

Session #303:

# Your Best Defense: Tenant Applications at the LTB

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**How many of you  
have been to the  
Board for a tenant  
application?**



A tenant can file an application against the landlord pursuant to s.29 of the *Residential Tenancies Act* (the "**Act**")

## So what does s. 29 of the Act say?

tenant or former tenant may apply to the Board for an order determining.....

The landlord has  
breached an obligation  
under s. 20 (1) or s. 161.

What does that mean?

S. 20  
SAYS....

The landlord is responsible for  
providing and maintaining the  
residential complex, and the rental  
units, in a good state of repair and fit  
for habitation.

## S. 161

relates to mobile home parks and land lease communities and says.....

landlord is responsible for:

- removing or disposing of garbage
- maintaining mobile home park roads
- removing snow from park roads



- maintaining the water supply, sewage disposal, fuel, drainage and electrical systems
- maintaining the grounds, buildings, structures, enclosures and equipment intended for the common use
- repairing damage if damage is caused by wilful or negligent conduct of the landlord

## Other Possible Orders



An order determining that...



- landlord has withheld the reasonable supply of any vital service, care service or food, that is the landlord's obligation to supply
- or deliberately interfered with the reasonable supply of any vital service, care service or food

An order  
determining  
that...

the landlord, superintendent or agent of the landlord has substantially interfered with the reasonable enjoyment of the rental unit or residential complex for all usual purposes by the tenant or a member of his or her household

An order  
determining  
that...

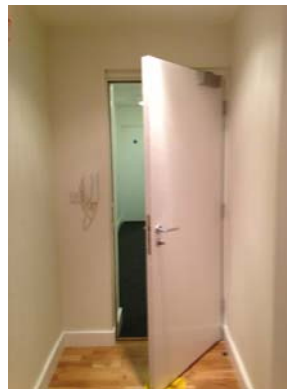
the landlord, superintendent or agent of the landlord has harassed, obstructed, coerced, threatened or interfered with the tenant during the tenant's occupancy of the rental unit

An order  
determining  
that...

- landlord, superintendent or agent of the landlord has changed the locks to the rental unit or residential without giving the tenant replacement keys.

An order  
determining  
that...

The landlord, superintendent or agent of the landlord has illegally entered the rental unit



## Time Limitation

Applications made under s. 29  
have a time limitation of one year



## The Applications





**T1: Tenant Application for a Rebate**

**T2: Application about Tenant Rights**

**T3: Tenant Application for a Rent Reduction**

**T4: Tenant Application – Landlord did not Comply with an Agreement to Increase Rent Above the Guideline**



**T5: Tenant Application – Landlord Gave a Notice of Termination in Bad Faith**

**T6: Tenant Application about Maintenance**

**T7: Tenant Application about Suite Meters**

## T1 Application

Is filed when:

- the landlord collected money that should not have been collected; or
- the landlord failed to pay the tenant money that was owed.

## T2 Application

Tenant wants the Board to determine:

- landlord entered the rental unit illegally or changed the locks without giving the tenant replacement keys
- landlord substantially interfered with the tenant's reasonable enjoyment of the rental unit or complex
- landlord harassed, coerced, obstructed, threatened or interfered with the tenant

## T2 Cont'd

- landlord withheld or interfered with vital services, care services or meals
- did not give the tenant 72 hours to remove the tenant's property from the rental unit after the tenant was evicted by the Sheriff; and/or
- did not give the tenant a written tenancy agreement with respect to a care home unit, its care services, meals and/or charges agreed to.

## T3 Application

Tenant believes that the rent should be reduced because:

- reduced or discontinued a service or facility that was previously provided to the rental unit or to the residential complex; or
- the municipal taxes and charges for the residential complex have been decreased.

## T4 Application

Tenant and the landlord signed an N10 Agreement (agreement to increase the rent above the guideline)

Tenant wants the portion of the rent increase that was above the guideline returned because landlord failed to:

- do major repairs or renovations to the rental unit;
- buy new equipment for the rental unit; or
- add a new service to the tenancy.

## T5 Application

Tenant believes that the landlord gave notice to terminate the tenancy in bad faith.

Applicable notices would be:

- N12: Notice to End your Tenancy Because the Landlord, a Purchaser or a Family Member Requires the Rental Unit; or
- N13 Notice to End your Tenancy Because the Landlord Wants to Demolish the Rental Unit, Repair it or Convert it to Another Use.

## T6 Application

Tenant would like the Board to determine that the landlord:

- has not repaired or maintained the rental unit or the residential complex; and/or
- has not complied with health, safety, housing or maintenance standards.



## T7 Application

filed when the landlord:

- improperly terminated their obligation to provide electricity to the rental unit and required the tenant to start paying electricity costs; or
- required that the tenant pay a portion of the utility costs for the rental unit when improper to do so.

## Remedies s. 30

- terminate the tenancy
- abatement of rent
- authorize a repair or replacement or costs of same
- order landlord to pay a specified sum
- prohibit landlord from charging a new rent
- prohibit landlord from giving notice of rent increase
- any other order that is appropriate

What are the most  
common  
applications?

T2 & T6

## How can my organization avoid a tenant application?

There is no surefire way to avoid a tenant application but there are some things you can do

- know the landlord's obligations under the Act
- know the tenant's obligations under the Act

implement and/or maintain an effective maintenance & pest control regime

take all tenant complaints seriously and investigate accordingly

pair up with staff when necessary

document  
document  
document

Be mindful of the Human Rights Code



## Landlord's Obligations

*Part III of the Act*

- maintaining the residential complex & rental unit in a good state of repair
- not to substantially interfere with the reasonable enjoyment of the rental unit or the residential complex
- not to harass, obstruct, coerce, threaten or interfere with a tenant
- not to alter/change the locks
- entry only in accordance with the Act

## Unit Inspections

**\*Remember that what seems to be a harmless unit inspection could be the subject of a T2 application\***

All inspections should be conducted in accordance with the Act



## Entry with Notice s.27

*Landlord may enter the rental unit with 24 hour written notice to the tenant to:*

- *to carry out repair/replacement work*
- *to allow a potential mortgagee or insurer to view the rental unit*
- *to allow a potential purchaser to view the rental unit*



- *to allow a professional engineer, architect or another qualified person to inspect to satisfy a requirement under subsection 9 (4) of the Condominium Act, 1998*
- *to determine if the rental unit is in a good state of repair, fit for habitation and complies with health, safety, housing and maintenance standards*
- *for any other reasonable reason for entry specified in the tenancy agreement*

## Best Practice for Entry

Limit the window for entry to four hours  
*Wrona v. TCHC*

Never rely on a maintenance request signed  
by the tenant as consent

## Entry Without Notice s.26

\*emergency

\*tenant consents to entry at time of  
entry

\*rental agreement requires landlord to  
clean the rental unit at specified times

\*If cleaning time not specified, landlord  
may enter between the hours of 8 a.m.  
and 8 p.m

## Entry for Emergency Limited

limited to fire, flooding, etc.

be careful not to jump to conclusions ie.  
sick tenant or suspicious that tenant  
passed away

## Tenant's Obligations

*Part IV of the Act*

- ordinary cleanliness of the rental unit
- repair of undue damage caused by wilful or negligent conduct
- not to alter the locks without the consent of the landlord
- not to harass, obstruct, coerce, threaten or interfere with the landlord

# Maintenance

ensure that there is an effective reporting process that allows tenants to make maintenance requests

do not turn a blind eye to complaints that may not be received in accordance with your process i.e. verbal instead of in writing

respond to maintenance requests within a reasonable time (what is considered reasonable will be based on the maintenance issue)

conduct, at a minimum, annual unit inspections

have a pest control regime or action plan in place

## Pairing Up With Staff

It is always ideal to have another staff member with you especially when:

*\*You are conducting a unit inspection*

*\*You are meeting with a tenant*

*\*You are serving a tenant with legal documents*

Document  
Document  
Document



## You never know when an issue with a tenant will arise

Keeping a written record of anything to do with the tenancy can be very helpful when faced with a tenant application

You should be able to look at the tenant's file and have a good idea of any issues raised by the tenant and the landlord's response

## *Human Rights Code*

\*the Board has an obligation to consider the *Human Rights Code (the "Code")* when making its decisions

\*if a landlord's behavior constitutes a breach of the Code that same behavior is also substantial interference with a tenant's reasonable enjoyment

## Preparing for the hearing

Scenarios

## T2 Application

Tenant A has complained to you several times that Tenant B is harassing Tenant A

Tenant A is dissatisfied with the landlord's attempts to address Tenant B's behavior and filed an application with the Board

**What do you think you should prepare as your evidence for the hearing?**



What's your evidence?

- correspondence relating to Tenant A's complaint
- correspondence to Tenant B regarding Tenant A's complaint
- documentation relating to the landlord's attempts to address Tenant B's behavior
- witnesses with first hand knowledge

Your best defense.....

Demonstrate to the Board that the landlord responded to Tenant A's complaints within a reasonable period of time and took reasonable steps to address the problem

What's that?

reasonable?  
reasonable?

## T6 Application

A tenant in your building has had a bed bug infestation for over a year and is claiming that the landlord has failed to effectively treat the rental unit

**What do you think you should prepare as your evidence for the hearing?**

What's your evidence?

- Landlord's response was timely and reasonable
- provide reports/invoices from the pest control technician
- instructions given to the tenant regarding unit preparation



- tenant's cooperation during the treatment process
- did the tenant cancel the treatments?
- did the tenant fail to prepare?
- testimony of the treating pest control technician

## Some Important Points

Generally, the Board will not hold a landlord liable if the landlord was unaware of the maintenance issue

Tenants do not have the right to dictate repair methods or treatments

The Board will consider if the tenant failed to cooperate with the landlord's attempts to repair or treat the rental unit

**What are some things  
that the Board considers  
when rendering a  
decision?**

***LTB Guidelines  
&  
Case Law***

# Questions?



Please  
complete a  
session  
evaluation

Thank you

