

## LEASE IS MORE: NEW RESIDENTIAL LEASE FORM COMING TO ONTARIO

21 March 2018

Starting April 30, 2018, Ontario landlords leasing private residential rental units must use a [new standard form of lease](#) (the "New Form"). If you are a landlord, or a property management company, you should be aware that the New Form may affect how you do business. The New Form sets out the essential terms of a lease and outlines both your and your tenant's rights and responsibilities.

The New Form is part of the Ontario government's effort to reduce inconsistency among residential leases and the number of misunderstandings caused by verbal tenancy agreements. It uses easy-to-read language to help the parties understand not only what the lease agreement covers, but also what it does not, and cannot, cover. By April 30, 2018, a guide to the New Form will be available in 23 languages.

The following represents a summary of some of the key aspects of the New Form and is not an exhaustive review of all changes.

### Who must use the New Form?

A landlord/property manager must use the New Form when leasing any of the following types of residential tenancies in Ontario, on or after April 30, 2018:

- Single and semi-detached houses
- Units in apartment buildings
- Units in condominiums
- Secondary units (for example, basement apartments).

If the landlord/property manager does not use the New Form, then the tenant can request,

in writing, that the landlord/property manager replace the lease that they used with the New Form. The landlord/property manager will then have 21 days to provide the New Form.

A landlord/property manager does not have to provide a tenant with the New Form if:

- They signed a lease with that tenant before April 30, 2018 (unless the parties negotiate a new lease agreement after this date)
- They signed a fixed-term lease with that tenant before April 30, 2018, and it renewed automatically to a month-to-month tenancy after April 30, 2018.

A landlord/property manager may use the New Form before April 30, 2018 if they wish.

## **Can a landlord/property manager be exempt from using the New Form?**

The New Form does not apply to the following types of residential tenancies in Ontario:

- Care homes such as retirement and nursing homes
- Mobile home parks and land lease communities
- Social and supportive housing that is exempt from the rent increase guideline under the [Residential Tenancies Act, 2006](#) (the "Act") (e.g., where the tenant receives publically funded rent-g geared-to-income assistance or housing subject to operating agreements under some programs).

The Ontario government plans to develop standard lease forms for each of these types of tenancies in the near future.

## **What is in the New Form?**

The New Form contains a set of standardized lease terms, including, for example:

- Names of the landlord/property manager and tenant(s)
- Length of the tenancy
- Rent amount and when it is due
- What is included in the rent, such as parking or air conditioning
- Rules about the rental unit or building, such as no smoking
- Terms that the landlord/property manager and tenant(s) can agree to, such as key deposits and insurance.

The Appendix to the New Form provides additional information about each section of New Form. The Appendix also sets out the rights and responsibilities of each party to the lease, for example:

- When the landlord/property manager can enter a unit
- Who is responsible for maintenance and repairs
- When the landlord/property manager or the tenant can end the tenancy
- When the tenant can sublet the unit
- That the landlord/property manager cannot ban either guests or pets (though some condominium rules may ban certain pets).

## Can a landlord/property manager add terms to the New Form?

A landlord/property manager can add an attachment to the New Form in which they and the tenant agree to additional terms. These additional terms should clearly set out what each party must do (or not do) to comply with them. These terms may:

- Require the landlord/property manager to make changes to the unit before the tenant moves in
- Provide rules for use of amenities and/or common spaces
- Require the landlord/property manager to clean the unit

**Caution:** These additional terms cannot change the terms in the New Form, nor can they alter a right or responsibility under the Act. If they purport to do so, they will be neither valid nor legally binding. For example, unenforceable terms could:

- Require the tenant to pay for all or part of the repairs that are the responsibility of the landlord/property manager
- Require the tenant to pay deposits, fees, or penalties that are not permitted under the Act, such as pet deposits or interest on overdue rent payments.

## What happens if a landlord/property manager does not use the New Form?

On or after April 30, 2018, if a landlord/property manager does not provide a new tenant the New Form within 21 calendar days after the tenant asks for it in writing, the tenant may:

- Withhold a month's rent; or
- Give 60 calendar days' notice to terminate a yearly or fixed-term tenancy early.

If the landlord/property manager provides the New Form within 30 calendar days after the tenant began withholding rent, the tenant must pay the rent withheld. However, if the landlord/property manager does not do so, the tenant does not have to repay that rent.

**The tenant can only withhold one month's rent.** After one month has elapsed, the tenant must continue to pay rent for the rest of the term of the lease—even if the landlord/property manager never provides the New Form.

If the landlord/property manager provides the New Form within 21 calendar days after the tenant requests it, the tenant may still terminate their yearly or fixed-term tenancy within 30 calendar days of receiving the New Form if they have not yet entered into the proposed lease agreement.

## Conclusion

Currently, there is no mandatory standard form of lease for landlords/property managers and tenants in Ontario. From April 30, 2018, however, the New Form will be required for most new private market residential tenancies. Although the New Form will allow for additional terms, landlords/property managers should ensure that these terms do not alter the New Form in any way or contravene the Act. If they do, landlords/property managers will be unable to enforce them.

If you have any questions about the New Form, or its effect on your business as a property manager, do not hesitate to contact any member of our [Real Estate Group](#).<sup>[1]</sup>

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<sup>[1]</sup> Note that while this bulletin outlines some of changes that the New Form will bring, it is not an exhaustive legal analysis. Please refer to the New Form itself for all of the amendments in context.

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