

Remedies

at the LTB & Beyond

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About the Canadian Centre for Housing Rights (CCHR)

CCHR is Canada's leading non-profit organization working to advance the right to housing. We do this through:



SERVICES

Empowering renters to claim their rights and stay housed.



EDUCATION

Sharing knowledge and tools that transform lives.



POLICY ADVOCACY

Engaging with communities and proposing realistic solutions.



RESEARCH

Creating knowledge and informing evidence-based solutions.



LAW REFORM

Advancing housing rights legal frameworks.

AGENDA

1. Important Laws
2. Tenant Applications at the LTB
3. The Landlord and Tenant Board
4. Reviews and Appeals
5. Eviction Prevention
6. Remedies at the HRTO

Important Laws

Legislation & Tribunals

Residential Tenancies Act (RTA) - sets out rights and responsibilities of landlords and tenants.

Landlord and Tenant Board (LTB)– the tribunals that adjudicates landlord and tenant matters.

Housing Services Act (HSA) - Clarifies the housing roles and responsibilities of Service Managers. Helps set priorities for affordable housing, social housing, housing for persons with disability and preventing homelessness.

Legislation & Tribunals

Ontario Human Rights Code (OHRC) - sets out human rights as related to housing in Ontario among other social areas including employment, contracts, and services.

The Human Rights Tribunal – the tribunal that adjudicates human rights matters.

Accessibility for Ontarians with Disabilities Act (AODA) – sets standards that organizations must follow to become more accessible to people with disabilities.

Housing Models

Private Rental Buildings: governed by Residential Tenancies Act, overseen by the Landlord and Tenant Board.

Co-operative Housing Corporations: governed Internal bylaws, overseen by their own Board of Directors (except in eviction matters).

Social Housing: governed by the Residential Tenancies Act and the Housing Services Act.

Private homeownership, such as condominiums

Tenant Applications

Tenants Filing at the LTB

Tenant applications can be made to the Landlord and Tenant board for many different issues including:

- Not doing necessary repairs
- Not respecting privacy
- Tenant wanting to end the tenancy
- Landlord is not allowing the tenant to sublet or assign
- Landlord gave a termination notice in bad faith

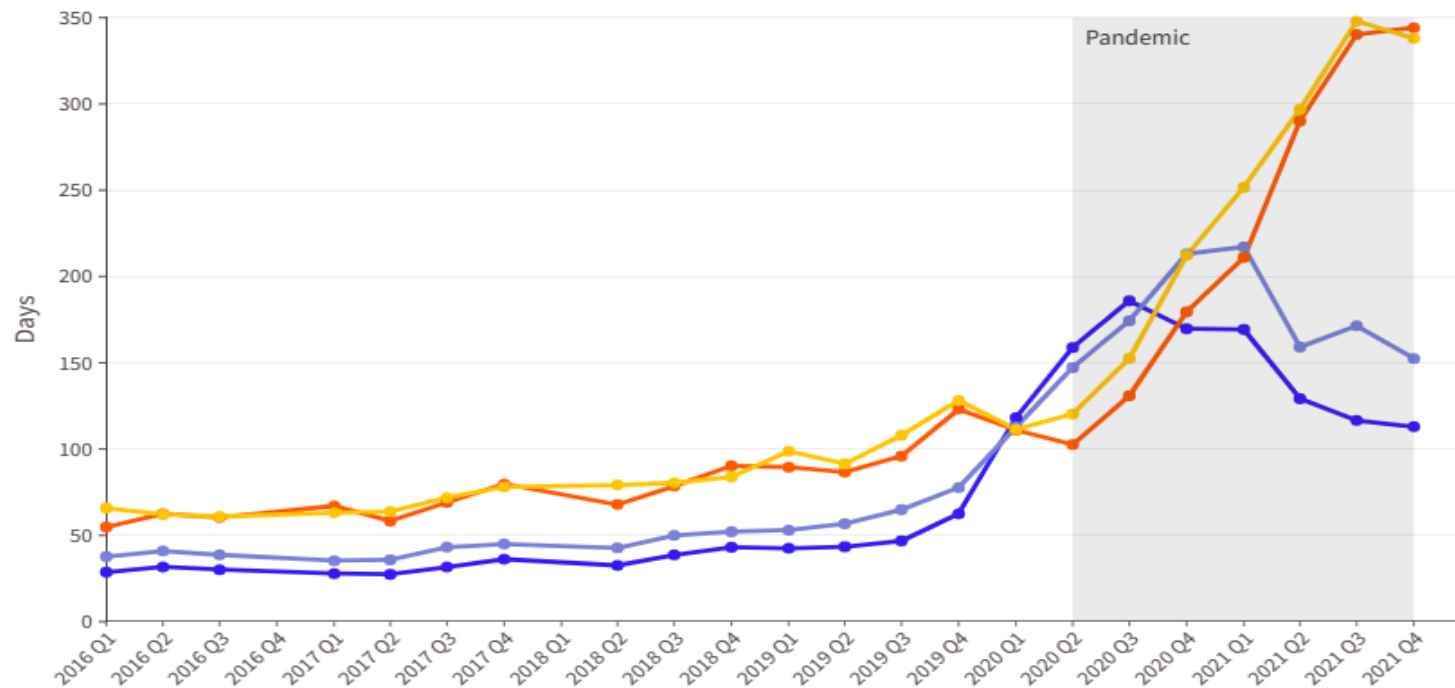
.... and many others

Tenant Application delays

Wait Time for the Most Common Landlord and Tenant Cases

Tenant cases have always taken longer—but the gap is widening.

- L1 (Landlord cases - evictions due to failure to pay rent)
- L2 (Landlord cases - evictions for other reasons)
- T2 (Tenant cases - rights violations)
- T6 (Tenant cases - lapsed maintenance)



Source: [Landlord and Tenant Board](#) • Average wait from filing to decision. Data not available for 2016 Q4 and 2018 Q1.

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What Remedies Can the LTB Order?

The LTB has broad powers under the *RTA*. Possible remedies include:

- Rent abatements
- Declarations
- Termination of tenancy
- Eviction orders
- Relief from eviction
- Administrative fines
- Costs

The LTB may also attach conditions it considers fair and reasonable.

Tenant Remedies Continued

The LTB may order:

- Rent abatement
- Compensation for losses
- Repairs or maintenance
- Replacement of damaged property
- Reimbursement of expenses
- An order requiring the landlord to stop unlawful conduct
- A freeze on rent increases until repairs are completed
- Administrative fines
- Termination of the tenancy

Types of Monetary Compensation

Rent Abatement: This is a compensation for loss of use or enjoyment of the rental unit.

Examples:

- No heat
- Major leaks
- Persistent pest infestations

This is usually calculated as a percentage reduction of rent.

Note: it cannot exceed 100% of rent.

How to calculate a Rent Abatement

It's an art not a science!

Top tips:

1. Ask for a little more than you think you'll get, but not so much that you seem unreasonable
2. Break down each issue and ask for a separate rent abatement for each
3. Have strong justifications for each request

E.g. The kitchen is 30% of my living area/I spend 30% of my time in the kitchen, so I should get a 30% abatement for each month I haven't been able to use my kitchen

Types of Monetary Compensation

Special Damages: these are compensation for actual financial losses.

Examples:

- Damaged belongings
- Hotel expenses
- Moving costs
- Increased utility costs

Note: that receipts and records are important to establish claims.

General Damages: these are compensation for:

- Significant inconvenience
- Stress
- Mental distress
- Loss of enjoyment of the home

Factors the LTB Considers in Awarding Remedies

The availability and amount of compensation depend on the circumstances:

1. Compensation is assessed based on the specific circumstances of each case.
2. Minor or short-term inconveniences may not qualify for compensation.
3. Landlords may not be liable for damage caused by hidden (latent) defects that could **not** reasonably have been discovered but must repair the issue once aware of it.
4. The LTB considers whether the landlord responded promptly, acted reasonably, and took steps to reduce the impact on tenants.

Tenant Application about Maintenance (T6)

Landlords must keep rental units and residential complexes in a good state of repair (s.20 RTA).

When they fail to do so, tenants may seek:

- Rent abatement
- Compensation
- Repair orders
- Other remedies authorized by the RTA

The seriousness, duration/impact of the problem will affect the remedy awarded.

Possible T6 Application and Remedies

Evidence may include:

- Emails and texts
- Photos
- Temperature logs
- Receipts
- Property Standards Order

Potential Remedies may include:

- Rent abatement
- Reimbursement for space heaters
- Reimbursement for increased hydro costs
- Repair order
- Administrative fine (where appropriate)

Application about Tenant Rights – T2

A bit of a catch-all application

Reasons include if the landlord:

- Illegally entered the rental unit
- Illegally locked out the tenant
- Seriously interfered with the tenant's *reasonable enjoyment*
- Withheld or interfered with vital services (heat, water, electricity)
- Harassed, interfered with, obstructed, coerced or threatened the tenant

T2 Tenant Rights Application

Possible remedies include:

- Rent abatement
- Compensation
- Administrative fine
- Order prohibiting future illegal entries

Helpful Evidence

- Security camera footage
- Witness statements
- Text messages
- Entry logs

T3 Applications

Application for a Rent Reduction

- Landlord reduced or discontinued a service or facility
 - E.g. loss of laundry services, parking, pool, etc.
- Requested as a reduction of rent going forward.
- Can be paired with a T2 to request a rent abatement for the same issue

T4 Applications

Landlord Did not Comply with an Agreement to Increase the Rent above the Guideline

- Landlord and tenant entered into an N10 agreement to increase the rent above the guideline but the landlord did not do the work or provide the service agreed to.
- Tenants must apply within 2 years of the date of the rent increase

T5 Applications

T5 – Landlord gave a notice of Termination in Bad Faith

- The landlord or their family member said they were going to move in but they did not
- The purchaser, or their family member said they wanted to move in and they did not
- the landlord said they were going to demolish, convert or do extensive repairs and did not
- The landlord did not allow the tenant to move back into the rental unit after extensive repairs were completed

T5 applications

Special details for T5 applications

The limitation period is 1 year, except if "right to return" was denied, in which case it's 2 years.

Remedies:

- Rent abatement
- Fine to the LTB
- Difference between old and new rent
- Moving and storage costs
- **General compensation (up to 12 months of rent)**
- Other remedies, such as being allowed to move back in

A1/A2 Applications

A1 - Application about Whether the Act Applies

- To determine if the Residential Tenancies Act applies

A2 - Application about a Sublet or Assignment

- Landlord refuses to allow the tenant to assign or sublet.
- The tenant sublet to someone who did not leave even though the subtenancy ended.

Tenant Applications to the LTB

Fees

Most tenant applications cost \$53 and are \$48 if e-filed.

Tenants who cannot afford the fee can request a fee waiver. They qualify based on annual income guidelines.

Tenant applications must be brought within 1 year of the basis for their claim, except tenants filing a T5 based on bad faith N13.

The Landlord and Tenant Board



E-filing

The LTB strongly encourages e-filing of applications

Once filed, the parties will receive a Notice of Hearing. It will be emailed if email contact information is provided, or it will be mailed.

Preparing for an LTB hearing

After an application is filed:

- Parties receive a Notice of Hearing
- Documents can be uploaded and viewed at the TOP
- Evidence can be submitted*
- Accommodation requests can be made
- Fees can be paid online



Hearing Process

1. Applicant presents evidence
2. Respondent presents evidence
3. Witnesses testify
4. Parties question witnesses
5. LTB Member asks questions
6. Closing submissions
7. Written order issued



Concerns About Access

Not everyone has access to a device that can work with programs like the Portal or Zoom.

Not everyone is technologically literate.

Potential bias by adjudicators against those who call in to hearings or struggle to manage the technology.

A vertical decorative bar on the left side of the slide, featuring a repeating geometric pattern of interlocking lines in various shades of teal and light blue, creating a maze-like or honeycomb effect.

Mediation

Before the hearing begins, parties may choose mediation.

Mediation benefits include:

- Faster resolution
- Flexible solutions
- Confidential discussions
- Reduced stress and conflict

Be Careful with Settlement Agreements

Before agreeing to any settlement Agreement, seek legal advice:

Example if a TT is owing arrears of rent, they must ask themselves:

- Can I realistically make these payments?
- Can I comply with these conditions?

Note: Breaching a settlement can lead to enforcement without another full hearing.

Attending the Hearing

If a party **does not** attend:

The hearing may proceed without them

Important rights may be lost

Note: A representative may attend with proper authorization.

Parties may also request a rescheduling.

Reviews

Either party can ask the LTB to review their decision. To do this they will need to file a "Request for Review" within ~~30~~ 15 days.

The LTB will only review an order if:

- it contains a serious error or
- a serious error occurred during the proceeding or
- the party seeking review was not reasonably able to participate.

Appeals

Either party can also appeal to the Divisional Court within 30 days.

Appeals are only available on questions of law.

Eviction Prevention



Relief from Eviction (s. 83)

Even if a landlord proves their case, the LTB must consider whether eviction should be delayed or refused.

The Board considers:

- Tenant circumstances
- Landlord circumstances
- Impact on others
- Public interest
- Human Rights Code obligations



Key tips in eviction prevention

Tenants shouldn't sign anything until they get legal advice.

Tenants shouldn't assume an eviction notice is valid until they get legal advice.

Tenants shouldn't assume an eviction notice is permanent until they get legal advice – it may be possible to void (“cancel”) it.

Tenants should keep notes and communicate with their landlord in writing.

Tenants may have some rights even after eviction, especially in cases of landlord's own use or renovations – get legal advice.



Mandatory Refusal of Eviction

The LTB must refuse eviction in certain situations.

Examples include:

- Retaliation for enforcing legal rights
- Complaints to government authorities
- Participation in a tenant association
- Presence of children in the unit
- Serious landlord breaches of the RTA

Issues a Tenant Intends to Raise at a Rent Arrears Hearing (s. 82)

At a hearing based on non-payment of rent a tenant can raise any issue that could be subject to a tenant application.

This means that tenants can request any of the above remedies at a hearing about non-payment of rent.

Note: with Bill 60 coming into effect, tenants must pay 50% of arrears in order to raise issues under s. 82.

Remedies at the HRTTO



Types of Remedies at the HRTO

If discrimination and harassment are found, the HRTO can order:

- 1) Monetary Compensation
- 2) Non-monetary remedies
- 3) Public interest remedies

What are monetary damages?

General damages

- This is money that is awarded generally for the loss of freedom from discrimination and harassment
- Takes into account:
 - 1) Objective seriousness of the conduct
 - 2) Personal effect of the discrimination/harassment

Special damages

- This is specific compensation for expenses incurred as a result of the harassment or discrimination
 - E.g. lost income, out-of-pocket expenses, moving costs

What are non-monetary remedies?

The HERTO also has the power to award non-monetary remedies such as:

- Correcting the discriminatory behaviour
- An order to provide housing
- An apology
- A declaration of the harm that was done

What are public interest remedies?

- Public interest remedies are intended to ensure future compliance with the Human Rights Code
- Examples include:
 - Development of human rights policies
 - Human rights training for staff and management
 - Donation to charities
- The HRTO can also award remedies that were not requested, but that they find most appropriate in the circumstances

The LTB vs the HRTO

LTB	HRTO
Deals only with landlord and tenant matters	Can deal broadly with discrimination and harassment issues anywhere in housing
Remedies are somewhat limited	Can make public interest remedies
Has to consider human rights issues, but does not always do so	Experts in human rights issues
Can be faster (several months to a year) wait time for a hearing	Very long wait time (4-10 years to a decision in 2024)

Choose carefully – you might only get one shot!

Thank you

Keep in touch



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