

# CREATING THE IDEAL RENTAL HOUSING AGREEMENT



You'll never appreciate your rental agreement until the day a disgruntled tenant, or worse, a professional tenant, try to extract maximum financial compensation from you, sometimes with the biased help of the Landlord and Tenant Board (LTB), landlord-unfriendly municipalities, tenant advocacy groups, tenant boards, the vagaries of the judicial system, and all the political parties that pander to the large voter base of tenants.

Yes, I'm over-exaggerating for effect but the dangers of being substantially financially hurt by 'the system' are real and more common than you may know.

You should decide whether to you a lease or a rental agreement. A lease is a legally binding contract that grants a tenant the right to use your property for a specified period in consideration of rent or other compensation. Investors and lenders love tenants-on-a-lease, believing they stabilize rental income. But landlords give up rights under the Residential Tenancies Act (RTA), with little real offset in value. With a lease, you can't undertake any of the no-fault notices of termination such as renovation and demolition during the term of a lease, and you can't serve a notice to evict a tenant (N8) for persistently late rent payments.

From a practical perspective, you're unlikely to collect owed rent from a tenant who moves out early under a lease. Generally, an 'injured' party must make every effort to minimize their losses. This means you must seriously try to find another tenant immediately. If you find a tenant, you can only demand the rent for the vacancy period.

To enforce a monetary judgment you have find out where the tenant lives, and then serve notice on them. How much time would that would take? Where do you begin? How much would it cost?

You can get a good month-to-month rental agreement by joining certain landlord associations, hiring a real estate paralegal who likely has a boilerplate already, attending the 'Landing in Ontario' real estate course, and/or hiring a property manager.

My agreement is very robust, comprising three pages plus a three-page Schedule A that outlines the tenant's and landlord's responsibilities to each other. You make think such a rental agreement is intimidating to a tenant but I have not yet had a tenant prospect agree to rent a unit only to decline after receiving the rental agreement. I believe a well-drafted rental agreement is one of the best tools for discouraging professional and thoughtless tenants.

## Here are some constructs for your rental agreement but don't use it as it. You must have proper legal wording.

- Rent paid one month in advance, on first of each month. Tenant will be served with Notice of Termination (N4) on third of the month for rent non-payment or for damages.
- If tenant gives notice to vacate and landlord rents to another tenant, and tenant doesn't vacate, the tenant, is liable for all costs of the "overholding", and also indemnifies landlord for all losses (legal fees, rent arrears, etc.)
  - Identify every person living in the unit. Only those named live there. Allow for guests. Anyone else is a trespasser.
  - Terminate thirty days after a tenant's death.
  - Identify rent in detail. Here's a handy table:

|                         |              |                              |    |  |         |
|-------------------------|--------------|------------------------------|----|--|---------|
| Paid FMR Amt            | \$           | Paid FMR Date                |    | NSF Charge   | \$40.00 |
| Paid LMR Amt            | \$           | Other Amt(s) Paid            | \$ | Key Replaced   | \$20.00 |
| Electricity             | Tenants Pays | Description of Other Amounts |    | Administration fee<br>(Collect Utilities, Lockouts, Etc) | \$60.00 |
| Storage Locker          | \$5.00       | Storage Locker #             |    |  |         |
| Parking                 | \$20.00      | Parking Space1#              |    | License Plate1   |         |
| Total Rent              | \$           | Parking Space2#              |    | License Plate2   |         |
| Tenant's E-mail Address |              |                              |    |  |         |

- Identify all included and excluded amenities. Here's another handy table.

| Heat | Hydro | Water | Fridge | Stove | Clothes Washer | Clothes Dryer | HWT | Parking | Phone |
|------|-------|-------|--------|-------|----------------|---------------|-----|---------|-------|
| No   | No    | Yes   | Yes    | Yes   | Not Allowed    | Not Allowed   | Yes | Extra   | No    |

| Internet | Cable | Dishwasher  | Air Conditioning                 | Garbage Compactor | Storage Locker | Heater                           | Humidifier                       | Other Appliances                 |
|----------|-------|-------------|----------------------------------|-------------------|----------------|----------------------------------|----------------------------------|----------------------------------|
| No       | No    | Not Allowed | Written Permission From Landlord | Not Allowed       | Extra          | Written Permission From Landlord | Written Permission From Landlord | Written Permission From Landlord |

- All tenants are, or any one tenant is, 'jointly and severally' responsible to pay the rent.
- Get permission to do credit checks. Then do them. Treat inaccurate information as fraudulent.
- Non-payment, late payment, or an agreement breach may be reported to a credit agency.
- Note RTA rules about changing locks.
- Use a well-checked-out guarantor when your instincts say the tenant is good but the credit report doesn't.
- Someone else paying the tenant's rent doesn't create an agreement between you and them.
- Landlord is a preferred creditor if the tenant goes bankrupt.
- The smoke detector is working and the tenant must notify you immediately when it stops working.
- No pets (unless you allow them)

**Schedule A** - Rules and regulations: The Tenant must:

- Practice energy conservation.
- Look after unit—clean and maintain floors, walls, fixtures, appliances, etc.
- Responsible for all consequences of their, or their guests', willful or negligent conduct, including admission of creatures/pests, weather elements, water left running, occupant misconduct, etc.
- No alterations, including screws, stick-on hangers, wallpaper, etc.
- Not do or cause anything to interfere with the rights of other tenants or the landlord ("right of private enjoyment") – eg. noise, noxious odours, possibly smoking, fighting, abusive language, unusual hobbies, etc.
- Allow periodic inspections; allow photos, especially the smoke detector, which Tenants date and sign.
- Pay for damage—walls, unplugging plumbing, damaged windows from being left open during inappropriate weather, damaged doors, screens, etc., repairing burns etc. to flooring, etc.
- Park only their operational vehicle. No repairs/washing. Solely responsible for snow/ice or any other parking matter.
- Clean up all chemical substance spillage/leakage.
- Respect 'No Parking' and fire routes. Tenant pays for towing.
- No car heaters/battery warmers. No extension cords from the property to any vehicle or for any other purpose.
- Don't drag furniture. Use overlying carpets for frequent walking areas.
- Supply all electric light bulbs/fuses.
- Use only appliances supplied; pay repairs other than normal wear/tear.
- No waterbed, antennae or satellite dishes.
- Pays administrative fee for lock outs.
- Children and guests not permitted to loiter/play in the common areas.
- Don't throw objects/liquids out of windows/balconies. No rug-shaking.
- Maintain all vital services except those provided by landlord. Keep heat at a level that protects property from damage.
- No combustibles stored near heat source (duh!).
- Balcony—no hanging clothes, rail alterations, carpeting, cooking/barbecuing, storage. Flower containers hung inside only.
- No obstruction of common areas (eg. shoes, carriages, toys, bicycles, etc.).
- Wrap all garbage, dispose appropriately, and comply with municipal recycling.
- Solely responsible for use/sufficiency/performance of clothes washers/dryers. Tenant empties machines immediately machine is finished, and keeps room tidy. Store detergents safely in their own unit.
- Solely liable for loss/damage to articles in storage lockers. No harmful/flammable substances.
- Schedule moving and deliveries. Packaging properly disposed.
- Agrees that landlord/employees may enter premises; then list RTA rules.
- No garage sales or similar without approval.
- Use unit only as a residential dwelling (no child care services, etc.). Illegal operations not permitted (another duh!).
- Permit landlord to perform repairs/renovations as deemed necessary, at landlord's discretion.
- Provide home telephone number and notify landlord of changes



- Pays any increased taxes resulting being a Separate School supporter.
- No compensation if unit is unavailable at move-in for any reason.
- Landlord may report tenant information to consumer reporting/collection agencies. Tenant's questions about privacy have been answered to tenant's satisfaction.
- Must provide 60 days' notice no later than the first of the month.
- If unit is vacant or appears abandoned and no rent was received, then landlord may enter without notice by whatever means, and has the right to rent the unit as the tenant's agent to receive rent. Tenant remains liable. Landlord may sell or disposed of items to any person and at any price. Net proceeds applied to rent owed. Landlord must act on reasonable grounds and good faith to not be liable for damages of any nature.
- Be solely responsible for all personal effects. Tenant should obtain Renter's Content Insurance.
- Agreement amendments/waivers only in writing. Only landlord (not employees) can make changes.
- If the tenant fails to pay their utilities, landlord may pay, then collect from tenant, plus an administration fee, as rent.
- Agrees landlord is not liable for (a) negligence caused by agents/employees for personal injury or death suffered by the tenant, their family, invitees or etc., (b) loss/damage/injury of tenant's or invitee's property/equipment, (c) damage caused by electrical wiring, fire, or water flowing from any part of the property, or (e) damage caused by anything done or omitted to be done by any other tenants.
- Providing mail address connotes 'opted-in' permission related to appropriate landlord-tenant business communications but must not be relied upon by either party as assurance of any formal communiqué.
- Landlord's is not liable for website contents.

It's a lot to know but rental housing is absolutely not a passive investment. It can be a full time job (for you or an employee/agent), and I've yet to meet a seasoned landlord that thinks otherwise.

Like any other business in today's litigious-prone society supported by tenant-biased judicial authorities, you must take the time, and undertake proper due diligence, to ensure that you protect yourself in the operation of your landlord duties or inevitably suffer the consequence.

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