do so safely.
- If your landlord calls the police, do not be afraid or intimidated.

Rights under the RTA:

Tenants have the right to reasonable enjoyment of the space including:
Environment free from harassment or threat of violence

Things your landlord is not allowed to do even if you owe rent – Norma

Even if you owe rent, it is against the law for your landlord to do, or threaten to do, any of these things:

- take or hold anything that belongs to you
- put your belongings out of your apartment
- change the locks to your apartment or to other areas of the building without giving you a new key right away
- cut off any important service, such as electricity, gas, water, or heat

If your landlord does or threatens to do any of these things, try to [get legal help right away](#).

You could also call the [Rental Housing Enforcement Unit](#) (RHEU). The RHEU is part of the Ministry of Housing. Its job is to try to make sure landlords and tenants follow the law. You can call the RHEU at the following number:

Toll Free Phone Line: 1-888-772-9277

WHAT IF THE POLICE SHOW UP? WHAT IF I'M LOCKED OUT? -Kowsar

- Your landlord can legally remove you from your home **ONLY with an order** from the Landlord Tenant Board.
- The only person with the power to enforce that order is a **Sheriff** (a government official).
- Only the Sheriff has the legal authority to remove you or your property from your home if you do not want to move out. **Police, special constables, private security, and your landlord cannot lock you out of your home.** (Sheriffs are not enforcing evictions right now).
- Any attempt to remove you or your property, or change the locks without an order from the LTB, is **illegal**.
- However, if it still happens to you or someone you know, you should contact your **local community legal clinic for legal advice** as soon as possible.

WHAT IF THE POLICE SHOW UP? WHAT IF I'M LOCKED OUT? – Kowsar

If you believe you may be at risk of illegal lockout, there are a few things you may want to consider doing:

1. Inform those that live around you that this may happen.

- Share a description of your landlord with them and give them your contact information.
- If they see your landlord or anyone else doing anything suspicious around your home, ask them to contact you immediately.

2. Carry all important documentation or medications with you at all times while outside the home (passport, credit and debit cards, immigration or legal documents etc.)

3. Carry proof of residence (a copy of your lease agreement OR a piece of registered mail with your name and address on it)

4. Keep a copy of both of these items at a nearby neighbour's or trusted contact's place. Take a photo of them and keep them in your phone

5. You may be able to file an application at the LTB and ask to be allowed to return to your home.

Other issues – Norma

- Landlord wants to enter into my unit
- Landlords charging late payment or late fees on unpaid rent
- General spread of misinformation

My landlord wants to enter into my unit – Trish

- Landlord has limited reasons for why they can enter the unit:
 - Repairs & Maintenance
 - Inspection
 - Showing etc.
- Minimum 24-hour notice
- Written notice (letter, text message)
- Between 8am-8pm; specific window of entry
- Entry without notice for emergency
- The Ontario government is encouraging landlords to respect physical distancing, and only enter units in the event of an emergency.
- Landlords are still obligated to abide by the regulations around entry per the RTA:
 - Proper written notice
 - No notice required for emergency entries
- Real Estate Council of Ontario recommends the suspension of in-person showings.

My landlord wants to enter my unit to do an inspection but I don't feel safe. What can I do? – Adhoul

- Proper notice is still required
- Request that your landlord postpones non-essential entries, like inspections, to a later date when the situation is safer
- If your landlord still wants to enter your unit, you can either not be in the unit during the time of their entry, or you ask that they wear the proper protective gear and maintain physical distancing guidelines
- If you are: immunocompromised or have other disabilities that may make you more susceptible to COVID-19 illness, you could write a letter requesting accommodations during this time.

Landlords charging late payment or late fees on unpaid rent – Norma

- Landlords are not allowed to charge interest or late fees on unpaid rent. **These rules apply all the time, not just during the COVID-19 emergency.**
- But in some cases, you may have to pay some extra amount IF:
 - your rent cheque “bounced” or your payment didn’t go through because there wasn’t enough money to cover it, you might also have to pay the NSF fees charged by the landlord’s bank. The landlord can also charge you up to \$20 for “administrative” costs.
 - your landlord files [an application for rent owing](#) with the LTB, you’ll probably have to pay back the filing fee your landlord paid to the LTB (\$190 or \$175 if your landlord filed electronically).
 - your landlord [sues you in small claims court](#) for money you owe or if they get an order from the LTB, the order will usually say that you’ll be charged interest until you pay the money.
- Landlords are allowed to **offer discounts for paying your rent on time**. This type of discount means that you have to pay your full undiscounted rent if you pay late. If your rental agreement includes any discounts, make sure you understand how much [rent you will really be paying](#).

Ottawa ACORN's Campaigns - Norma

- Before COVID-19, ACORN has been fighting mass evictions in the city in neighbourhoods like Herongate and now, Manor Village
- During COVID-19, we are calling for **Rent Relief, a REAL Rent Freeze, FULL Rent Control** including **Vacancy Control** and reinstating the moratorium on evictions until after the post pandemic recovery period

SCENARIO 1

- Start with common problem
- Ask: What are their rights and what should they do?
- Wait for a few answers and then review the correct response

SECTION 2: MAINTENANCE, REPAIRS AND BYLAW

Issues: Trish

- Landlords using COVID-19 as an excuse not to do any repairs and maintenance

(add own experience of bad living conditions)

- Issues that were not health issues before the pandemic can lead to serious health risks because of COVID-19

THE LAW AND YOUR RIGHTS – Kowsar

- If something in your unit or your building needs repair, make sure your landlord knows about it.
- It is always best to communicate with your landlord in **writing (including text or email) so there is a paper trail.**
- It can be helpful to take **photos** of the problem and put the **date on the photos.**
- **Housing is considered an essential service** during COVID 19 and landlords are supposed to be doing all regular maintenance and upkeep at this time.

THE LAW AND YOUR RIGHTS

- Trish

- If your landlord hasn't fixed the problem, call the **City of Ottawa By-Law department** at **311** and ask for a property inspector to do an inspection of your unit or the building (wherever the problem is).
- If By-Law believes the landlord to be in violation, **they can issue an order to force the landlord to do the repair.**
- Take the **By-Law officer's name and reference #.**
- Depending on the problem, you might also want to contact your **local Public Health department, or Fire Marshal's office.**
- If you think unsafe or unlicensed electrical work was done in your place, you can contact the province's **Electrical Safety Authority.**
- **(bylaw is landlord friendly, need to organize collectively)**

THE LAW AND YOUR RIGHTS - Trish

- If your landlord or bylaw **STILL does not fix the problem**, you can apply to the **Landlord and Tenant Board by filling out a T6 form**.
- When you apply, the Board will schedule a hearing where you and your landlord can each explain the problem to a member of the Board.
- Before the hearing, you and your landlord can try to settle your problems yourselves or with the help of a **Board employee**.
- At the hearing:
 - it is up to you to convince the Board member about the problem.
 - **very important** to bring evidence to your hearing (witnesses, photos, audio or video recordings, inspectors' reports, work orders, letters, notes, or anything else) that can help you prove your case to the Board member.
 - If successful you could win some money back on your rent.
- **For Faster results - Organize with your neighbours, do actions and get press attention!**

HEALTHY HOMES CAMPAIGN

BIG WINS - Norma

Historically, in Ottawa the state of tenants' housing has been the **#1 issue** that ACORN members want to see changed.

In the past we have won:

- **In 2013, \$200,000 worth of rent abatements** for tenants in Herongate - this was money tenants got back for living in substandard housing
- **A 2015 municipal By-Law** to make appliances the responsibility of landlords (before, if your fridge or stove broke, you'd be responsible for replacing it!)
- **Hundreds of thousands of dollars** in repairs to apartment buildings across the city

Big Wins Continue – Norma

- Last November, ACORN members won the development of **two new bylaws: Pest Control Bylaw** and a **Rental Management Bylaw**.
 - Because of our pressure, the City has also hired **more Property Standards Inspectors**, increased **targeted proactive enforcement** of property standards and is exploring the creation of an **online database of property standards violations** – that way if you’re looking at signing a lease in a new place you can see beforehand if it’s up to code!
- Even currently, we’re still organizing actions to protect our members living in unhealthy homes.

ORGANIZING DURING COVID-19 - Norma

- During COVID-19 we have been pushing By-law to announce **clear guidelines for essential and urgent repairs**
- We have done many **phone blitz actions** to landlords and By-law which has won members meetings with city officials and decision makers over the past 6 months!

Below is a video of a **CTV Ottawa news article on Maria Mendoza's fight against Timbercreek**, who wouldn't help clean her asbestos-contaminated apartment. This clip was the result of an Ottawa ACORN phone action.

<https://acorncanada.org/ctv-news-ottawa-single-mom-and-asthmatic-11-year-old-living-asbestos-contaminated-apartment>

Scenario 3 & 4



SECTION 3: PAYING RENT, SOCIAL HOUSING AND INCOME



Issues: Kowsar

- Many tenants have been laid off from their jobs or are facing reduced hours and are struggling to pay rent
- According to CMHC, 10% of renters in Ontario are in rental arrears
- Ottawa has over 12,000 households on the waitlist for social housing
- Some tenants in social housing are experiencing a change in income because of COVID-19

RENT FREEZE – Abdoul

- Because of ACORN's campaign the provincial government implemented a rent freeze for 2021
- This means landlords are not supposed to increase the rent for this year
- This doesn't include AGI's which are above the guideline rent increases, which many landlords will take advantage of
- ***include info on phone outreach party
- Link to online action

THE LAW AND YOUR RIGHTS

- Norma

- If your Landlord is a social housing provider and the amount of your rent is determined by your income (RGI):
 - You must tell your landlord if your income changes.
 - For example, if you or someone in your household loses their job due to COVID-19 or begins to receive EI or CERB, you must report the change to your landlord within 30 days.
 - If you do not report these changes, you could be charged for back rent and/or lose your RGI subsidy.
 - If you do not receive an RGI subsidy, you do not have to provide your landlord with information about changes in your income.

ACORN CANADA'S CAMPAIGN - Norma

- Prior to COVID 19, **ACORN has been fighting for:**
 - REAL rent control (including) Vacancy control. (200 people rallied at the Ministry of Housing and Queen's Park for this right before the pandemic hit!)
 - An end to above the guideline rent increases that circumvent rent control laws in Ontario
- When it comes to affordable housing we've been able to win:
 - **Reduction in AGIs** by organizing collectively, having actions, calling the media and filling the hearing room with tenants/supporters
 - **\$15 Million in the city budget in 2019 which was matched again in 2020** for building new affordable housing - this was the most amount of money the City has ever invested of its own dollars in affordable housing
 - **Pressuring the province to successfully give Cities the power to introduce inclusionary zoning** - there needs to be a percentage of affordable housing in every new development in the city . **Doug Ford has made some changes to this recently but a bylaw is being drafted municipally.**

Scenario 5& 6

