

EVICTON PROCEEDINGS COMMENCED BY NON PROFIT HOUSING CO-OPERATIVES [CO-OPS]

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Since June 1, 2014 eviction proceedings commenced by non-profit housing co-operatives (co-ops) will be held before the Landlord and Tenant Board. Kingston Community Legal Clinic represents tenants and co-op members in eviction proceedings, and we urge service providers in Kingston to refer clients to the legal clinic that may be facing eviction from their co-op.

Eviction proceedings from co-ops have several distinct features from regular eviction proceedings that service providers should be aware of in order to refer clients to the legal clinic in a timely fashion:

1. Co-ops hold an in-house eviction proceeding prior to the eviction proceeding before the Landlord and Tenant Board. Service providers that are aware of an upcoming co-op Board meeting to terminate a co-op member's membership and occupancy rights should refer the co-op member to the legal clinic.
2. A co-op Board can only serve a "notice of termination" on a co-op member only after it has terminated the member's membership and occupancy rights in its in-house eviction proceeding. Unlike the landlord and tenant relationship, which allows landlords to serve notices of termination when they believe there are grounds for eviction, a co-op Board can only serve a notice of termination after it has already terminated the member's membership and occupancy rights in its internal process established by the Co-operative Corporations Act. There are various forms of notices of termination which a co-op Board can serve on a co-op member, each containing different implications for the co-op member. Services providers should refer their clients to the legal clinic once they have received a notice of termination.
3. Once the co-op has filed an application for termination of membership and occupancy rights, the co-op member must complete and file a response which addresses all allegations in the application. This is the most significant difference between a co-op eviction and a regular eviction process. The response is to be filed with the Landlord and Tenant Board and served on the co-op no later than the date specified in the Notice of Hearing. The implications for failing to file a response are severe: the Landlord and Tenant Board can deem the co-op member to accept all of the facts and allegations in the co-op's application. The legal clinic will assist co-op membership prepare and file their response. Co-op members should not undertake to file a response on their own without legal advice.
4. Co-op eviction proceedings are scheduled for two hearings, unlike regular landlord and tenant eviction applications which are only scheduled for one hearing. The first hearing, which is called the Case Management Hearing, is similar to a mediation process in that it allows the parties to settle some or all the issues in dispute. The Landlord and Tenant Board can deem a co-op member to have accepted all facts and allegation in the eviction application and the hearing may proceed without them if they fail to attend the Case Management Hearing. The second hearing is called the Merits Hearing, which a contested adjudication process.

The legal clinic expects a slight increase in the number of eviction proceedings from co-ops because prior to June 1, 2014 co-ops had to seek an eviction from the Superior Court of Justice, which was a lengthier and more costly process.

Service providers should also be aware that the Landlord and Tenant Board does not have the jurisdiction to hear applications by co-op members.

If you have any questions about the co-op eviction process or to refer a client please contact Kingston Community Legal Clinic at 613-541-0777.

This column, written by John Helis, Staff Lawyer, Kingston Community Legal Clinic, provides general legal information only about current laws. If you need legal advice you should contact a lawyer. If you are living on a low income you may be eligible for free legal help. Contact your local community legal clinic if you need help with income programs, workers' or tenants' rights, consumer problems, or human rights. Call Kingston Community Legal Clinic at 613-541-0777 or visit www.kclc.ca. If you have a criminal, family or immigration law problem, contact Legal Aid Ontario at 1-800-668-8258 or visit www.legalaid.on.ca.