



Property Left Behind When a Tenant Moves Out

Information in this brochure

The *Residential Tenancies Act* (the Act) contains a number of rules about how to deal with a tenant's property that is left behind when the tenant moves out of a rental unit. The Act contains **five** different sets of rules. Which rules apply in a situation will depend on how and why the tenant left the rental unit.

A landlord who follows these rules and who takes reasonable care to keep the tenant's property safe while storing it, will not be *liable* if they sell, keep, or 'dispose of' (give away or throw away) the property that the tenant has left in the unit. This means that if the landlord follows the rules when dealing with property that a tenant has left in a rental unit, they **can't** be:

- fined,
- made to pay the tenant money for the tenant's property, or
- made to give back the tenant's property that the tenant left behind.

However, if the landlord does **not** follow the rules before they sell, keep or dispose of a tenant's property, the tenant may take action against the landlord and the landlord may be held liable. If you are a landlord or a tenant and you are unsure which set of rules applies to your situation, you should get legal advice.

This brochure explains the different rules in the Act that must be followed when dealing with property that a tenant leaves behind when they move out of their rental unit. This brochure is not a complete summary of the law and it is not intended to provide legal advice. If you require more information, please see **For More Information** at the end of this brochure.

Note: The rules in this brochure may **not** apply to situations where a tenant moves out or dies and their **spouse** remains in the unit. In these situations, before you proceed, you should get more information from the Landlord and Tenant Board. You may also want to get legal advice before you take any action.

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#1 - Tenant Moves Out According to a Notice or an Agreement to Terminate, a Board Order, or Tenant's Job as Superintendent has Ended

What rules apply in these situations?

If a tenant leaves property behind after moving out for one of these reasons then, in **most** cases, the landlord may immediately sell, keep or dispose of any property the tenant has left behind. This applies if the tenant moved out according to:

- a notice of termination that the landlord gave the tenant, or
- a notice of termination that the tenant gave the landlord, or
- an agreement to end the tenancy that the tenant and landlord made, or
- an order that terminated the tenancy or evicted the tenant that the landlord received because they made an application to the Board.

This also applies if:

- the tenant was a superintendent living in a superintendent's premises and their job as a superintendent has ended.

However, regardless of which of these reasons caused the tenant to move out, the landlord and the tenant can agree to other terms about what is to be done with the property that the tenant left behind. For example, a landlord and a tenant may agree that the tenant can store their sofa in the basement for two weeks after the tenant leaves the unit.

What rules apply in these situations?
(continued)

A landlord who follows these rules and who takes reasonable care to keep the tenant's property safe while storing it, will not be liable for selling, retaining or disposing of the tenant's property.

Note: There are other rules that must be followed if the Sheriff *enforced the eviction*. 'Enforced the eviction' means that the Sheriff visited the unit to evict the tenant (see #2 that follows).

#2 - Sheriff Evicts the Tenant

What rules apply in this situation?

If a tenant leaves property behind after the Sheriff has enforced the Board's order and evicted them, the landlord must give the tenant 72 hours to get their property from the rental unit or some storage area that is safe and close to the rental unit, before selling, keeping or disposing of the tenant's property.

Note: This rule does **not** apply if the property the tenant leaves behind is a mobile home owned by the tenant. (See #4 - Tenant Abandons Their Mobile Home.)

What can be done with the tenant's property during the 72 hours?

During the 72 hours after the Sheriff has evicted the tenant, the landlord may leave the property in the rental unit, or they can move it to a safe location that is close to the unit.

The tenant can get their property back during this 72 hour period. The landlord must make the tenant's property available to the tenant between 8 a.m. and 8 p.m. during the 72 hour period.

However, the landlord and the tenant can agree to other terms about what is to be done with the property that the tenant leaves behind.

What happens if the tenant doesn't come to get their property?

Unless the landlord and tenant agree to other terms, if the tenant doesn't come to get their property during the 72 hour period, they no longer have any claim to it and they lose all rights to it.

Once the 72 hours has passed, the landlord can sell, keep or dispose of the tenant's property. A landlord who follows these rules and who takes reasonable care to keep the tenant's property safe while storing it, will not be liable for selling, retaining or disposing of the tenant's property.

What happens if the landlord doesn't follow these rules?

If the landlord does not let the tenant get their property back during the 72 hour period, or if the landlord sells, keeps or disposes of the property before the 72 hours has passed, the tenant can do **one or both** of the following things.

What can the tenant do if the landlord doesn't follow these rules?

1. Contact the Ministry of Municipal Affairs and Housing's Investigation and Enforcement Unit (IEU)

The tenant can contact the IEU if their landlord has not followed these rules, because it is an offence under the Act not to follow them.

After talking to the tenant and obtaining more details, staff at the IEU may contact the landlord and inform them about the rules that must be followed when a tenant is evicted by the Sheriff and the tenant leaves property in the rental unit.

If the landlord refuses to follow the rules and refuses to make arrangements for the tenant to get back their property, IEU might start an investigation. This investigation may result in the landlord being taken to court. If the landlord is found guilty, the court could lay charges and set a fine. An individual may be fined up to \$25,000 – a corporation fined up to \$100,000.

2. File a T2 Application about Tenant's Rights with the Board

The tenant can also file an application with the Board if the landlord didn't let the tenant get their property back. On this type of application, the Board can order the landlord to do one or more of the following:

- give the tenant's property back to the tenant, if the landlord still has it or can reasonably be expected to get it back from the person who has it,
- pay a specified amount to the tenant for:
 - the reasonable costs that the tenant has paid or will pay to repair or replace any of the tenant's property that was damaged, destroyed or disposed of as a result of the landlord's actions, and,
 - other reasonable out-of-pocket expenses the tenant paid or will pay because of the landlord's actions (for example, if the tenant had to pay for meals because they couldn't cook their own),
- never do this to any other tenant again, or,
- pay an administrative fine to the Board of up to \$10,000, **or** up to the amount that could be awarded by Small Claims Court. (The one that is the higher amount could be awarded.)

The tenant may also want to ask the Board to hold the hearing as soon as possible so that they can get their property back quickly. To do this, the tenant will have to fill out one of the Board's forms called "*Request to Extend or Shorten Time*" and give it to the Board when they file their application.

#3 - Tenant Abandons the Rental Unit

What does “abandons the rental unit” mean?

A tenant has abandoned the rental unit if the tenant owes rent and moves out **without:**

- making an agreement with the landlord to end the tenancy, or
- giving a notice to end the tenancy to the landlord, or
- getting a notice to end the tenancy from the landlord, or
- getting a Board order evicting them.

Note: A rental unit is **not** considered to be abandoned if the tenant’s rent has been paid and their rent is up-to-date.

What rules apply in this situation?

If a tenant leaves property behind after they have abandoned the rental unit, and the landlord wants to sell, keep or dispose of the property, the landlord must do **one** of the following things:

- **apply to the Board on an L2 application** for an order that states that the rental unit was abandoned and the tenancy is ended; **or**
- **serve a notice on the tenant, with a copy to the Board**, stating that they intend to sell, keep or dispose of the tenant’s property. (There is no Board form to use in this situation.)

Note: If the landlord doesn’t know the tenant’s new address, the notice can be sent to the tenant’s last known address or to the tenant’s business address (if the landlord knows it).

Note: If there is no property left in the rental unit, and the landlord is **sure** that the tenant has abandoned the unit, they do not have to apply to the Board for an order ending the tenancy. However, the landlord can still apply if they want to get a Board order that clearly states that the tenant has abandoned the unit and the landlord now has the right to rent it to someone else.

What can be done with the tenant’s property?

The landlord must wait 30 days after they gave the notice to the tenant or received the order from the Board stating that the unit was abandoned, before they can sell, keep or dispose of the tenant’s property. The landlord can leave the tenant’s property in the rental unit, or move it and store it in a safe location close to the unit.

Note: The landlord can dispose of any unsafe or unhygienic items (for example, rotting food) in the unit right away.

What if the tenant tells the landlord they will be coming to get their property during the 30 day period?

If, during the 30 day period, the tenant tells the landlord that they want to get their property, the landlord must allow the tenant to get it. The tenant can make arrangements to get their property back from the landlord at a reasonable time.

However, before allowing the tenant get their property, the landlord can require the tenant pay any:

- rent that they still owe the landlord, and
- out-of-pocket expenses the landlord had to pay to move, store or secure the tenant's property.

What happens if the tenant doesn't come to get their property during the 30 day period?

After the 30 days have passed, the landlord can sell, keep or dispose of the tenant's property.

But, the tenant may still claim any money the landlord may have made from selling their property for up to 6 months after the date the order was made or the notice was given (see the next section).

What happens if the tenant claims their property within the 6 month period?

What the tenant can claim will depend on what the landlord did with the tenant's property after the 30 day period ended.

After the 30 day period ends, but within 6 months of the order date or the date that the notice was given:

If the landlord...	then the tenant can...	but the landlord may...
kept the property	do nothing - the property they left in the unit is now the landlord's.	
sold the property	ask the landlord for the proceeds from the sale of the property,	subtract any rent and any of the landlord's out-of-pocket expenses that the tenant owes before giving the tenant the proceeds from the sale.
disposed of the property	do nothing to claim or to be compensated for the property they left in the unit.	

A landlord who follows these rules and who takes reasonable care to keep the tenant's property safe while storing it, will not be liable for selling, retaining or disposing of the tenant's property.

#4 - Tenant Abandons Their Mobile Home

When might a tenant's mobile home be "abandoned"?

A tenant's mobile home has been abandoned if the tenant has moved out because the tenant:

- made an agreement with their landlord to end the tenancy, or
- gave a notice to end the tenancy to their landlord, or
- got a notice to end the tenancy from their landlord, or
- got a Board order that evicts them or terminates their tenancy, or
- got a Board order that ends their tenancy because the tenant abandoned their mobile home.

What rules apply in this situation?

Once the tenancy of a mobile home park tenant is terminated in one of the ways listed above, the landlord must notify the tenant that they are going to sell, keep or dispose of the tenant's mobile home.

The landlord must notify the tenant in **two** ways. The landlord must:

- send the tenant a notice by registered letter to their last known address, **and**
- publish a notice in a newspaper having general circulation in the area where the mobile home is located.

The tenant has 60 days from the date that the landlord gives these notices to claim their mobile home. After the 60 days have passed, the landlord can sell, keep or dispose of the tenant's mobile home.

But, the tenant may still claim their mobile home or the money the landlord received for it, for up to 6 months after the date the notices were given (see the next section).

What if the tenant tells the landlord they will be coming to get their mobile home during the 60 day period?

Within the 60 day period, the tenant can claim their mobile home.

However, before the landlord returns the mobile home to the tenant, the landlord can require the tenant pay any:

- rent the tenant still owes the landlord, and
- reasonable out-of-pocket expenses related to the mobile home (for example, the landlord's costs to move the home off the site).

What happens if the tenant claims their mobile home within the 6 month period?

What the tenant can claim will depend on what the landlord did with the tenant’s mobile home after the 60 day period ended.

After the 60 day period has ended, but within 6 months of the notices:

If the landlord...	then the tenant can ask the landlord ...	but the landlord may...
kept the home	to return the home, and they must return it,	require the tenant to pay any rent the tenant owes the landlord and any of the landlord’s out-of-pocket expenses before returning the mobile home.
sold the home	for the proceeds from the sale of the home,	subtract any rent and any of the landlord’s out-of-pocket expenses that the tenant owes the landlord before giving the tenant the proceeds from the sale.
disposed of the home	for nothing - the tenant cannot claim the mobile home or claim compensation.	

A landlord who follows these rules and who takes reasonable care to keep the tenant’s property safe while storing it, will not be liable for selling, retaining or disposing of the tenant’s property.

#5 - Tenant Dies

What rules apply in this situation?

If a tenant dies, **and** there are no other tenants occupying the rental unit, the Act states that the tenancy agreement ends 30 days after the tenant dies.

However, the Act allows the landlord and either an executor or administrator of the estate (or a family member - if there is no executor or administrator) to come to any other agreement about ending the tenancy and about selling, keeping or disposing of the deceased tenant's property.

Note: The regular rules that apply to a tenancy when a tenant dies do **not** apply when a tenant who owns a mobile home dies. (See the section ‘Death of a Mobile Home Tenant’ for more information.)

What can be done with the deceased tenant’s property?

Because the tenancy agreement is still in effect for 30 days following the tenant’s death, the landlord must leave the deceased tenant’s property in the unit for this 30 day period.

Note: The landlord can dispose of any unsafe or unhygienic items (for example, rotting food) in the unit right away.

What if the estate's representative wants to get the property during the 30 day period?

The landlord must allow the estate's representative reasonable access to the unit and the residential complex during the 30 days following the tenant's death to remove the deceased tenant's property.

What happens if the estate's representative doesn't get the property during the 30 day period?

After the 30 days have passed, the landlord can sell, keep or dispose of the deceased tenant's property.

But, the estate's representative may still claim the deceased tenant's property or the money the landlord received for it, for up to 6 months after the date that the tenant died.

What happens if the estate's representative claims the property within the 6 month period?

What the estate's representative can claim will depend on what the landlord did with the deceased tenant's property after the 30 day period ended.

After the 30 day period following the tenant's death has ended, but within 6 month's of the tenant's death:

If the landlord...	then the representative of the tenant's estate can ask the landlord...	but the landlord may...
kept the property (as opposed to selling it)	to return the property to them.	
sold the property	for the proceeds from the sale of the property,	subtract any rent and any of the landlord's out-of-pocket expenses the estate owes the landlord before giving the estate's representative the proceeds from the sale.
disposed of the property	for nothing - the estate cannot reclaim or seek compensation for the property.	

A landlord who follows these rules and who takes reasonable care to keep the tenant's property safe while storing it, will not be liable for selling, retaining or disposing of the tenant's property.

**Death of
a mobile
home tenant**

When a tenant who owns a mobile home dies, **the rules listed above in “#5 - Tenant Dies” do not apply.**

In this situation, the estate takes over the tenancy agreement after the tenant’s death. The tenancy then continues until it is ended in a way that is allowed under the Act. The Board’s brochures, **How a Tenant Can End Their Tenancy** and **How a Landlord Can End a Tenancy** explain the ways that a tenancy can be properly ended under the Act.

For More Information

**Other
related
brochures**

The Board also has brochures on these related topics:

- How a Tenant Can End Their Tenancy
- How a Landlord Can End a Tenancy
- A Guide to the Residential Tenancies Act

**Contact the
Landlord and
Tenant Board**

This brochure provides general information only. For more information about the law, or to obtain copies of the Board’s forms and publications, you can:

- visit the Board’s website at **www.LTB.gov.on.ca**,
- call the Board at **416-645-8080** or toll free at **1-888-332-3234**, or
- visit your local Landlord and Tenant Board Office. For a list of Board office locations, visit the Board’s website, or call the numbers listed above.