



Eviction Steps for the Co-op and Member

This issue of *Evictions: What co-ops need to know* goes through the steps in an eviction from the viewpoint of both the member and the co-op. CHF Canada thinks it would be better if there were never any evictions, but we recognize that there will always be some. In this issue we deal with the steps in the eviction, but we recommend that at every stage the co-op and the member try to agree on some other way to deal with the problem.

Evictions: What co-ops need to know is an educational series to help Ontario co-ops understand evictions and navigate the Landlord and Tenant Board (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.

This issue assumes that the co-op is using the most current Model Occupancy By-law (available from CHF Canada's website). The co-op should check with its lawyer if there are any doubts.

Carefully read the LTB forms for details on how to fill them out and what to do with them. The LTB Forms are available on the [LTB page of the Tribunals Ontario website under the "Non-Profit Co-op Evictions" sidebar](#).

Steps for the co-op	Steps for the member
<p>1. Issue Notice to Appear</p> <ul style="list-style-type: none"> • Ensure the notice reflects the most current wording as per the Co-operative Corporations Act (CCA). • Put in the proposed date that the member would have to leave the unit if evicted as stated in your By-law (the Termination Date). • Include any written materials the board is going to use to make the decision. • Ensure it is signed in accordance with the co-op’s occupancy by-law • Serve the notice at least 10 calendar days before the meeting or more if your By-law states longer. • Serve using the current rules as stated in the CCA. Allow five more days if mailing. • Record when, how and by whom notices are delivered 	<p>1. Review the Notice to Appear</p> <ul style="list-style-type: none"> • Call the Co-op if you have any questions Get a lawyer or paralegal if you can get one to attend the board meeting with you • Prepare for the meeting <ul style="list-style-type: none"> — Find any records or papers you want to take with you — Think about what you will say — Arrange for any witnesses you want to speak to the board
<p>2. Board meeting</p> <ul style="list-style-type: none"> • Ensure the board meeting is in accordance with the by-laws and Human Rights Code. • Ensure a quorum of directors is present and determine if there are any conflicts of interest • Give the member and/or member’s representative or witnesses a chance to say anything related to the problem. • Consider alternatives to eviction: Conditional Eviction, Performance Agreement, Mediation, Payment Plan • Consider any proposal the member may make about how to cure the problem instead of eviction. • Make the decision in an in-camera meeting. 	<p>2. Go to the board meeting</p> <p>Make your case to the board and be prepared to present your proposal to avoid eviction. Be prepared to discuss what you will agree to do to address the problem (such as how much per month you can pay towards your arrears).</p> <ul style="list-style-type: none"> • Try to have a lawyer or paralegal join you.

Steps for the co-op	Steps for the member
<p>3. Board decision to evict</p> <ul style="list-style-type: none"> • Give the member the notice of decision as stated in your by-law. This usually is to be delivered with the Board Eviction Decision. • Better to deliver this as soon as possible. Under the CCA, it cannot be delivered more than 10 days after the Notice to Appear meeting. 	<p>3. You will receive a notice of eviction decision from the Co-op. You will receive this even if the board decided you will not be evicted if you meet certain conditions.</p> <ul style="list-style-type: none"> • If the decision is to evict you, decide whether you are going to move out of the co-op by the termination date. • If a member appeal is permitted under your co-op's By-law, decide if you want to appeal to a general members' meeting. If you want to appeal, give written notice of appeal to the co-op office within seven days (or longer if stated in the co-op By-law). • If there is no appeal allowed, you have no membership rights after the termination date stated in the notice. You must still pay your housing charges and take care of your unit but you cannot attend members' meetings, vote or run for the board.
<p>4. If your Occupancy By-law allows appeals and the member appeals, put the appeal on the agenda for a regular or special members' meeting. The meeting must be at least 14 days after the appeal notice is received.</p>	<p>4. Go to the appeal meeting.</p> <ul style="list-style-type: none"> • If you have appealed the eviction decision, be sure to attend the members' meeting. • Try to have a lawyer or paralegal join you. • Make your case to the members and be prepared to present your proposal to avoid eviction and get a performance agreement.
<p>5. Give the member a letter stating the result of the members' meeting. The termination date is the original date in the eviction decision or later if stated in the By-law or members' decision.</p>	<p>5. If you appealed the eviction decision to the members, you will receive a letter explaining the results of the members' decision from the Co-op and any change in the termination date</p>

Steps for the co-op	Steps for the member
<p>6. If the member’s appeal was unsuccessful, determine if the grounds of eviction are within the RTA (See Issue 2 of <i>Evictions: What co-ops need to know</i>). If they are, decide if staff, a lawyer or paralegal will do the later steps outlined here.</p>	<p>6. If your appeal was not successful, decide whether you will move out of the co-op by the termination date.</p> <ul style="list-style-type: none"> • You have no membership rights at that point. • You must still pay your housing charges and take care of your unit but you cannot attend members’ meetings, vote or run for the board.
<p>7. After the termination date (as stated in the eviction decision, or at the members’ meeting if there was an appeal), give the member a Notice of Termination of Occupancy Rights under the RTA. Use the correct form. The forms are available at the LTB page of the Tribunals Ontario website: (www.tribunalsontario.ca/ltb/).</p> <ul style="list-style-type: none"> • Form N4C Non-payment of housing charges • Form N5C Substantial interference, damage or overcrowding beyond municipal standards • Form N6C Illegal act or business or misrepresentation of income for RGI • Form N7C Serious safety issues, more serious damage • Form N8C Persistent late payment or ceasing to qualify for unit. <p>These forms are similar to landlord-tenant forms with a “C” after the Form number</p>	<p>7. If you haven’t moved out after the termination date, the co-op will give you a Notice of Termination of Occupancy Rights under the RTA. It will explain how you can avoid being evicted and it will set a new termination date (the RTA termination date).</p> <p>Decide whether:</p> <ul style="list-style-type: none"> • you will move out by this termination date, • you will do the things required to avoid eviction, if applicable, or • wait for a hearing to tell your side of the story at the LTB
<p>8. In the case of Form N4C, the member has 14 days to pay all arrears. If the member does this, the member is reinstated.</p>	<p>8. You should pay any arrears that are owed. This includes the arrears stated in Form N4C and any other housing charges that have become due since then.</p>

Steps for the co-op	Steps for the member
<p>9. In the case of Form N5C, the member has the right to correct the situation within seven days (unless step 10 applies). If the member does so, their membership is reinstated. However, if the member does so but the same grounds happen in the next six months, the co-op can serve a second N5C.</p>	<p>9. Correct the situation as stated in Form N5C. For damage this includes making the repair or paying the co-op the cost. Notify the co-op in writing what you have done as a correction. Keep a copy of the notice.</p>
<p>10. Correct the situation as stated in Form N5C. For damage this includes making the repair or paying the co-op the cost. Notify the co-op in writing what you have done as a correction. Keep a copy of the notice.</p>	<p>10. You do not have the right to correct the situation if this is the second Form N5C you received in the last six months for the same type of issue.</p>
<p>11. The member does not have the right to correct the situation when any of the other forms are used.</p>	<p>11. Although you don't have a legal "right" to correct, you can still approach the co-op and try to make a deal about the future. Keep a written record and/or copies of any proposal to the co-op, since it might be helpful in claiming that evicting you would be unfair. See step 22</p>
<p>12. If the member does not pay the arrears or correct the situation during the 14- or seven-day periods stated in Forms N4C or N5C, the co-op can file an LTB application the next day.</p>	<p>12. If you do not correct the situation or move out by the RTA Termination Date, the Co-op will file an application with the LTB for an eviction order</p>
<p>13. In all other cases the co-op can file an LTB application right after serving the Form. It is best to wait until the next day. This includes the second Form N5C for the same type of thing in six months.</p>	
	<p>14. If the co-op issued Form N4C for arrears, the member is entitled to pay the arrears anytime until the LTB issues an eviction order. This includes the arrears stated in Form N4C and the co-op 's LTB application plus any other housing charges that have become due since then. If the co-op has started an LTB application, it also includes the application fee.</p>

Steps for the co-op	Steps for the member
<p>15. The co-op must use LTB Form C for the application to evict. Be sure to carefully follow the instructions on the Form.</p> <ul style="list-style-type: none"> • Attach Schedule C1 for arrears and C2 for anything else (such as late payment). • Attach Schedule C3 if the application is because a member gave written notice but did not leave. • Attach Schedule C4 if the Application is for the member breaching a settlement or consent order • Include all documents that the co-op wishes to use to prove its case.* <p>Note: C1&C2 forms can be filed via the Tribunals Ontario Portal, see issue #8 for more info</p>	
<p>16. There is no requirement to serve the Form on the member at this stage. But, best practice recommends that you keep the member informed.</p>	<p>16. You may not receive a copy of the application until the next step.</p>
<p>17. After receiving the complete application, the LTB will schedule two hearings: a Case Management Hearing (CMH) and a Merits Hearing. The LTB will send the Notice of Hearings to the parties at least 10 days before the Case Management Hearing. The LTB will also send a copy of the application to the co-op member.</p>	<p>17. You will get a Notice of Hearings and a copy of the co-op 's application. The Notice of Hearings will state dates for a "Case Management Hearing." It will be hard to get a postponement to get a lawyer or paralegal, or for them to have time to prepare.</p> <ul style="list-style-type: none"> • Make sure your lawyer or paralegal knows about these hearing dates. • If you don't have a lawyer or paralegal, you should get one now. • Plan to attend or send a representative. If you do not attend, and the eviction is for arrears, the co-op can get a Standard Order. This gives you 11 more days to pay all monies owing. On the 12th day the co-op can file an order with the Sheriff's office to enforce the eviction.

Steps for the co-op	Steps for the member
<p>18. Although this is not a requirement, it is recommended that the co-op provide the member with a copy of both the Notice of Hearings and the co-op’s application. This may be useful if the member fails to attend the Case Management hearing.</p>	<p>18. You have to complete a written Response to a Co-op Application. Include all documents that you wish to use. You have to file the Response with the LTB and serve the co-op with a complete copy no later than the date stated in the Notice of Hearings.</p>
<p>19. File a Certificate of Service on member with the LTB no later than five days after delivery of the Notice of Hearings to the member. Use the form “Certificate of Service—Co-ops” on the LTB website. It must be filed by e-mail.</p>	<p>19. File a Certificate of Service on co-op with the LTB no later than five days after delivery of your Response to a Co-op Application to the co-op. Use the form “Certificate of Service—Co-ops” on LTB website. It may be filed by e-mail or in person.</p>
<p>20. At the Case Management Hearing, the Hearings Officer will try to encourage a settlement. If there is no settlement, directions will be given about the Merits Hearing. Or a Standard Order can be issued if the member fails to attend.</p>	<p>20. At the Case Management Hearing, the Hearings Officer will encourage you and the co-op to arrange a settlement. If there is no settlement, directions will be given about the Merits Hearing OR a Standard Order can be issued if you do not attend.</p>
<p>21. Consider a Mediated Settlement or a Consent Order. These are both for when the co-op and member agree on the conditions the member needs to meet to avoid eviction. The conditions should be objective and clearly worded. This should include the term under s. 94.11 of the RTA which allows the co-op to file for an eviction order without notice to the member, if they break the conditions.</p>	<p>21. Try to come to a settlement agreement. This is the last chance to work with the co-op before the Merits Hearing.</p>
<p>22. Merits Hearing (Co-op and Member). This is the “main event.” The co-op must prove its case. Issues are:</p> <ul style="list-style-type: none"> • Proving the facts stated by the co-op on the balance of probability (more than 50% likely to have happened). 	<p>22. Ensure your legal representative or paralegal is prepared to attend. Be prepared with your documentation and with your defence to the co-op’s case, including documents or witnesses.</p>

Steps for the co-op	Steps for the member
<ul style="list-style-type: none"> • Proving the facts are serious enough that the member should be evicted • The co-op needs witnesses and documents to establish this evidence. • The co-op must show it would be detrimental to the co-op not to evict • Even if there is enough evidence to evict, the Landlord and Tenant Board is required to consider the overall fairness to the member and the co-op before making a decision. 	<p>You can try to show that you should not be evicted based on the evidence.</p> <p>Even if there is enough evidence to evict you, you can still argue that it would be unfair to evict you because, for example, you have fixed the reasons the co-op started the eviction.</p>
<p>23. At or after the hearing the LTB will make a decision, called an order. The order will be mailed to the co-op. If it is an eviction order it will have a move-out date. The LTB can also make orders that are conditional. Those orders will detail the conditions the member has to meet to avoid eviction. If the member breaks the condition they will be evicted.</p>	<p>23. If the eviction is for arrears, the member is entitled to pay the arrears until the move-out date. This includes the arrears stated in the LTB eviction order plus other housing charges that have become due since the order and the costs stated in the order.</p>
<p>24. If the member is not gone by the date in the order, the co-op can file the eviction order at the Sheriff 's office. You will need to fill out a form and pay a fee. The Sheriff will provide an instruction sheet. This will include a date on which the Sheriff will contact the co-op to schedule a time and date for the eviction. The manager or maintenance staff must be present at that time to provide access to the member's unit.</p>	<p>24. The Sheriff will notify you of the date when you have to leave. If you do not leave by that date the Sheriff will come to your unit to carry out your eviction. You will not have notice of the date this will happen.</p>
<p>25. If the member vacates before the date the Sheriff is to come the co-op can call the Sheriff to cancel. If the co-op does not have keys to the unit they will have to schedule a locksmith to be present when the Sheriff comes. It is a good idea to change the locks anyway.</p>	<p>25. If the eviction is for arrears, the member is entitled to pay the arrears until the actual eviction and make a motion to the LTB to cancel the eviction. The member can do this only once during the entire period of membership in the co-op.</p>

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<p>If there are any pets in the unit that might be left behind the co-op will have to contact municipal animal control.</p>	<p>Payment by the member has to include the arrears stated in the LTB eviction order plus other housing charges that have become due since the order, the costs stated in the order as well as what the co-op paid to the Sheriff.</p>
<p>26. The Sheriff phones the co-op to schedule a date and time for the eviction. If the member has not left the Sheriff will give them some time to pack a bag to take with them. The Sheriff will call the police if that is necessary. The Sheriff then evicts the member, supervises the changing of the unit lock and puts the co-op in possession.</p>	<p>26. If you have not cleared out your unit you will have to work with the co-op to schedule a time when you can gain access and move things out, usually within four days at most. The co-op does not have to accommodate you outside of normal work hours and does not have to keep your possessions in the unit for more than 72 hours.</p>

The normal steps in an eviction are stated in this issue of *Evictions: What co-ops need to know*, but there are other possible proceedings in connection with an eviction application. Members and the co-op should get advice on these from their lawyers or paralegals.

*The documents would include the ledger, any complaint letters, etc. as applicable, the LTB Termination Form (N4C, N5C, N6C, N7C or N8C) and the Certificate of Service of the LTB Form.

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](https://www.chfcanada.coop)      www.chfcanada.coop

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