

2016 ONPHA Conference and Trade Show

109

A Landlord's Responsibilities Under the RTA

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Objectives

- Legislative framework
- Social housing exemptions
- Start of tenancy
- Rent
- Maintenance
- Privacy
- Termination of tenancy
- Offences under RTA



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The *Residential Tenancies Act...*

- Governs all Ontario residential tenancies unless there is a specific exclusion
- Takes precedence over other Acts, except the Human Rights Code
- Applies despite any agreement to the contrary
- *RTA specifically voids certain clauses: no pets, acceleration clauses, agreements to terminate made when entering tenancy.*



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Purpose of RTA

- Protect tenants from unlawful rent increases
- Protect tenants from unlawful evictions
- Balance rights and responsibilities of landlords and tenants
- Provide for adjudication of disputes



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Human Rights Code

- RTA takes precedence over all other legislation other than *Human Rights Code*
- Market tenants: regulation setting out what information you can require
- You cannot discriminate:
 - accommodating a disability to point of undue hardship
 - considering the cost
 - outside sources of funding, if any
 - and health and safety requirements, if any



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Social Housing Exemptions

- Some exceptions apply only to those tenants who are RGI or to units in designated projects
- Designed to work with *Housing Services Act*
 - Wait list
 - Rent fluctuations based on income
 - Occupancy rules



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Social Housing Exemptions

- Applicants come off centralized wait list
 - Social housing tenants cannot sublet their units;
 - Social housing tenants cannot pass (assign) their units to other people
 - No time limit on filing an application to get possession of unit that has been sublet or assigned.
 - Section 103: Landlord does not create tenancy with unauthorized occupant by accepting compensation for use and occupation of unit, unless they agree otherwise



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Social Housing Exemptions

- Demolition, conversion major repairs:
 - Not obligated to provide compensation
- Rules relating to:
 - Rent increases
 - How often
 - How much notice of increase you have to give



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Start of Tenancy

- Landlord's must provide all new tenants written information on their rights and obligations before or upon entering into tenancy agreement
- Must use LTB brochure *Information for New Tenants*
- Tenancy agreements must include Landlord's legal name and address for purpose of serving documents
- If tenant pays electricity - before they sign lease - you must provide information on usage



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Prospective Tenants and Suite Meters

- Provide information:
 - kilowatt usage for 12 months prior
 - advise if unit was empty for part of that period
 - age of refrigerator



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Suite Meters

Information to Prospective Tenant About Suite Meters or Meters

To: (Prospective Tenant's name)	From: (Landlord's name)
Address of the Rental Unit:	

The following information must be given to the prospective tenant if the landlord has installed a meter or suite meter in the rental unit and the landlord wants the prospective tenant to pay for their own electricity costs.

Amount of Electricity Used in the Rental Unit:

The landlord must provide the most recent information available to them about the electricity usage in the rental unit over the last 12 months. If the meter or suite meter was installed fewer than 12 months ago, then the landlord must provide the most recent information available about the electricity usage from the date the meter or suite meter was installed up to the date the tenancy is entered into.

Period: From

	/		/				
--	---	--	---	--	--	--	--

 to

	/		/				
--	---	--	---	--	--	--	--

dd/mm/yyyy dd/mm/yyyy

Kilowatt hours of electricity used:

--	--	--	--	--	--	--	--	--	--

 (kWh)

Was the rental unit vacant during this period?

☐ The rental unit was not vacant during the period shown above.

Considered rent

- Can add charge and collect as if it is rent:
 - Cable or satellite TV
 - Parking
- Questionable for RGI units
 - Extra electricity for air conditioner

- # Considered rent
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Not considered rent

- Key deposits, additional keys, key replacements
- Administrative charges for NSF cheques
- Administrative charge for movement to new unit if move was requested by tenant



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Last month's rent deposit

- Landlord has right to ask for last month's rent deposit
 - No more than one-month's rent
 - Landlord must pay tenant interest on the amount of deposit annually
 - RGI tenants can pay in installments after move-in
 - May have adverse affect on Code-protected group



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Forms of payment

- Landlord cannot insist on payment of regular monthly rent by:
 - Post-dated cheques
 - Automatic debit information
 - Money orders



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Tenant Responsibilities

- Pay rent on time
- Maintain unit in state of ordinary cleanliness
- Not to change locks
- Not obstruct, coerce, threaten or interfere with landlord
- Not to substantially interfere with other tenants
- Commit illegal act that affects character of the premises,
- Commit act that seriously impair anyone's safety



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Tenant's rights – Security of Tenure

- Prior notice of problems and opportunity to repair
- Due process to be followed to terminate tenancy
- Notice of termination per legislation on Landlord & Tenant Board forms
- Opportunity for dispute and hearing at Board



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Maintenance Obligations

- “Good state of repair and fit for habitation and comply with health, safety, housing and maintenance standards”
- Obligation exists even if the tenant was aware of an issue before entering into the agreement.
- Timely response based on severity
- Investigate and take appropriate action



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Landlord responsibilities

- Have current copy of local property standards
- Perform annual unit inspections
- Inspect fire routes and doors daily
- Capital repairs plan



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Landlord Responsibilities

- Maintenance of the residential complex/unit
- Not to interfere with tenants enjoyment of property, or harass a tenant
- Not to withhold supply of any vital service, care or food that it is landlord's obligation to supply
- Change locks only as allowed by law
- Enter unit only as allowed by law



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Tenant responsibilities

- Must keep unit and common spaces clean
- Repair damage to unit caused by:
 - Themselves
 - Other occupants/guests
 - their pets



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THE THREE “D”s

DOCUMENT
DOCUMENT
DOCUMENT

Maintenance records

- Tenant requests/complaints
- Elevator/fire safety inspection and testing logs
- Work orders
- Inspection reports on completed work
- Reports on inspections:
 - Annual
 - Special
 - move-in
 - move-out



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Complaints procedure

- Get it in writing, if possible
 - Take notes of complaint
- Investigate
 - Who, what, when, how and why?
- Document (including dates)
 - What you were told
 - What you did
 - Confirm in writing to all involved



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Interference with Reasonable Enjoyment

- Landlords MUST:
 - protect peaceful enjoyment of all tenants
 - follow up and investigate complaints
 - about management
 - other tenants
 - make every reasonable effort to resolve issue
- Best achieved by clear complaints policy and accompanying procedures
- Lack of maintenance could be interference
- Doing substantial repairs could be interference



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Interference While Doing Repairs

- Regulation 516/06 limits abatement available to tenants:
 - Notice given 60 days prior to start of work or as soon as possible
 - Tell prospective tenants before moving in
 - Notice describes nature of the work and length of time
 - If things change; keep tenants informed



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Pests

- Once tenant notifies you of pests you must act:
- Inspect, if necessary
- Schedule appropriate treatments
- Provide information to tenant with regard to preparation and prevention
- Follow up as appropriate depending on situation



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You are walking down the hallway and see water flowing out from a unit door. No one answers when you knock. Can you enter right away?

Yes, it's an emergency!

Privacy

- Tenant's have right to privacy in their home and that their personal information be kept confidential
- You can only enter a unit:
 - To inspect (for purpose of determining state of unit)
 - To do maintenance and repair
 - To show the unit to new tenants/mortgagee or insurer
 - Reasonable reason specified in the tenancy agreement



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Entering the Unit

- Without 24 hour notice
 - Emergency (Flood, fire, smoke detector sounding, person screaming for help)
 - Showing unit
- 24 Hour Written Notice
 - Specify the date of entry
 - Time of entry
 - Reason for entry
- With Permission of tenant at time of entry



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Concern for tenants welfare

- If family member or community worker has contacted with concerns for tenant, RTA rules of entry still apply
 - Entering unit without giving 24 hours notice is an illegal entry
- If you suspect that tenant has died
 - call 911, police can direct staff to open unit door, enter unit and contact other emergency services if tenant is ill or deceased



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TRUE OR FALSE ?

A tenant has changed the lock on her unit door, but provides you a key. You do not like this, as you would prefer to use a standard lock. Unfortunately, because she has given you a key, you are required by law to allow this lock change.

FALSE

...but

Changing locks

- Tenants cannot change locks on door to unit without landlord's permission
- Landlord can change or alter locks to units, building and service areas if a key (or other entry device) is provided to tenant



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Termination of Tenancy

- Tenant gives proper notice
 - 60 days
 - Ending on last day of month
- Tenant and Landlord agree (in writing) to terminate the tenancy
- Landlord gives a notice of termination and tenant either vacates or Order is issued by Landlord & Tenant Board



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Death of tenant

- Removal of possessions
 - Landlord can immediately dispose of property that is unsafe or unhygienic
 - 30 day period following, landlord must safeguard property and provide access to executor/next of kin
 - After 30 days, landlord can sell, keep or dispose of any leftover property



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Domestic Violence - New

- N15 – 28 Day Notice to Terminate Victims of Violence
- Accompanied by court order OR statement about sexual or domestic violence (LTB Form)
- If tenant is joint tenant, and other tenants have not signed notice, they can remain.
- If tenant giving notice in joint tenancy does not vacate, notice becomes void.
- If all legal tenants have signed notice, but you are not sure unit is vacated, file L3



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Domestic Violence - New

- In joint tenancy remaining tenant(s) have right to terminate on 60 days notice
 - If unit is RGI you would adjust the rent.
 - If unit is market remaining tenant(s) become responsible for entire rent (rent deposit goes to benefit of remaining tenant(s))
- You must keep notice confidential
 - After date of termination AND tenant has vacated you can tell remaining joint tenant that notice was given and date of termination
 - You can advertise if you don't identify the unit
 - Cannot show unit until tenant who gave notice has vacated



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Offences under RTA

- Investigated by Ministry of Housing (MHO), Rental Housing Enforcement Unit
- If complaint is made, Compliance Officer will contact you to follow up and get your version of events
- If convicted, penalties are:
 - Up to \$25,000 for individual
 - Up to \$100,000 for corporation



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Offences Requiring Knowledge

- Withholding vital service
- Altering locks in manner not allowed by law
- Restricting reasonable access to complex to political candidates
- Seizing property of tenant
- Recovering possession of unit without complying with certain sections relating to converting or demolishing property*
- Harassing tenant in order to induce tenant to vacate unit
- Harass, obstruct or hinders either landlord or tenant attempting to secure right or relief under Act



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Other offences

- Entering a unit illegally (i.e. without notice, if notice is required)
- Failing to make tenant's property available as required after eviction*
- Require or receive a security deposit
- Failing to pay interest on rent deposits (and repaying or applying the deposit)
- Failing to provide information on total cost of utilities



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Other offences (cont'd)

- Terminates obligation to supply electricity without tenant consent
- Interferes with inspectors (under RTA – ministry) or does not comply with order
- Provides false information to LTB, Ministry Inspector
- Unlawfully takes possession of rental unit
- Landlord cannot contravene order of Board**



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Resources

- Handouts available to conference delegates
 - Online after conference
- Landlord and Tenant Board <http://www.sjto.gov.on.ca/lrb/>
current forms, applications and instructions
- Landlord self-help centre
<http://www.landlordselfhelp.com/intro.htm>



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How can ONPHA help you?

- 1. Visit ONPHA online:**
onpha.on.ca
 - handbooks and guides
 - sample policies
 - Info Ons
- 2. ONPHA Member Support**
Hotline: 1-800-297-6660
- 3. ONPHA Education Program**
 - Online courses: RGI, RTA, Finance and Governance
 - Webinars
 - In-person training
- 4. ONPHA Conference**
 - Join us in 2017 in Niagara Falls, November 3 - 5



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Thank you!

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