

# EVICCTIONS



WHAT CO-OPS NEED TO KNOW

ISSUE NUMBER 5 | SEPTEMBER 2014



## Who can represent the co-op at the LTB?

A new eviction system for housing co-ops came into force on June 1, 2014. The new law made changes to the *Co-operative Corporations Act* and the *Residential Tenancies Act (RTA)*. Most evictions will now be handled by the Landlord and Tenant Board (LTB) after the co-op's internal process is done. In a few cases where the grounds of eviction are not in the RTA, the courts will still hear the case.

*Evictions: What co ops need to know* is an educational series to help Ontario co ops understand and work with the new eviction system. Check other issues in the series for more details on the new system. Each issue is posted on the Ontario eviction system webpage on the Resource Centre. The page can be accessed from the Ontario Region homepage on the CHF Canada website ([www.chfcanada.coop](http://www.chfcanada.coop)).

This issue of *Evictions: What co-ops need to know* looks at who can represent co-ops at LTB hearings and is based on an interpretation of Law Society rules by the Ontario Region's legal counsel.

### Who can represent?

When co-ops were using the courts for all evictions, the decision about who would represent the co-op in court was easy. It was always the lawyer. Now if the grounds for eviction are not covered by the RTA, then the co-op will still go to court for the eviction and the co-op must still use a lawyer.

Under the new system when most evictions will be dealt with by the LTB, co-ops can still use a lawyer. They can also use a licensed paralegal.

### Other possibilities

In addition to a paralegal or lawyer the co-op might be able to be represented by others such as:

- Co-op staff
- A Co-op's management company
- Co-op board members.

The rules about who can be a representative at the LTB are designed to stop people from providing unlicensed paralegal services. They are in Law Society By-law Number 4. They are hard to interpret for co-ops. We have asked the Law Society about this, but they do not give rulings or interpretations. They only get involved if someone complains. We explained about how we thought the rules could apply to co-ops and they think we are looking at it in a reasonable way. But they will not say anything specific and there are no guarantees.

### Co-op employees

Full-time employees of the co-op are allowed to represent the co-op at the LTB. The same goes for part-time co-op employees who don't work for any other employer.

Part-time co-op employees who work somewhere else can probably represent the co-op if their other job does not involve going to the LTB.

## Co-op management company staff

Staff of a co-op management company are probably not allowed to represent the co-op at the LTB.

But if the staff person works full-time at only one co-op, they may be considered the same as co-op employees. It is hard to see why it would matter if the full-time person at the co-op was employed by a co-op management company rather than directly by the co-op.

Some co-ops have a management company as the manager but have other staff that is directly employed by the co-op. We think that the employed staff person could be the “representative” but that a more senior person from the management company could do most of the talking if necessary.

## Independent contractor

Sometimes co-ops have a manager who is not a co-op employee, but who is treated as an independent contractor. They are different from management companies because it is usually only one person. The co-op would not take employee tax and other deductions from them.

We don't recommend that co-ops use independent contractors in that way because there are many legal and business problems with that kind of arrangement.

If you do have an independent contractor, then you cannot consider that person as an employee for LTB purposes. They should be considered the same as co-op management company staff.

## Co-op board members or other co-op members

Co-op board members or other co-op members are not allowed to represent the co-op at the LTB unless they are lawyers or licensed paralegals.

## Hearings and filings

These rules apply to hearings at the LTB including both case management hearings and merits hearings.

But they don't apply to other parts of the process, such as issuing the *Residential Tenancies Act* notices or filing the application to evict. Any employee can do that if it is as part of their normal occupation. (The same is true of management company staff.)

## Should co-op staff be going to the LTB by themselves to represent the co-op?

Whoever goes has to have the right skills to represent the co-op and has to take the time to do it. Therefore, it may be better for the co-op to pay someone rather than try to do it through staff—especially if the eviction is complicated and is based on something other than arrears.

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For more information on the eviction system please contact **Diane Miles, Judy Shaw** or **Keith Moyer** at the Ontario Region office at 1-800-268-2537. Or email [dmiles@chfcanada.coop](mailto:dmiles@chfcanada.coop), [jshaw@chfcanada.coop](mailto:jshaw@chfcanada.coop) or [kmoyer@chfcanada.coop](mailto:kmoyer@chfcanada.coop). In southwestern Ontario, call **Denise McGahan** at 1-800-644-3949, or email [dmcgahan@chfcanada.coop](mailto:dmcgahan@chfcanada.coop).

**Warning:** The co-op should not use this information instead of legal advice. Co-ops and situations are different from each other and people understand things differently. This issue of *Evictions: What co-ops need to know* assumes things that may not be true of your co-op or your situation.