



The Landlord and Tenant Board (LTB) or Court?

This issue of *Evictions: What co-ops need to know* examines when the Landlord and Tenant Board (LTB) handles an eviction and when an eviction is dealt with through the courts.

Evictions: What co-ops need to know is an educational series to help Ontario co-ops understand evictions and navigate the LTB eviction system. Most co-op evictions in Ontario are handled by the LTB which is part of Tribunals Ontario and plays an important role in the administration of justice. These tip sheets can be found in CHF Canada's online Member Resource Centre at chfcanada.coop/resources.

Grounds that determine who hears an eviction

In most cases, the LTB will hear co-op eviction cases, but sometimes cases will go to Superior Court. It depends on the reason for eviction. If the grounds for eviction are part of the co-op sections of the *Residential Tenancies Act (RTA)*, then the co-op will proceed to schedule an LTB hearing. If the grounds for eviction are not covered in the RTA, then the co-op would go to court.

Co-ops do not get to choose the judicial process.

Eviction grounds in the RTA

There are basically 11 grounds for co-op eviction and three "no second chance" grounds in the RTA. "No second-chance" means the member does not get a chance to correct the breach because:

- they had previously been served with an eviction notice for the same kind of breach, and
- the eviction did not go forward because they corrected the breach.

All of the grounds for eviction are in section 94.2 of the RTA.

Payment

1. Arrears – 94.2(1)(3)
2. Persistent late payment – 94.2(1)(1)

Damage

3. Negligently or willfully causes undue damage — 94.2(1)(6)
4. Willfully causes undue damage (usually more serious than in paragraph 3) — 94.2(1)(7)(i)
5. Doing non-residential things that could be expected to cause more serious damage (example: grow-op) — 94.2(1)(7)(ii)

Behaviour and illegal acts

6. Illegal act — 94.2(1)(5)
7. Substantial interference with either the reasonable enjoyment of others at the co-op or substantial interference with another lawful right, privileged or interest of the co-op, another member or occupant — 94.2(1)(8)
8. Seriously impairing safety of others — 94.2(1)(9)
9. Number of occupants breaks legal health, safety or housing standards — 94.2(1)(10)

Social housing*

10. Knowing and material misrepresentation of income — 94.2(1)(4)
11. Ceasing to meet qualifications for the unit — 94.2(1)(2).

* These particular grounds may not apply to all co-ops.

No second-chance grounds

12. Undue damage as in paragraph three of this list —94.2(1)(11)
13. Substantial interference as in paragraph seven of this list — 94.2(1)(11)
14. Number of occupants as in paragraph nine of this list —94.2(1)(11)

Note:

For any of these grounds the conduct would have to happen at the co-op (including the member unit). For example, members cannot be evicted for illegal acts that do not occur on the co-op's property.

In co-op by-laws and the RTA, members are responsible for other occupants or their guests who break the rules. These situations are also covered in the grounds for eviction in the RTA.

Other reasons for using the LTB

Abandoned units: Co-ops can go the LTB if a unit is vacant or abandoned. See section 79 of the RTA as amended for co-ops:

Abandonment of member unit:

79. If a non-profit housing co-operative believes that a member has abandoned a member unit, the non-profit housing co-operative may apply to the Board for an order terminating the occupancy.

NOTE: The RTA states that the unit cannot be considered abandoned unless the member is in arrears.

Member gives notice to vacate but doesn't leave: If a member gives a notice to vacate (move out notice) but doesn't leave, the co-op can go to the LTB to get possession of the unit. See section 94.10 of the RTA:

Application to Board, without notice, based on member's withdrawal, consent or notice:

94.10 (1) A co-operative may, without notice to the member, apply to the Board for an order terminating the member's occupancy of a member unit and evicting the member in any of the following circumstances:

1. The member gave written notice of his or her intention to terminate his or her membership and occupancy rights under section 171.8.1 of the Co-operative Corporations Act and the member has not withdrawn the notice under that section.

A member can't decide to take back their move out notice without permission of the co-op board of directors. See clause 171.8.1(2)(3) of the Co-op Act:

171.8.1(2)(3) The member may not withdraw the notice without the consent of the board of directors.

When would a co-op have to go to court?

The co-op must go to court when breaches of the by-laws are not grounds for eviction listed in 94.2(1)(8) of the RTA, examples include:

- Regaining possession of a unit when there are no members living in the unit. This could happen if the member dies or moves out, leaving the unit occupied by a non-member. This is the most common situation where the co-op would make a court application.
- Breaches of a Pet By-law where the reason for eviction is not permitted at the Landlord and Tenant Board because of s.76 of the RTA.

- Other breaches of the by-laws that substantially interfere with other lawful rights, privileges or interests of the co-op, another member, or occupant – such as:
 - Breach of a corporate by-law, e.g. confidentiality rules.
 - Breach of the human rights by-law.
 - Unpaid fines or other co-op charges not defined as regular occupancy charges under the RTA
 - Non-participation.

More Tips:

The other tip sheets in this series give your board advice on specific issues that might come up as the co-op works on evictions. This information is provided to help the board do its job. While the manager will end up doing most of the eviction work referred to, it is important that the board works with staff as a team and provides clear direction. These tip sheets can be found in CHF Canada's online Member Resource Centre at chfcanada.coop/resources.

For more information on the eviction system please contact:

CHF Canada, Ontario Region Office: 720 Spadina Avenue, Suite 313, Toronto ON, Canada M5S 2T9
Phone: 416-366-1711 | Toll-Free: 1-800-268-2537 | Fax: 416-366-3876 | info@chfcanada.coop

@chfcanada      www.chfcanada.coop

For more resources in this series, visit chfcanada.coop/OntarioEvictionsSeries

Disclaimer: The co-op should not use this information instead of legal advice. Co-ops and situations are different from each other and people understand things differently. This issue of Evictions: What co-ops need to know assumes things that may not be true of your co-op or your situation.