



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario

Housing and tenants' rights during Covid-19

Hosted by CLEO in partnership with:

Tracy Heffernan, Advocacy Centre for Tenants Ontario

Feb. 24, 2021

The Law
Foundation
of Ontario
Advancing access to justice



Disclaimer

This webinar is for general information purposes only and is not legal advice. The legal information and answers provided live by our legal experts and by our staff in the Q+A are not intended to be used as legal advice for a specific legal problem. This webinar was recorded on Feb. 24, 2021 and reflects developments in the law before that date.



Land Acknowledgement

We acknowledge that since time immemorial the land on which we live and work has been the home and traditional territory of Indigenous Peoples, including the Mississaugas of the Credit, Haudenosaunee and Huron-Wendat, and is now home to many diverse First Nations, Inuit, and Métis relatives. CLEO's work is also carried out across the many traditional territories of this land that is also known as Ontario. We acknowledge our privilege as well as our role in the systems of colonization.

CLEO staff are learning to be better allies by participating in anti-Indigenous racism education. We are strengthening ties to Indigenous-serving organizations in order to produce information and resources that reflect the experience of Indigenous Peoples, and develop training that is more relevant for and accessible to Indigenous Peoples.



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Steps to Justice

Your guide to law in Ontario



Justice pas-à-pas

Votre guide de droit en Ontario

COVID-19: Updates on the law and legal services



CLEO Connect

Training and tools
for community workers



Outline

Tracy Heffernan

- Who is not covered by the Residential Tenancies Act (RTA)?
- Virtual hearings at the Landlord and Tenant Board (LTB)
- Evictions – N4 Forms, landlord applications, moratorium update
- Accommodation for clients
- Repayment agreements
- S. 83 - Landlord Tenant Board (LTB) can delay or deny evictions
- Where clients can get help
- What community workers can do
- Case Study
- Q & A

Michelle Cader

- Phone support and other legal information and resources

Housing and tenant rights during Covid-19

What can I do if my client owes rent?



Tracy Heffernan

Advocacy Centre for Tenants
Ontario (ACTO)

February 24, 2021

True or False?

- If the landlord and I agree to a rent repayment plan I cannot be evicted.
- If my apartment needs repair I can try to offset rent owing at a hearing.
- If I have a mental or physical health disability I cannot be evicted.
- I can use compassionate grounds at a hearing to try and prevent eviction.
- There is a moratorium on eviction orders in Ontario.



Myth Busting Answers

- If the landlord and I agree to a rent repayment plan I cannot be evicted. **FALSE**
- If my apartment needs repair I can try to offset rent owing at a hearing. **TRUE**
- If I have a mental or physical health disability I cannot be evicted. **FALSE**
- I can use compassionate grounds at a hearing to try and prevent eviction. **TRUE**
- There is a moratorium on eviction orders in Ontario. **FALSE**

Tenants who are not covered by the Residential Tenancies Act

- Sharing a kitchen or bathroom with the owner
- Seasonal or temporary living accommodation
- Non-profit housing co-ops *special rules apply*
- Long term care homes, shelters, student residences...
- Short term care homes for respite care

Setting the context: what do we know about COVID-19 and eviction?

- We know that racialized communities are more impacted – high percentage of positive COVID tests racialized communities
- We know that in overcrowded households the rate of COVID is higher
- A higher rate of eviction correlates with a higher rate of COVID
- People who are homeless are at much higher risk of contracting COVID and suffering serious illness or death

Evictions are serious under any circumstances.

But during a pandemic they could be lethal.

Setting the context: virtual hearings at the Landlord and Tenant Board



We want to hear from you!

Please participate in our POLL

Who are the tenant duty counsel and what do they do?



- Free legal assistance for tenants
- Tenants can sign up for tenant duty counsel before their hearing:
<https://www.acto.ca/for-tenants/>
- Tenants can request tenant duty counsel assistance at the hearing
- Tenant duty counsel is available at most hearings

Take home point

- TENANTS DO NOT NEED TO MOVE OUT BASED ON A NOTICE TO TERMINATE
- THERE ARE MORE STEPS IN THE PROCESS!



Application for Eviction

- If the tenant does not pay rent within 14 days of receiving the N4 Notice to Terminate, the Landlord can file an L1 application for eviction
- This will be sent to the tenant by the Landlord and Tenant Board either by mail or by email (tell your client to check their junk email!) together with a Notice of Hearing
- There will be a hearing at the Landlord and Tenant Board – details will be on the Notice of Hearing: is the hearing by phone or video? Date?

“Stay at home, save lives”?

- Premier Ford said in March that ***no one would be evicted during a pandemic***. A moratorium on evictions was issued and the Landlord and Tenants Board was closed, except for urgent matters. It was lifted at the end of July 2020. The Advocacy Centre for Tenants Ontario tried, through the courts, to have it reinstated. We lost. The Landlord and Tenant Board re-opened.
- In January 2021 a temporary moratorium on the **enforcement of evictions** was introduced with the state of emergency. Eviction hearings continued at the LTB.
- The moratorium has gradually been lifted across the province. Currently the only places where evictions will not be enforced are North Bay/Parry Sound, Peel Region, and Toronto.

Questions?

What if your client does not have a phone/internet access/has a physical or mental health disability/has a language other than English or French?

- If a tenant wants an interpreter or an accommodation, it should be requested before the hearing – you must send the form in.
- Follow up with a LTB customer service representative to make sure they receive and process the form.
- Complete form here:
<https://tribunalsontario.ca/documents/ltb/Other%20Forms/Advance%20Resolution%20Request.pdf>

Social Justice Tribunals Ontario
Providing fair and accessible justice
Landlord and Tenant Board

Request for Accommodation or French-Language Services

Shade the appropriate boxes to indicate whether you need accommodation under the Ontario *Human Rights Code*, or French-language services, or both. We will not include a copy of this form when we give the other parties a copy of the *Request to Review an Order*. However, we will include the information in your application file. The file may be viewed by other parties to the application.

Accommodation Under the Ontario *Human Rights Code*

The Board will provide accommodation for Code related needs to help you throughout the application and hearing process in accordance with the Social Justice Tribunals Ontario policy on accessibility and accommodation. For example, you may need a sign-language interpreter at your hearing. We may contact you about your request. You can obtain a copy of the policy at stjto.ca.

Please explain: What accommodation do you need?

French-Language Services

The Landlord and Tenant Board will assign a bilingual adjudicator to be in charge of the hearing. We will also arrange for a French-English interpreter to attend the hearing.

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What if the tenant's apartment is in a state of disrepair?

- Tenants can request that rent owing be reduced due to issues of disrepair/lack of maintenance/loss of services/harassment/etc.
- However, they must email all evidence of the disrepair including photos, receipts from doing the repair themselves, and building inspectors' reports at least 7 days in advance of the hearing to both the LTB and the landlord



Repayment Agreements

- Help clients to figure out a repayment agreement - this takes time and care

Things to consider

- ✓ Was there a temporary loss of job or diminished earnings due to COVID? Do they have an income now?
- ✓ Is the tenancy sustainable? That is, can they afford the rent on an ongoing basis? This is critical!
- ✓ How much can the client afford to pay each month... realistically?



Repayment agreements... caution

- There is no longer mediation available at the LTB
- If the tenant signs a repayment agreement with their landlord and they are a day late or a dollar short the landlord can file to have them evicted without notice
- If the tenant receives an eviction order after failing to make a payment they can file a motion to set aside the eviction order... get legal help!



s.83 RTA: Adjudicators have discretion to refuse or delay eviction

Talk to clients about why their eviction should be delayed or denied

- ✓ Small children
- ✓ Illness
- ✓ Lost job or diminished earnings due to COVID 19
- ✓ Should not be evicted into a pandemic
- ✓ Mental health issue
- ✓ Landlord bad conduct
- ✓ At high risk of contracting COVID
- ✓ Essential worker

How can I help my client?

- Look at the N4 Notice to Terminate: is it accurate?
- Make sure they have all relevant documents, including receipts
- If they have disrepair in their unit and want to offset this against rent owing make sure they send all information to the Landlord and Tenant Board and the landlord at least 7 days in advance
- Refer them to the rent bank in your area
- Refer them to your local legal clinic
- Tell them to sign up for free legal advice from Tenant Duty Counsel before the hearing
- Tell them to request tenant duty counsel assistance at the hearing

Case Study

Shalini has called you in a panic. Her landlord gave her an N4 notice telling her that she must move out in 2 weeks. She has two young children. Her elderly mother cares for the children.

Shalini works as a personal support worker and has no paid sick days. Last month she had to take a few days off work as she was not feeling well and had to wait for a COVID test result. As a result, she lost some of her wages and could not pay all of her rent.

Her landlord is difficult, last month she tried to tell the landlord that they did not have enough heat and he yelled at her. She called him to talk about the rent issue and he gave her a repayment agreement to sign.

She has no other family in Canada and they have no place to go.

What you and your client can do...

Shalini has called you in a panic. Her landlord gave her an N4 notice telling her that she must move out. She has two young children. Her elderly mother cares for the children.

Shalini works as a personal support worker and has no paid sick days. Last month she had to take a few days off work as she was not feeling well and had to wait for a COVID test result. As a result, she lost some of her wages and could not pay all of her rent.

Her landlord is difficult, last month she tried to tell the landlord that they did not have enough heat and he yelled at her. She called him to talk about the rent issue and he gave her a repayment agreement to sign.

She has no other family in Canada, and they have no place to go.

- Check accuracy of notice – we she given 14 days to pay? Is the amount owing correct?
- Tell her she does not have to move
- Review the repayment agreement: is she 100% sure she can meet the terms? Warn her re: eviction without notice if she does not. Tell her she does not need to sign
- Should she contact the rent bank for assistance?
- Heat = repair issue – can rent be offset? Does she have proof?
- Is the landlord also harassing her?
- S.83 issues to be raised should it go to a hearing = essential worker, children, elderly mother, no place to go, sustainable rent, one time short for good reasons, does she live in a neighbourhood with higher Covid?
- Request interpretation if it goes to a hearing?
- Ask her about internet/phone access if it goes to a hearing

My client received an eviction order...

- Eviction orders say many things and may include a pay and stay option
- If there are serious errors in the order, tenants can file a request to review at the LTB (internal appeal)
- If an error of law, could file an appeal at Divisional Court

Bottom line: Get legal help immediately!

Where to get help

Before the hearing:

- [Local legal clinic](#)
- Sign up for tenant duty counsel: <https://www.acto.ca/for-tenants/>
- Ontario Bar Association: Tenants facing eviction hearing for rent owing can sign up for 30 min summary advice via the OBA - <https://www.oba.org/TLCP>
- Rent bank in your area – [Toronto Rent Bank](#)

At the hearing:

- [Tenant Duty Counsel](#)

We need real access to justice for tenants!

What can you do?

- Call or email your [MPP](#) and ask for help
- Email the Associate Chair of the LTB: Karen.Restoule@Ontario.ca
- Get in touch with your [local legal clinic](#) and see what they are doing
- Support local [tenant organizing](#)
- Media is an option to push for change. Contact Bahar Shadpour (ACTO) at shadpob@lao.on.ca



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stepstojustice.ca

COVID:19 Updates on the law and legal

The screenshot shows a web browser window displaying the homepage of stepstojustice.ca. A red banner at the top reads "COVID-19: Updates on the law and legal services". Below the banner is the site's logo and navigation menu. The main content area features a large image of a woman and the text "Steps to Justice Step-by-step information about legal problems. Reliable, practical, and easy to understand." A search bar is located at the bottom of the main content area. A blue arrow points to the "Reload this page" button in the browser's address bar.

stepstojustice.ca

COVID-19: Updates on the law and legal services

HIDE THIS SITE

Français

Steps to Justice
Your guide to law in Ontario

Legal Topics ▾ About Steps to Justice ▾ Latest Updates ▾ Embed & Share ▾

Steps to Justice
Step-by-step information about legal problems.
Reliable, practical, and easy to understand.

Tell us what you are looking for...

Live Chat
M, T, W, F: 11am-1pm; 2-4pm
Thursday: 11-1; 7-9pm



Steps to Justice information & resources:

- **Covid-19 and housing:**
 - [COVID-19 Housing Law \(En\)](#)
 - [Droit du logement durant le COVID-19 \(Fr\)](#)
- **Updated questions:**
 - [Can I be evicted during COVID-19?](#)
 - [Are LTB hearings going ahead in the COVID-19 pandemic?](#)
- **Resources**
 - CLEO Chart - [COVID-19 Evictions for non-payment of rent](#)
 - [ACTO Tip Sheets](#)



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