

*Interpretation Guidelines are intended to assist the parties in understanding the Board's usual interpretation of the law, to provide guidance to Members and promote consistency in decision-making. However, a Member is not required to follow a Guideline and may make a different decision depending on the facts of the case.*

### **Purpose of a Fine**

An administrative fine is a remedy to be used by the Board to encourage compliance with the *Residential Tenancies Act, 2006* (the "RTA"), and to deter landlords from engaging in similar activity in the future. This remedy is most appropriate in cases where the landlord has shown a blatant disregard for the RTA and other remedies will not provide adequate deterrence and compliance. If an abatement of rent will provide an adequate remedy, an administrative fine may not be necessary.

An administrative fine should not be confused with costs. Administrative fines are payable to the Minister of Finance and not to a party. Costs may be ordered where a party's conduct in the proceeding before the Board was unreasonable and may be ordered payable to a party or to the Board. See Guideline 3, Costs, for details.

### **When can a Fine be Levied**

A fine may be ordered in relation to the activities set out under:

- subsection 29(1), paragraphs 2 to 6 of the RTA relating to tenant applications alleging that the landlord, superintendent or agent of the landlord has:
  - withheld the reasonable supply of any vital service, care service or food that it is the landlord's obligation to supply under the tenancy agreement or deliberately interfered with the reasonable supply of any vital service, care service or food;
  - substantially interfered with the reasonable enjoyment of the rental unit or residential complex for all usual purposes by the tenant or a member of their household;
  - harassed, obstructed, coerced, threatened or interfered with the tenant during the tenant's occupancy of the rental unit;
  - altered the locking system on a door giving entry to the rental unit or the residential complex or caused the locking system to be altered

- during the tenant’s occupancy of the rental unit without giving the tenant replacement keys; or
  - illegally entered the rental unit.
  
- subsection 41(2) and (3) where the landlord has breached an obligation:
  - to not sell, retain or otherwise dispose of the tenant’s property before 72 hours have elapsed after the enforcement of the eviction order; or,
  - to make an evicted tenant’s property available to be retrieved at a location close to the rental unit during the prescribed hours within the 72 hours after the enforcement of an eviction order.
  
- subsection 57(1), clause (a) to (c) relating to a former tenant’s application alleging that:
  - The landlord gave a notice of termination for personal use in bad faith, the former tenant moved out 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 no person referred to in clause 48(1) (a), (b), (c), or (d) occupied the rental unit within a reasonable time after the former tenant vacated the rental unit;
  - The landlord gave a notice of termination for personal use by the purchaser in bad faith, the former tenant moved out 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 no person referred to in clause 49(1) (a), (b), (c), or (d) or 49(2) (a), (b), (c), or (d) occupied the rental unit within a reasonable time after the former tenant vacated the rental unit; or
  - The landlord gave a notice of termination to demolish, convert, or to do extensive repairs or renovations in bad faith, the former tenant moved out 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.
  
- section 114 where the landlord has failed to give a new tenant written notice about the lawful rent for the rental unit where an order under paragraph 6, 7 or 8 of subsection 30(1) is in effect and the new tenant has made an application under subsection 115(1) to determine lawful rent or requiring the landlord to rebate rent paid in excess of any rent that may be lawfully charged.

The Board’s authority to order an administrative fine in these circumstances is set out in the RTA under section 31(1)(d), 41(6), 57(3) paragraph 3, and 115(3) respectively.

## **Notice of Fine**

Where a tenant requests a fine in an application, this will serve as notice to the landlord that a fine may be ordered. A Member may however, after hearing the evidence, consider ordering a fine even though it has not been requested. In either situation, the Member must give the parties an opportunity to make submissions on the issue.

## **Ordering a Fine**

A Member may impose a conditional fine in an interim order to encourage compliance with the RTA. For example, a Member may order a fine for each day that the landlord fails to comply with a term or condition in the interim order, such as putting an illegally evicted tenant back into possession. The interim order should state precisely what the landlord is required to do and the consequences of failing to comply. The total amount of the fine, if any, should be set out in the final order based on the relevant circumstances as discussed at the hearing.

Where a landlord has committed several breaches, the Member need not order a separate fine for each breach. Rather, the Member may order one fine based on the overall pattern of activities alleged in the application.

In setting the amount of the fine, the Member may consider:

- the nature and severity of the breach
- the effect of the breach on the tenant
- any other relevant factors.

The amount of the fine should be commensurate with the breach.

## **Failure to Pay a Fine**

Under section 196 of the RTA, where the Board receives information that an applicant owes money to the Board as a result of failing to pay any fine, fee or costs, the Board may, pursuant to its Rules:

- refuse to allow an application to be filed where such information is received on or before the day the application is submitted,
- stay or discontinue a proceeding where such information is received after the application has been filed but before a hearing is held,
- or delay issuing an order or discontinue the application where such information is received after a hearing of the application has begun.

See Rule 9, Refusing to Accept or Proceed with an Application, for details.