

RENOVICTIONS:

The Individual and Systemic Implications of Fighting Back



Advocacy Centre
for Tenants Ontario

Tenant Duty
Counsel Program

What is a Renoviction?

Colloquial term for the legal process that occurs when:

- Landlord serves N13 (or informally threatens tenant)
- If tenant leaves, the tenant can assert a right of first refusal and the landlord is required to resume the tenancy, on the same terms, once renovations are completed
- If tenant stays, their landlord can file an application and a hearing will be scheduled at the LTB
- This process is leveraged as a revenue generation tool to turn over the unit to higher-paying tenants

The Far-Reaching Effects of Renoviction

Individuals

- Landlord neglect repairs and responsibilities under s 20, ignore maintenance requests
- Harassment and intimidation
- Tenants are forced from their homes indefinitely
- Tenants are burdened with filing T5 if their landlord has acted in bad faith
- Right of first refusal is elusive

Systemic

- Financialized landlords target racialized communities
- Loss of affordable units means rents keep going up
- Landlords exploit vacancy decontrol
- Housing instability



The Legal Test

s.50 (1) A landlord may give notice of termination of a tenancy if the landlord requires possession of the rental unit in order to,

(c) do repairs or renovations to it that are so extensive that they **require**

- a **building permit** and
- **vacant possession** of the rental unit.

s. 50(2) 120 days notice at end of term

Compensation by termination date in N13:

- Less than 5 units= 1 month's Rent unless ordered
- 5 or more units = 3 month's rent unless ordered

Mobile home/Land Lease: 1 year's rent or \$3,000, whichever is less.



Helping Homebuyers, Protecting Tenants Act, 2023 – changes to s 50 coming into force - date to be proclaimed

- S 50 (3) will be amended, to add a requirement that landlords issuing N13 must include with the notice a professional report confirming renovations are so extensive that vacant possession is required
- Author of report must have “prescribed qualifications”
- If report is not included with the notice, the notice is void



Building Permits

A Building Permit **must be legally required not just obtained**. The LTB can consider if the permit was required and if it is consistent with the N13 details.

A Building Permit is **not**: an electrical permit, a demolition permit, a work order, a septic system permit.

It is a permit for construction or structural changes under s.8 of the Building Code Act:

s. 8 (1) No person shall construct or demolish a building or cause a building to be constructed or demolished unless a permit has been issued therefor by the chief building official. 1992, c. 23, s. 8 (1); 1997, c. 30, Sched. B, s. 7 (1).

File evidence:

- an email, policy or statement from your local building department
- materials from other municipalities such as City of Toronto or Ottawa. (The Building Code Act is provincial not municipal.)



When is a building permit legally required?

- Construct a new building or an addition to an existing building
- **Make structural or material alterations**, such as adding or removing walls (i.e., changing room sizes and/or uses), new windows or doors where there were none before, enlarging or relocating existing windows or doors
- Finishing a basement, if the work proposed includes any of the following: structural or material alterations; installing or modifying heating and or plumbing systems; excavating and/or constructing foundations; basement underpinning; constructing a basement entrance; adding a second suite
- Demolish or remove all, or a portion of a building – converting to more or fewer units
- Install or reconstruct a chimney, woodstove or wood fireplace
- Install or modify heating and or plumbing systems (except replacing or repairing)
- Change a building's use

Source: <https://www.toronto.ca/services-payments/building-construction/building-permit/before-you-apply-for-a-building-permit/when-do-i-need-a-building-permit/>



When is a building permit NOT legally required?

- windows or doors - same size and location
- installing plumbing fixtures
- installing cabinetry such as in a kitchen or bathroom
- replacing a furnace or boiler
- performing electrical work (with Electrical Safety Authority permit)
- installing A/C, gas fireplaces, air cleaners, in-line humidifiers, or hot water tanks
- finishing a basement of a house if no structural or material alterations, no additional dwelling unit is created, and the work does not include the installation of new plumbing
- waterproofing a basement; installing a sump pump
- siding, insulation, roofing (unless structural), tent, canopy, small shed, small outbuilding, low uncovered deck

Source: <https://www.toronto.ca/services-payments/building-construction/building-permit/before-you-apply-for-a-building-permit/when-do-i-need-a-building-permit/>



Is it necessary for the tenant to move out entirely?

- Is vacant possession actually required or can the tenant reside in the unit while allowing work to be done?
- Kitchens, flooring, bathrooms, windows can normally all be done without vacant possession.
- **Provide evidence** of tenant's willingness to accommodate noise and inconvenience: Emails, texts, history of cooperation, possibility of temporary absences if no toilet or sink, willingness to move or store furniture.
- Provide written assurances that the tenant will cooperate, allow entry & move items

Does the Landlord genuinely intend in good faith to do the work proposed?

s.202 (1) In making findings on an application, the Board shall ascertain the **real substance of all transactions and activities** relating to a residential complex or a rental unit and the **good faith** of the participants and in doing so,

(a) may disregard the outward form of a transaction or the separate corporate existence of participants; and

(b) may have regard to the **pattern of activities** relating to the residential complex or the rental unit.

Cross-examination and landlord evidence:

- Evidence of contractors hired and timelines – is this a genuine intention or an excuse to raise rents
- Consistency between building permit and N13 Notice
- Previous notices and communications
- Pattern of activities
- Intention must be continuous up to hearing (no change of plans)

Right of First Refusal to Return to the Rental Unit at the same rent

- Provide notice before tenant vacates unit
- Tenant must provide a **written request** to return to the unit once renovations are complete with up-to-date contact info
- Provide a blank form for tenants to use and keep a copy
- Put in this written request prior to the hearing - gives the landlord a clear message that this will *not* result in increased rent
- Keep landlord apprise, in writing, of any change in address
- Request a timeline for completing repairs and monthly updates from the landlord. It is possible to request a conditional order with timelines

Helping Homebuyers, Protecting Tenants Act, 2023 – changes to s 53 coming into force September 21

- Upon a tenant providing notice that they intend to exercise the right of first refusal:
 - The landlord shall “without delay” notify tenant of the estimated date by which they may resume occupancy
 - The landlord shall keep tenant apprised of any change to that estimate, in writing
 - The landlord shall provide the tenants at least 60 days after unit is ready to exercise the right of first refusal

s.83(1) Fairness & All of the Circumstances

s.83(1) allows the Board to extend time, impose conditions, or deny eviction if it would “not be unfair” to do so – reverse onus and broad mandatory discretion

Provide detailed testimony and documentary evidence of:

- duration of tenancy rent, family size, income, details of each family member, disabilities, alternative housing, roots in the community and any unique needs or circumstances
- medical letter for each tenant and family member
- evidence concerning human rights accommodation issues
- letters and reports on housing market, affordability, local homelessness, lack of emergency housing & shelters
- Impact of losing housing on the specific tenant
- Pattern of activities in the tenancy and the complex

Is the landlord currently in serious breach of responsibilities or is the notice retaliatory?

Circumstances where refusal required – **mandatory refusal**

s.83(3) Without restricting the generality of subsection (1), the Board **shall refuse** to grant the application where satisfied that,

- (a) the landlord is in **serious breach of the landlord's responsibilities** under this Act or of any material covenant in the tenancy agreement;
- (b) the reason for the application being brought is that the **tenant has complained to a governmental authority** of the landlord's violation of a law dealing with health, safety, housing or maintenance standards;
- (c) the reason for the application being brought is that the **tenant has attempted to secure or enforce his or her legal rights**;
- (d) the reason for the application being brought is that the tenant is a member of a tenants' association or is attempting to organize such an association; or
- (e) the reason for the application being brought is that the rental unit is occupied by children and the occupation by the children does not constitute overcrowding.

File specific evidence of breaches and retaliation and consider filing tenant applications if appropriate. Include dates & details with supporting photos, email, texts, orders (consider FIPPA), etc.



T5 -tenant's application where notice given in bad faith

s.57 (1) The Board may make an order described in subsection (3) if, on application by a former tenant of a rental unit, the Board determines that, . . .

(c) the landlord gave a notice of termination under section 50 in bad faith, the former tenant vacated the rental unit as a result of the notice or as a result of an application to or order made by the Board based on the notice, and the **landlord did not demolish, convert or repair or renovate the rental unit within a reasonable time** after the former tenant vacated the rental unit.

Time limitation

(2) No application may be made under subsection (1) more than **one year** after the former tenant vacated the rental unit.



Former tenant's application, failure to allow tenant to exercise right of first refusal

57.1 (1) The Board may make an order described in subsection 57 (3) if, on application by a former tenant of a rental unit, the Board determines that the landlord was required to afford the former tenant a right of first refusal under section 53 and failed to do so.

(2) No application may be made under subsection (1) more than **two years** after the former tenant vacated the rental unit.



Helping Homebuyers, Protecting Tenants Act, 2023 – changes to s 57.1 coming into force September 21

- ***Deemed failure***

Where a landlord fails to comply with the new ss 53(2.1) or (2.2), it is deemed that they have failed to afford tenant right of first refusal

- ***Time limitation***

(2) No application may be made under subsection (1) after the later of the following days:

1. The **second anniversary** of the day the former tenant vacated the rental unit.
2. The day that is **six months** after the day the repairs or renovations are completed.

Preparing for T5 Bad Faith Applications

- Be sure to put in a **written request to reoccupy** with specific contact information
- Have tenant **check in** with landlord monthly and check in with neighbours
- Consider a FIPPA request re compliance with Building Permit – is the work done and has an Occupancy Permit been issued?
- Advise tenant to **keep all receipts** for moving, connection fees, storage, out-of-pocket, disposal of furniture, increased rent and any evidence of medical/mental health effects
- Apply within 12 months if repairs are not done or 24 months if landlord refuses to allow right to return - s.57 & 57.1
- Request to shorten time/**expedite**
- Request one year of rent at old rate, one year of increased rent difference, fine, reinstatement, general damages and out-of-pocket expenses. Remind the LTB that this can't be a cost of doing business. Deterrence is key
- Request an **immediate interim order for reinstatement** to prevent installing new tenant
- Consider LTB complaint and Ombudsman to address discriminatory scheduling delays



Beyond the Legal Work – Supporting Tenants to Fight Back

Tenant Organizing:

- Pamphlet the building asap if other tenants also received N13 notices
- Include specific legal information and contact details
- Organize a meeting to coordinate tenant mutual support and strategies
- Provide a blank form to use to assert the Right of First Refusal to return at same rents

Community Partners:

- Communicate with your local building dept, mayor, & municipal counsellors
- Consider contacting a local paper
- Consider contacting other tenant organizations that are adept at forming tenant movements



N13 Trends in Ontario

Beware of landlord strategy:

- Divide one rental unit into two apartments
- Join two apartments to form a larger one
- Beware of caselaw finding that a renovation may actually be a demolition with no right of return. Landlords are using demolition or conversion to avoid the right of first refusal. Be prepared to argue that it is actually a renovation
- Argue s.202 and purposes of the RTA to protect tenants

BRRRR

BRRRR is a real estate investing strategy that stands for "buy, rehab, **rent**, refinance, and repeat"

- This strategy allows investors to rapidly increase their real estate portfolio with relatively low funding requirements but with many risks and efforts
- Key to the BRRRR method is buying **undervalued properties**, renovating them, re-renting them, and then cashing out equity and reporting income to buy more properties
- The rent that you collect from tenants is used to pay your mortgage payments, which should turn the property cash-flow positive for the BRRRR strategy to work



Thanks!

- Re: new amendments:
 - [Helping Homebuyers, Protecting Tenants Act, 2023, S.O. 2023, c. 10 - Bill 97 | ontario.ca](#)
 - [ORDER IN COUNCIL 617/2026 | ontario.ca](#)
- Further resources:
 - [5 warning signs your landlord might try to renovict you - Advocacy Centre for Tenants Ontario – ACTO](#)
 - [Renovictions: From Tenant Activism to City Bylaws](#)
 - [New research reveals unseen realities behind racialized evictions in rental housing markets - Faculty of Community Services - Toronto Metropolitan University \(TMU\)](#)

