

Tenant Application - Landlord Gave a Notice of Termination in Bad Faith

Form T5

Instructions

Use this form to apply to have the Landlord and Tenant Board determine whether the landlord gave you a notice of termination in bad faith that caused you to move out of the rental unit. The notice of termination must have been given for one of the following reasons:

- the landlord claimed that one of the following people intended to move into the rental unit:
 - the landlord or a member of the landlord's immediate family, or
 - a person who gives or will give care services to the landlord or a member of the landlord's immediate family.
- the landlord claimed that one of the following people intended to move into the rental unit:
 - the purchaser or a member of the purchaser's immediate family, or
 - a person who gives or will give care services to the purchaser or a member of the purchaser's immediate family.
- the landlord claimed that the rental unit was to be repaired, renovated, converted to another use, or demolished.

You can obtain this form at the Landlord and Tenant Board office in your area or from the Board's website at www.LTB.gov.on.ca.

January 31, 2007

A. How to apply...

You can make this application if you are a former tenant who moved out of a rental unit because the landlord gave you a notice of termination in bad faith.

Step 1: Complete the form

Read the instructions carefully before completing the form.

Step 2: Complete the Scheduling Information Form

You must complete the Scheduling Information Form which is attached behind the last page of the application form. Instructions for completing it are found at the end of these instructions.

Step 3: File the application and the Scheduling Information Form with the Landlord and Tenant Board

Filing the Application

You can:

1. Bring the application to the nearest Board Office.
2. Fax your application to the Board Regional Office in your area.
3. Mail your application to the Board Regional Office in your area.

Important: If you owe money to the Board as a result of failing to pay a fee, or any fine or costs set out in an order, your application may be refused or discontinued.

It is the applicant's responsibility to ensure that their application is correct and complete. Staff of the Landlord and Tenant Board will check applications for completeness; however, the Board Member who will make a decision on the application will ultimately determine whether or not it meets the requirements of the legislation. Where it does not, the application may be dismissed.

Scheduling the Hearing

Once you have filed the application, the Board will schedule a hearing and give you a Notice of Hearing. If you apply in person, the Board will normally schedule the hearing while you wait.

Generally, the Board will schedule an oral hearing. An oral hearing is a meeting between the landlord and tenant before an adjudicator. However, in some circumstances the Board may decide it is appropriate to have a written, telephone or video conference hearing instead.

When the Board gives you a copy of the Notice of Hearing, the Board will also give you:

- a copy of the application to keep for yourself,
- a blank Certificate of Service form (see Step 5),
- a copy of the application and the Notice of Hearing for the landlord, and
- instructions for giving the application and the Notice of Hearing to the landlord.

This is called the application package.

Step 4: Give a copy of the application and the Notice of Hearing to your landlord

You must give the landlord a copy of the application and a copy of the Notice of Hearing at least ten days before the hearing. There are many ways you can do this; you can:

- hand the copies directly to the landlord,
- hand the copies to an employee of the landlord, like the superintendent or property manager,
- leave the copies in the landlord's mailbox or where mail is ordinarily delivered,
- send the copies by fax to a fax machine where the landlord carries on business or to a fax machine in their residence,
- send the copies by courier (if you courier them, you must allow one business day for delivery),
- send the copies by mail (if you mail them, you must allow five days for delivery),
- if the landlord has a lawyer or an agent, you can give the landlord's lawyer or agent the copies by mail, by hand delivery, courier or fax.

Keep a copy of the application and the Notice of Hearing for yourself.

Step 5: File a Certificate of Service with the Board

You must file a Certificate of Service with the Board showing when and how you gave a copy of the application and the Notice of Hearing to the landlord. You must file the certificate no later than five days after you give the landlord the application and the Notice of Hearing. The Certificate of Service form is included in your application package.

Step 6: The Board will process the application and issue a written decision called an order

You should come to the hearing prepared to support your application. If there are any documents or other information that you will be relying on, you should bring them to the hearing. For example, you should bring a copy of the notice of termination that you believe the landlord gave you in bad faith. If you are asking for compensation for expenses and/or for increased rent resulting from having to move, you should bring proof of these costs to the hearing. You should make extra copies for the Board and the landlord. You should also bring any witnesses you may need to prove your claim. If you need to summon a witness, you can obtain a "Request for the Board to Issue a Summons" form from the Board.

B. How to complete this form...

The information you fill in on the form will be read electronically, therefore it is very important that you follow these instructions carefully. **Print in capital letters and do not touch the edges of the boxes.** If there are more boxes in a line than you need, leave the extra boxes blank. Do not fill in boxes that do not apply to you (for example, if you do not have a fax number, do not fill in boxes in the space marked "Fax Number"). If the instructions tell you to shade a box (for example, boxes marked "Yes" or "No"), shade the box completely. See the following example:

Read the instructions carefully before completing the Form. Print or Type in Uppercase.

Part 1: General Information

Tenants' Names and Addresses (if there are more than 2 tenants, complete a Schedule of Parties form and file it with this application)

Tenant 1: First Name Male Female

BOZENA

Tenant 1: Last Name

YASKOVA

Tenant 2: First Name Male Female

CHRISTOPHER

Tenant 2: Last Name

RANDALL

Mailing Address (if different from the address of the rental unit covered by this application)

635 CONTINENTAL DRIVE

Unit/Apt./Suite

Municipality (city, town, etc.)

Province

Postal Code

1063

LONDON

ON

N6A 5M7

Day Phone Number

Evening Phone Number

Fax Number

(519) 555 3362 (519) 555 1784 ()

E-mail Address

Rental Unit Covered by this Application

Street Number

Street Name

433

LAKEVIEW

Street Type (e.g. Street, Avenue, Road)

Direction (e.g. East)

Unit/Apt./Suite

AVENUE

WEST

UPPER

Municipality (city, town, etc.)

Province

Postal Code

ST. THOMAS

ON

N5P 2R3

Part 1: General Information

Tenant's Name and Address

Fill in your name. If two tenants live in the rental unit, fill in both your names. Shade in the correct box to show whether you are male or female.

If more than two tenants live in the rental unit, first complete Part 1 of the application form and then provide the names, addresses and telephone numbers of any additional tenants on the "Schedule of Parties" form which is available from the Board.

Fill in your mailing address if it is different from the address of the rental unit covered by this application. If your mailing address is the same as the address of the rental unit covered by this application, leave the section for the tenant's address blank. Provide your daytime and evening telephone numbers, fax number and e-mail address.

Rental Unit covered by this Application

Fill in the address and unit number of the rental unit covered by this application.

If the name of the street is, for example, "Chestnut Road", you would fill in "Chestnut" under "Street Name" and "Road" under "Street Type".

If the street name includes a direction (such as "Chestnut Road **North**"), you would fill in "North" under "Direction". Where applicable, use the following abbreviated directions: "NW" for Northwest, "NE" for Northeast, "SW" for Southwest or "SE" for Southeast.

**Landlord's
Name and
Address**

Fill in the landlord's name and mailing address, and shade the correct box to indicate whether the landlord is male or female. If the landlord is a company, shade the box marked company and fill in the name of the company under "First Name". Provide the landlord's daytime and evening telephone numbers, fax number and e-mail address, if you know them.

If you are making a claim against more than one landlord (for example, if the building was sold within the last year), first complete Part 1 of the application, and then provide the names, addresses and telephone numbers of any additional landlords on the "Schedule of Parties" form which can be obtained from the Board.

**Related
Applications**

If there are any other applications to the Board that relate to the same rental unit, fill in the file numbers of those applications.

**Information
About the
Tenancy**

Fill in the date you moved out of the rental unit.

Part 2: Reasons for Your Application

Under the *Residential Tenancies Act*, a Notice of Termination given for one of the following reasons is considered to have been given in bad faith if, at the time it was given, the landlord did not intend to do what was claimed in the notice. If you are applying because you moved out because the landlord gave a notice of termination for one of the following reasons, shade the appropriate box on the form.

- 1. The landlord claimed that the person who intended to move into the rental unit was: the landlord, a member of the landlord's immediate family, or a person who gives or will give care services to the landlord or a member of the landlord's immediate family.**

The landlord's immediate family includes the landlord's child or parent, the landlord's spouse, or the spouse's child or parent.

You can make this application if you have moved out because of the notice and you believe it was given in bad faith. You can make this application even if you have moved out because the landlord made an application to the Board to evict you based on the notice or because the Board issued an order based on the landlord's application.

You cannot apply if the person identified in the notice moved in within a reasonable time after the tenancy was terminated.

You must apply no later than one year after the date the person identified in the notice should have moved into the rental unit.

You must show at the hearing that, at the time you were given the notice, the landlord did not intend for the person identified in the notice to move into the rental unit.

2. The landlord claimed that the person who intended to move into the rental unit was: the purchaser, a member of the purchaser's immediate family or a person who gives or will give care services to the purchaser or a member of the purchaser's immediate family.

The purchaser's immediate family includes the purchaser's child or parent, the purchaser's spouse, or the purchaser's spouse's child or parent.

You can make this application if you moved out because of the notice and you believe it was given in bad faith. You can make this application even if you have moved out because the landlord made an application to the Board to evict you based on the notice or because the Board issued an order based on the landlord's application.

You cannot apply if the person identified in the notice moved in within a reasonable time after the tenancy was terminated.

You must apply no later than one year after the date the person identified in the notice should have moved into the rental unit.

You must show at the hearing that, at the time you were given the notice, the purchaser did not intend for the person identified in the notice to move in.

3. The landlord claimed the rental unit was to be repaired, renovated, converted to another use or demolished.

You can make this application if you moved out because of the notice and you believe it was given in bad faith or if you have moved out because the landlord made an application to the Board to evict you based on the notice or because the Board issued an order based on the landlord's application.

You cannot apply if the landlord did the work within a reasonable time after the tenancy was terminated.

You must apply no later than one year after the date landlord should have done the work.

You must show at the hearing that, at the time you were given the notice, the landlord did not intend to do the work.

Explanation of Reason Under Explanation of Reason, explain why you believe that the landlord did not intend to do what the landlord claimed in the Notice of Termination.

Part 3: Remedies

There are five different remedies which can be granted in an order for this type of application. If the Board issues an order in your favour, it may decide to order a different remedy or remedies than you request.

Shade the appropriate box(es) for the remedy(ies) you want the Board to include in its order. The Board can order that:

1. The landlord pay you a rent abatement.

The Board can award a lump sum rent abatement for all or some portion of the rent you previously paid to the landlord. If you want the Board to order the landlord to pay you a rent abatement, shade this box on the form.

If you choose this remedy, you must fill in the dollar amount of the abatement you want the Board to order. In the box provided, explain in detail how you determined the amount of the abatement. Attach additional sheets if necessary.

2. The landlord pay a fine to the Board.

The Board can order the landlord to pay an administrative fine to the Board. The fine cannot exceed \$10,000 or the monetary jurisdiction of the Small Claims Court in the area in which the complex is located, whichever is greater.

If you want the Board to order the landlord to pay a fine to the Board, shade this box on the form.

3. The landlord pay you compensation for the increased rent you had to pay or will have to pay for one year from the date you moved out of the rental unit.

The Board can order the landlord to pay you any portion of the rent increase that you have paid or will pay for a one year period after you moved out of the rental unit.

If you want the Board to order the landlord to pay you compensation for the increased rent you had to pay or will have to pay for one year from the date you moved out of the rental unit, shade this box on the form. Calculate the difference between your current rent and the rent you paid at the address which is the subject of this application for a period of one year and indicate the amount in the space provided (ie. [current monthly rent - previous monthly rent] x 12 months).

4. The landlord pay you compensation for your expenses related to moving and storage, etc.

If the Board determines that the landlord gave you a notice of termination in bad faith and as result of having to move, you incurred expenses related to moving, storing your personal belongings and/or other similar costs, the Board can order that you be paid compensation for the reasonable out-of-pocket costs (actual costs you paid to third parties) that you paid or will pay.

If you want the Board to order the landlord to pay you compensation for your reasonable out-of-pocket expenses, shade this box on the form.

If you choose this remedy, you must fill in the dollar amount of the compensation you want the Board to order. In the box provided, describe in detail the expenses that you have incurred or will incur as a result of having to move and how you calculated your total claim for compensation. Attach additional sheets if necessary.

5. Other

The Board can make any other order that it considers appropriate.

If you want the Board to issue an order which provides for remedies that are not reflected in numbers 1 through 4, shade this box on the form. You must explain in detail in the space provided what order you would like the Board to make. Attach additional sheets if necessary.

Signature Sign your name and include the date you are signing this form. If you are the tenant, shade the box marked “Tenant”. If you are an agent, shade the box marked “Agent”.

If you are an agent, print your name below your signature. Also include your company name (if applicable), mailing address, telephone and fax number and e-mail address.

If an agent signs the form, the agent must have written authorization from the tenant. The agent should bring the authorization to the hearing.

C. How to fill out the Scheduling Information Form

You must fill out the Scheduling Information Form.

Part 1: Information Required To Schedule The Hearing

How do you want the Board to give you the application package? If you file your application in person at a Board office, in most cases the Board will be able to schedule a hearing and prepare the application package while you wait. However, if you mail or fax your application, you must tell the Board whether you would like to pick up the application package at a Board or ServiceOntario office, or have it mailed or faxed to you. Shade the correct box to show how you want to receive the application package.

If you want to pick up the application package at a Board or ServiceOntario office, also indicate what day and at what office you would like to pick it up. If you are mailing your application to the Board, the earliest day you can ask to pick up the package is six days after you mail it. If you are faxing your application, the earliest day you can ask to pick up the package is the day after you fax it. Call the Board before picking up the package to make sure it is ready.

When will you give the application package to the landlord? Shade the correct box to indicate whether you will give the landlord the application package (the landlord’s copy of the Notice of Hearing and the application) on the date you receive it from the Board or whether you will give the landlord the package on a different date. If you intend to give the application package to the landlord on a different date, fill in the date in the space provided. The Board must know this date in order to schedule the hearing.

How will you give the application?

The Board also needs to know how you plan to give the application package to the landlord(s). Shade the correct box to indicate whether you will be mailing the package, sending it by courier or giving it some other way.

Part 2: Interpretation Services Required

Indicate whether you require interpretation services

If you require French language services, shade the box for French language services. The Board will only provide French language services if you live in an area of the Province designated for French language services or if the rental unit or complex that is covered by the application is in an area designated for French language services. If you are not sure if you live in a designated area, you can contact the Board for more information.

If you require sign language services, shade the box for Sign language services. The Board will arrange for an interpreter to attend the hearing.

If you need more information...

The Board has Rules of Practice that set out procedural rules which may affect the outcome of your application. In addition, the Board has Interpretation Guidelines which explain how the Board might decide specific issues that could arise in your application. You can purchase a copy of the Rules and Guidelines from the Landlord and Tenant Board office in your area or view them online at the Board's website www.LTB.gov.on.ca.

If you need more information or have any questions, call the Landlord and Tenant Board at 416-645-8080 or toll-free at 1-888-332-3234. You can also check the status of your application by visiting the Board's website at www.LTB.gov.on.ca.