

Tenants Rights During COVID-19

Toronto ACORN



Introductions

- We will do a quick round of introductions
- Say your name and where in Toronto you live
- All information for today's workshop can be shared- leave your email / phone number in the chat so we can follow up!

What is ACORN

- We're a non-profit organization 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 accept money from government or corporations so we can stay independent
- We rely on membership dues so we can support our campaigns, stay independent and hold governments accountable.
- ACORN is a community and tenant union with three levels of membership - all are welcome to attend events and meetings!
- We are **130,000 strong across Canada**

SECTION 1: Evictions and Bill 184

Issues:

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

MY LANDLORD JUST SERVED ME AN N4 NOTICE HELP!

- **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 Ended

The residential evictions moratorium ended July 29, 2020.

As of August 1st the LTB has:

- Begun to issue eviction orders that are pending;
- Started to issue consent eviction orders which are based on landlord and tenants settling their dispute through an agreement;
- Continued to hear urgent eviction matters related to health and safety that are scheduled;
- Started to schedule hearings for non-urgent evictions; and
- Conducted non-urgent eviction hearings

Tenants are being evicted now

Landlords are STILL required to have an eviction order issued by the Board in order to have a tenant evicted. A landlord, superintendent or agent of the landlord cannot personally evict a tenant. Only a government official called a sheriff can evict a tenant.

Emergency order to-temporarily pause the enforcement of residential evictions

- The government has issued an emergency order to temporarily pause the enforcement of residential evictions, with limited exceptions.
- This change applies **only to the enforcement of eviction orders for tenants and writs of possession for residential properties**, including homeowners who have defaulted on their mortgage.
- During this time, the LTB will continue to hear eviction applications and issue orders, but the enforcement of eviction orders will be postponed for the duration of the emergency order, except in urgent situations – such as for illegal activity.
- This includes orders issued, but not carried out, before the emergency order came into effect.
- **Landlords can still give eviction notices, while the LTB will continue to hold hearings and issue eviction orders.**
- **The ban on residential evictions is full of loopholes**
- **The Landlord and Tenant Board is still open and tenants are still receiving eviction orders.**
- **However, evictions won't be enforced until January 27th.**

If the reason for eviction is:	Your landlord must give you this much notice:
owing rent	14 days (but only 7 days if you pay your rent by the week or by the day)
causing damage by being careless, or disturbing the landlord or other tenants	20 days the first time (see above for the exception to this) 14 days if it is the second notice within 6 months
making or selling an illegal drug	10 days
your landlord, your landlord's family member, or a caregiver wants to move in	60 days
your landlord wants to tear down the building or use it for something else	120 days

Source: <https://www.cleo.on.ca/en/publications/tenantsaccess/eviction>

Currently the Landlord Tenant Board is:

- Holding eviction hearings by videoconference, phone or in writing
- Encouraging landlords and tenants to discuss a settlement prior to an eviction application hearing with an adjudicator
- Expanding the use of Case Management Hearings to include most eviction applications filed by landlords that do not include rent arrears
- Recruiting and training adjudicators to resume full service.

Bill 184: How does it affect tenants' rights?

Prior to Bill 184	After Bill 184
<p>Mediation</p> <p>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</p> <p>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

Bill 184 changes the RTA 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?

- 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

- 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

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.

Re-Open the LTB Application decision

- 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!

- 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

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?

- 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.**
- 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?

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

- 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

- 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?

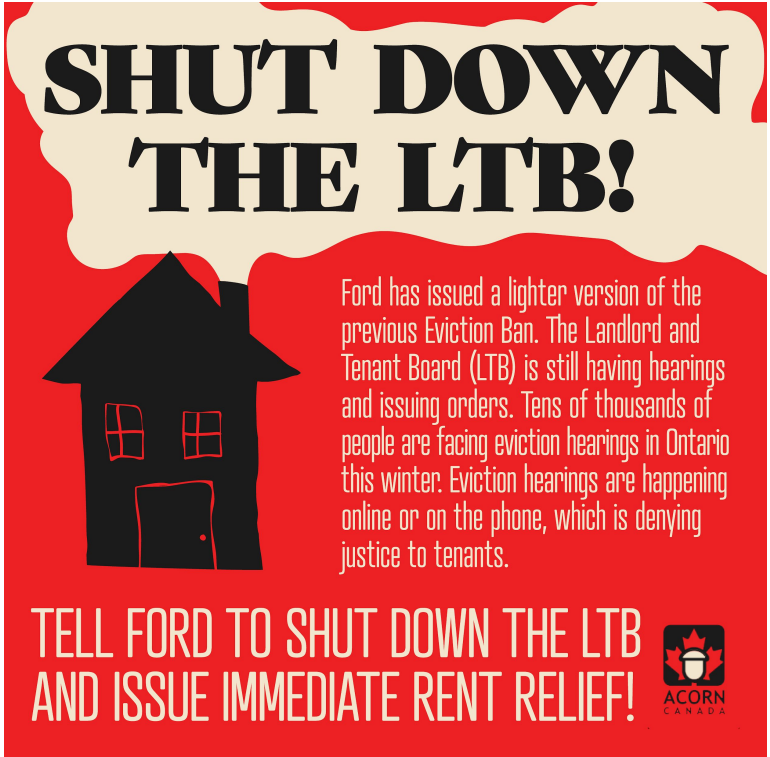
- Proper notice is still required
- Request that your landlord postpones non-essential entries, like inspections, to a later date when the situation is safer
- If your landlord still wants to enter your unit, you can either not be in the unit during the time of their entry, or you ask that they wear 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

- 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.

Toronto ACORN's Campaigns


- Early on in the pandemic, ACORN with allies, pushed for (and won!) a **halt on all evictions** in Ontario during COVID-19. (This moratorium has ended as of August 1st)
- Many provinces followed.
- We are calling for **Rent Relief, a Rent Freeze, FULL Rent Control** including **Vacancy Control** and reinstituting the **moratorium on evictions into the spring of 2021**
- Before COVID-19, ACORN has been fighting mass evictions in the city.



**SHUT DOWN
THE LTB!**

Ford has issued a lighter version of the previous Eviction Ban. The Landlord and Tenant Board (LTB) is still having hearings and issuing orders. Tens of thousands of people are facing eviction hearings in Ontario this winter. Eviction hearings are happening online or on the phone, which is denying justice to tenants.

**TELL FORD TO SHUT DOWN THE LTB
AND ISSUE IMMEDIATE RENT RELIEF!**

 **ACORN
CANADA**

SECTION B: MAINTENANCE, REPAIRS AND BYLAW

Issues:

- Landlords using COVID-19 as an excuse not to do any repairs and maintenance
- Lack of clear guidelines for what types of repairs/maintenance landlords should still be doing during COVID-19
- Issues that were not health issues before the pandemic can lead to serious health risks because of COVID-19

THE LAW AND YOUR RIGHTS

- 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 (either by text or email)** so there is a paper trail.
- It is sometimes helpful to take **photos** of the problem. Put the **date** on the photos.

THE LAW AND YOUR RIGHTS

City By-Law has defined **essential maintenance and upkeep** as:

- Common area cleaning to meet best practices for COVID-19
- Pest control treatment to address infestations
- Preventive pest treatment in common areas
- Work that is necessary to be done immediately to protect or restore the physical integrity of the residential complex or part of it (e.g. a leak in the roof, loose bricks at risk of falling off the building)
- Work that is necessary to be done immediately to maintain a plumbing, heating, mechanical, electrical, ventilation, or air conditioning system (e.g. fixing broken pipes, replacing a cracked boiler, electrical defects that could cause a fire, etc.)
- Work that is necessary to remove an imminent danger (e.g. removing a tree at risk of collapsing, patching or repairing holes that constitute significant tripping hazards)
- Repairing holes in walls
- Elevator maintenance and repairs.

THE LAW AND YOUR RIGHTS

- If your landlord hasn't fixed the problem, call the **City of Toronto 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 #.**
- **During COVID 19**, City Bylaw is still responding to all property standards calls but they are only doing in unit inspections for **urgent issues** that affect the health and safety of tenants.
- 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.**

THE LAW AND YOUR RIGHTS

- If your landlord **STILL does not fix the problem**, you can apply to the **Landlord and Tenant Board** though your case won't be heard until after the pandemic.
- 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!**

ORGANIZING DURING COVID-19

- During COVID-19 we have won a 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 few months!
- We are also currently organizing around stopping renovictions in Rexdale (25 Leduc / 2 Torbolton) and demovictions in Scarborough (Lenmore Court)

Toronto ACORN – RentSafeTO

ACORN fought for and won RentSafeTO – a City bylaw program

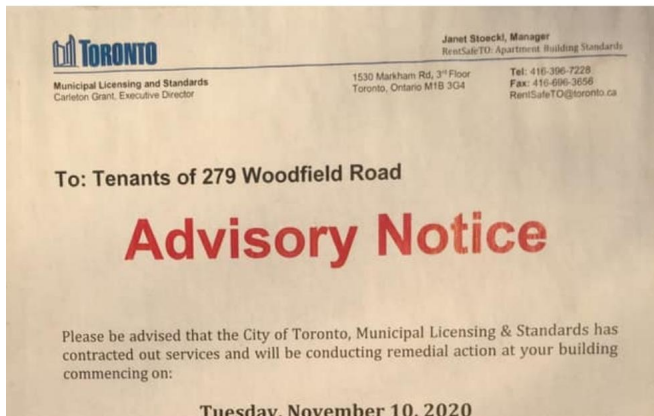
- **Rating System** – A building rating system, like DineSafe, with signs on the front of the building clearly displaying the building grade and advertising 311 for any tenant issues
 - **Engagement** – A tenant engagement system that involves boots on the ground, that tells tenants their rights, inquires about maintenance issues and directs any complaints to 311.
 - **Enforcement** – An administrative monetary penalty system, so that property standards violations are penalized right away
 - **Transparency** – Clear standards of service from MLS, so tenants are aware of the process after they call 311. Tenants and landlords need a straightforward process that is transparent about when inspections will be done, when orders will be issued, and when tickets/fines/or AMPs will happen
-
- Toronto landlords will now be held responsible for providing stable housing for tenants during emergencies.
 - Our recent State of Repair report: <https://acorncanada.org/resource/toronto-state-repair-report-2020>



BEFORE ACORN



ACORN MEMBERS FIGHT BACK



VICTORY - REMEDIAL ACTION



REPAIRS ARE UNDERWAY

SECTION C: RENT, SOCIAL HOUSING AND INCOME



Issues:

- Many tenants have been laid off from their jobs or are facing reduced hours and are struggling to pay rent
- People are being forced to make decisions about paying for food or rent
- Some tenants in social housing are experiencing a change in income because of COVID-19

ACORN CANADA COVID-19 RENTERS SURVEY RESULTS

Highlights of a recent ACORN Canada survey:

- 70% of respondents have been **impacted financially**, yet only 42% of people qualify for **government benefits** such as the CERB or EI.
- Almost 35% **did not have enough money** to pay the rent on May 1st.
- 50% said they were **worried** to pay rent on May 1st
- 15% of respondents have been **threatened with eviction** if rent is not paid.

CTV News publicized the survey results.

<https://acorncanada.org/ctv-news-advocacy-group-says-cerb-not-enough>

THE LAW AND YOUR RIGHTS

- No financial support for tenants **who cannot afford rent**. ACORN's fighting back.
- 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

- Prior to COVID 19, ACORN has been fighting for:
 - REAL rent control (including) Vacancy decontrol for full rent control. (200 people rallied at the Ministry of Housing and Queen's Park for this right before the pandemic hit!)
 - End above guideline rent increases that circumvent rent control laws in Ontario
- When it comes to affordable housing we've been able to win:
 - **Reducing AGIs** by organizing collectively, having actions, calling the media and filling the hearing room with tenants/supporters
 - **Pressuring the province to successfully give Cities the power to introduce inclusionary zoning** - every new development in the city there would have to be a percentage of affordable housing. **Doug Ford has made some changes to this recently but a bylaw is being drafted municipally.**
 - **Getting the city of Toronto to change their definition of affordable** - before, the City's definition of affordable was based on average market rent. They now define affordable based on income, and that nobody should be paying over 30% of their income on rent.

ACORN CANADA'S CAMPAIGN

- During COVID-19, ACORN is fighting for:
 - Rent Break
 - Rent Freeze
 - FULL Rent Control &
 - A Moratorium on notice of termination of tenancy and preventive action immediately after the pandemic is over or restrictions are eased
- No tenant should pay more than 30% of their income on rent.
- We have been organizing actions across the Province to force ALL levels of Government to pay attention to the issue

Question?

THANK YOU!