



## Tip Sheet for Tenants

# HOW TO COLLECT MONEY FROM YOUR LANDLORD

*Prepared by the Tenant Duty Counsel Program and funded by Legal Aid Ontario*

***This publication contains general information intended to assist the public at large. It is not legal advice about your situation. You should consult a lawyer or legal worker for advice on your particular situation.***

### HAS THE BOARD ORDERED YOUR LANDLORD TO PAY YOU MONEY?

If you are still living in the same apartment, in most cases you can subtract from your rent the money the Landlord and Tenant Board (the “Board”) has told the landlord to pay you.

However, if you have already moved out of the apartment, or if you are moving out and have already made your last rent payment to your landlord, you may have to try other ways to get the money that the landlord owes you.

**The Board will not help you collect the money from your landlord.**

### HOW CAN I GET THE MONEY?

Here are three steps that you can use to try to get the money:

#### STEP 1: WRITE A “DEMAND LETTER” TO YOUR LANDLORD.

This should always be your first step. It is the easiest and cheapest way to try to get your landlord to pay the money they owe you. In this letter, you should:

- Ask the landlord to pay you all the money they owe in 14 days.
- Tell the landlord where they can send the payment.
- Tell the landlord that if they do not pay within 14 days, you will take them to court.

If the landlord still does not pay you after you send the demand letter, there are two other steps you can take to get your money. You can hire a collection agency or you can take your order to the Small Claims Court..

## STEP 2: HIRE A COLLECTION AGENCY

Most collection agencies will not usually charge you a fee if they are not able to collect your money. If the collection agency is successful in getting your money their fee will probably be one-third or more of the money that they collect. For example, if the collection agency collects \$300 from your landlord, the collection agency might keep at least \$100.

Please note that the information above is *only general information*. Each collection agency has different terms. *Make sure to discuss the collection terms with a collection agency before you hire them.*

Make sure also to tell the collection agency that that you are a *tenant* going against your *landlord*.

## STEP 3: GO TO THE SMALL CLAIMS COURT

You can also take your Board order to the Small Claims Court and ask them to help you “enforce” the order and force the landlord to pay you.

- You can find location of the Small Claims Court nearest you by looking in the telephone book or by visiting the Ontario Courts website at [www.ontariocourts.on.ca](http://www.ontariocourts.on.ca). The Small Claims Court will have all the forms you need.
- You will have to pay a fee to the Small Claims Court in order to enforce your order. The Small Claims Court will add the fee to the amount that your landlord already owes you. If you cannot afford to pay the fee you may request a fee waiver.

The rest of this Tip Sheet will tell you how you can use the Small Claims Court to try to collect your money.

## HOW CAN I ENFORCE MY ORDER AT THE SMALL CLAIMS COURT?

### PART 1: Register the Board Order with the Small Claims Court

The first step you must take to enforce your Board Order is to register it at the Small Claims Court. When you register your Board order, the Small Claims Court will open a court file for you.

**What to take:** A certified copy of the Board Order (the original copy of the order that you got in the mail from the Board after your hearing).

**What to do:** Ask the person at the counter how to register your order.

**Cost:** \$25 (If you cannot afford to pay this fee you may request a fee waiver.)

## PART 2: Decide How You Want To Enforce The Board Order.

There are three ways in which the Small Claims Court can help you to get your money:

- **Garnishment:** getting someone who owes money to your landlord to pay it to you. This could include a current tenant of your landlord.
- **Seizure and sale of personal property:** getting the bailiff to “seize” or take, and sell, personal property which belongs to the landlord.
- **Seizure and sale of land:** getting the Sheriff to seize and sell land which belongs to the landlord. You can also register the amount of money your landlord owes you as an official debt against the landlord’s land. The landlord will have to pay you before they can sell the land.

Please see the summary starting on page 5 of this tip sheet entitled “**How to Collect Money from Your Landlord through Small Claims Court**” for more information about each method of enforcing your Board order. This will help you pick the best method.

## PART 3: Get More Information About Your Landlord.

Depending on the method you choose, you will need some information about your landlord to bring with you to Small Claims Court:

- The landlord’s bank account number and the address of the bank branch

**TIP FOR TENANTS:** Look on your cancelled rent cheques for a stamp from the landlord’s bank to get the landlord’s bank account number.

- The names of some current tenants of your landlord
- The name of anyone else who owes money to the landlord
- Does the landlord have personal property (such as a car) in his/her own name?
- Does the landlord have land in his/her own name?

If you do not have this information you can ask the Small Claims Court to hold an “Examination in Aid of Execution”. Your landlord will be told to attend so that you can ask them these questions.

**Forms:** Notice of Examination (Small Claims Court Form 20H) and Affidavit for Enforcement Request (Small Claims Court Form 20P)

**Cost:** \$35 (If you cannot afford to pay this fee you may request a fee waiver.)

**Process:** File the forms above at the Small Claims Court office and then send a copy of the forms to your landlord (with a Financial Information Form 20I). Let them know what day and time they need to come to Small Claims Court for the Examination in Aid of Discovery.

## PART 4: Make An Affidavit

Whichever method you choose, you will need to file an “affidavit” with the Small Claims Court. An “affidavit” is a statement that you make in writing which tells the Court the information they need to enforce your Board judgment.

Ask the Small Claims Court Clerk for more information about filling in and swearing or affirming an affidavit form.

**Form:** Small Claims Court Form SAA 20.04-05-6-7

**Information:** You must put all of this information in your affidavit:

- The date of your Board order
- The amount of money the Board awarded you
- The rate of interest applied to your Board order (ask the Small Claims Court clerk to tell you the amount of interest which applies to your order)
- The total amount of any payments you have received from the landlord since the Board order was made
- The amount still owing on the Board order

**What to do:** Fill in all of the information on the form and then take it to the counter at the Small Claims Court.

## WHAT TO DO NOW?

Start collecting information about your landlord in case you ever make a claim against them or if think you will have problems getting them to pay:

- If the landlord ever gives you a cheque (for example, for interest on your last month’s rent deposit) make a photocopy of the cheque before you cash it. This will give you bank account information about the landlord.
- Write down the license plate number of your landlord’s car if you see it.
- Write down the names and addresses of other tenants.

## WHERE CAN I GET MORE INFORMATION?

Contact your local **Community Legal Clinic** for free advice on landlord and tenant matters. To find the telephone number for your clinic call Legal Aid Ontario at (416) 979-1446 or 1-800-668-8258.

You can also call the **Tenant Hotline** at 416- 921-9494 for free information and referrals to your local legal clinic.

You can find information on line at [www.acto.ca](http://www.acto.ca) or [www.cleo.on.ca](http://www.cleo.on.ca).

You can call the Landlord and Tenant Board toll free at 416-645-8080 from within Toronto or 1-888-332-3234 from outside Toronto. Their internet address is [www.ltb.gov.on.ca](http://www.ltb.gov.on.ca)

# SUMMARY OF HOW TO COLLECT MONEY FROM YOUR LANDLORD THROUGH SMALL CLAIMS COURT

Methods of collection through Small Claims Court will be briefly summarized below. The summaries do not provide complete information. If you choose any of these methods you will need to follow the proper steps exactly. To find out the proper steps ask the Small Claims Court. At the end of this tip sheet is an internet address for a pamphlet that explains in more detail these methods of collection.

## 1. Garnishment

### How it Works

- The Court can order a someone who owes money to your landlord (for example: an employer or current tenant) to pay it to you instead.
- The Court can order that you can get money from the landlord's bank account
- The Court issues a "Notice of Garnishment" which you then must send to the person who owes money to your landlord.
- Person who owes money to your landlord must pay to the court the amount owing to the landlord within **10 days** of receiving the Notice of Garnishment
- If you are garnishing the **employer** of the landlord, the employer can deduct up to 20% of each pay and send it to the Small Claims Court

### Small Claims Court Forms

- Notice of Garnishment (Form 20E)

### Affidavit

- Affidavit for Enforcement Request (Form 20P)
- Include on the Affidavit:
  - a) date of Board order
  - b) amount of money the Board awarded you
  - c) rate of interest applied to your Board order (ask the Small Claims Court clerk)
  - d) total amount of any payments already made to you by the landlord
  - e) amount still owing to you from the landlord
  - f) correct name and address of the person who owes money to your landlord (the landlord's employer or supplier or a current tenant of the landlord)
  - g) details about why you believe this person owes the landlord money

### Information You Need

- Correct name and address of employer OR
- Correct name and address of someone else who owes the landlord money OR
- The landlord's bank account number and the address of their bank branch

### Cost

- \$100 (If you cannot afford to pay this fee you may request a fee waiver.)

## 2. Seizure and Sale of Personal Property

### How it Works

- The Court can order the a bailiff to seize and sell personal property belonging to your landlord at a public auction and pay you what you are owed
- The Court issues a “Writ of Seizure and Sale of Personal Property” which you can then take to the bailiff
- Some types of personal property, such as household items and work supplies cannot be seized.
- The cost of this procedure can be very high. You may have to pay these costs even if this procedure fails.

### Small Claims Court Forms

- Writ of Seizure and Sale of Personal Property (Form 20C)

### Affidavit

- Affidavit for Enforcement Request (Form 20P)
- Include on the Affidavit:
  - items (a) through (e) under **Garnishment**, above
  - details about any personal property owned **only by your landlord**

### Information You Need About Your Landlord

- Details about personal property owned only by your landlord,

### Cost

- \$60 plus \$1000 deposit to the bailiff to cover costs. (The fees for the bailiff cannot be waived.)

### Deadline

- You must make your request within six years after the Board makes its order. After six years you can only get a “Writ of Seizure and Sale of Personal Property” with the permission of the court.

## 3. Seizure and Sale of Land

### (a) Seizing and selling land

#### How it Works

- The Court can order that the Court Enforcement Office (Sheriff) seize and sell land belonging to your landlord and pay you what you are owed
- The Court issues a “Writ of Seizure and Sale of Land”
- You can take the Writ of Seizure and Sale to the Sheriff and ask them to enforce it
- The Sheriff must wait t least 4 months before seizing and selling the land

#### Small Claims Court Forms

- Writ of Seizure and Sale of Land (Form 20D)

## Affidavit

- Affidavit for Writ of Seizure and Sale of Land (Form 200)
- Include on the Affidavit:
  - items (a) through (e) under **Garnishment**, above
  - details about any land owned **only by your landlord**

## Information You Need About Your Landlord

- Address of any land/property owned **ONLY** by your landlord
- (See **Get More Information About Your Landlord** in the Tip Sheet for more information on how you can bring the landlord to court to get this information)

## Cost

- \$35 Small Claims Court Costs; \$100 filing fee with Sheriff; \$3,000 deposit to Sheriff to cover costs of selling land. (If you cannot afford to pay the Small Claims Court Costs you may request a fee waiver. The fees for the Sheriff cannot be waived.)

## Deadline

- You must make your request within six years after the Board makes its order. After six years you can only get a “Writ of Seizure and Sale of Land” with the permission of the court.

## (b) Putting a lien/charge on the landlord’s land

### How it Works

- The Court issues a “Writ of Seizure and Sale of Land”
- You can take the Writ of Seizure and Sale to the Sheriff and ask them to put a “lien” on the landlord’s land. This means that they cannot sell the land without first paying you.

## Small Claims Court Forms, Affidavit and Information You Need About Your Landlord

- See 3(a) above

## Cost

- \$35 Small Claims Court costs; \$100 filing fee to Sheriff. (If you cannot afford to pay the Small Claims Court Costs you may request a fee waiver. The fees for the Sheriff, however, cannot be waived.)

## Deadline

- The “lien” on the landlord’s property will be there for **6 years** after you register it with the Sheriff.

**TIP FOR TENANTS:** For more detailed information on these procedures, see the Small Claims Court written guide called “*After Judgment – Guide to Getting Results*”. This document can be obtained from the Small Claims Court in your area or online at [www.attorneygeneral.jus.gov.on.ca/english/courts/guides/](http://www.attorneygeneral.jus.gov.on.ca/english/courts/guides/)