

## Bill 106 - Safer Communities and Neighbourhoods Act

Bill 106, The Safer Communities and Neighbourhoods Act, was introduced in the Ontario Legislature as a private member's bill by Yasir Naqvi, the Liberal MPP for Ottawa Centre, on October 2, 2008.

This Private Members' Bill is garnering support from the community and some members of the legislature. It is modeled on legislation that is in place in Manitoba, Saskatchewan, Nova Scotia, Newfoundland and Labrador, Alberta and in the Yukon.

The Bill makes provision for municipalities to pass a by-law allowing for the appointment of a Director of Safer Communities and Neighbourhoods. Under the provisions of Bill 106, any person can complain to the Director of Safer Communities and Neighbourhoods that a community or neighbourhood is being **adversely affected** by a property that is habitually used for untoward purposes, which include:

- Use, consumption or sale of glue, petroleum distillates, polish removers and aerosols, etc.;
- Manufacture, import, sale and consumption of liquor;
- Growth, production, possession, use or sale of controlled substances;
- Prostitution;
- Sexual abuse or exploitation of a child; and/or
- Possession or storage of a prohibited firearm or weapon, a restricted firearm or weapon, a stolen firearm or explosives.



The Bill defines "**adversely affected**" as activities which:

- a) negatively affect the health, safety or security of one or more persons; or
- b) interfere with the reasonable enjoyment of one or more properties.

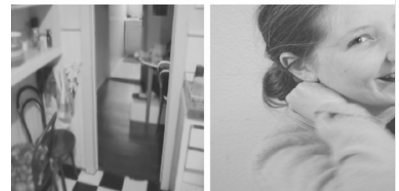
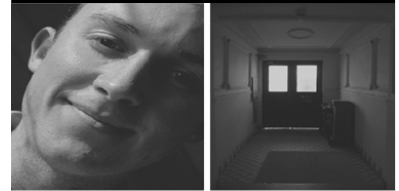
The Director will be required to complete an investigation and try to resolve the complaint by agreement or informal action. If this fails, the Director would follow a course of progressive enforcement, the framework for which is defined in the Bill, and could potentially involve an application to the Ontario Superior Court of Justice for a community safety order in which the owner is named.

A community safety order will set out a:

- description of the property and activities;
- prohibition against all persons causing, permitting, contributing to or acquiescing in such activities; and
- requirement that the owner do everything possible to prevent the activities from continuing or reoccurring.

*Continued on page 2*

## In this ISSUE



Landlord Learning and Networking Forum . . . . .	2
Bill 106 . . . . .	2
The Problem of Bed Bugs . . . . .	3
Self-Help Tips . . . . .	4
Did You Know? . . . . .	5
Sound Advice . . . . .	6
Small Claims Court . . . . .	6
Share your LTB Decisions. . . . .	6
LTB Update . . . . .	6

Landlord's Self-Help Centre  
 425 Adelaide St. W., 4<sup>th</sup> Fl.  
 Toronto, Ontario M5V 3C1  
 Tel: 416-504-5190  
 Toll Free: 1-800-730-3218  
 info@landlordselfhelp.com

Landlord's Self-Help Centre is funded by:



## Landlord Learning and Networking Forum Toronto - May 25<sup>th</sup>

Landlord's Self-Help Centre, in partnership with Toronto Shelter, Support and Housing Administration Division, is organizing a learning event for small-scale landlords to help them better understand the rules and regulations that govern their rental relationship and the business of renting.

The Landlord Learning and Networking Forum offers landlords two ways to learn:

- An information fair comprised of a broad range of service providers will provide the opportunity for one-on-one conversations; and
- Educational/informational presentations that will address a broad range of issues and be delivered by the service providers participating in the information fair.

The Forum also offers opportunities to meet and interact with other small-scale landlords attending this event.

The Landlord Learning and Networking Forum will be held on May 25<sup>th</sup> at Metro Hall, 55 John Street, Toronto. If you are planning to attend pre-registration will be required.

Please be advised that we intend to photograph, video tape and record audio during portions of this event. By attending this event you consent to the use of your image and/or audio image in future publications and or training materials produced by Landlord's Self-Help Centre.

We are continuing to expand the program by recruiting service providers and scheduling for presentations. Please monitor our website for ongoing developments:  
[www.landlordselfhelp.com/landlord\\_forum/forum\\_intro.htm](http://www.landlordselfhelp.com/landlord_forum/forum_intro.htm)



There is no cost to attend/participate in the Landlord Learning and Network Forum, pre-registration is **required**.

## Bill 106 - Safer Communities and Neighbourhoods

The Court may order persons to vacate the property and prohibit them from re-entering and re-occupying; terminate a tenancy agreement; and/or close the property and prohibit its use and occupation for up to 90 days. A community safety order may apply to a part of the property or a particular person and must be registered against the title of the property.

The process becomes more frightening in situations where a closure order is made. If ordering a property to be closed and prohibiting occupation, the Court will consider the extent of the owner's failure to exercise due diligence in supervising and controlling the use and occupation of the property and the impact of the activities on the community or neighbourhood.

The Bill provides that the Director may, without the consent of the owner, enter the property and close it by: ordering residents to vacate; attaching locks and security devices; and terminating utility services. The costs of closing a property are to be borne by the owner, the cost is added to the tax roll. The Bill also defines the process by which a resident of the property may apply to the Court to vary the order.

On October 30, 2008, Bill 106 received Second Reading and was referred to the Standing Committee on Justice Policy. There has been no further activity or progress toward becoming law to date. While Private Member Bills typically do not become law, this Bill has attracted both interest and support. The Bill has the potential to negatively impact property owners, a call to your MPP to express concern would be worthwhile.

To learn more about Bill 106:

[http://www.ontla.on.ca/web/bills/bills\\_detail.do?locale=en&BillID=2064](http://www.ontla.on.ca/web/bills/bills_detail.do?locale=en&BillID=2064);  
[http://cleonet.ca/news\\_files/1223998769SCANfactsheet.pdf](http://cleonet.ca/news_files/1223998769SCANfactsheet.pdf); and  
[http://cleonet.ca/news\\_files/1232487382FAQ+Bill+106+Brochure.pdf](http://cleonet.ca/news_files/1232487382FAQ+Bill+106+Brochure.pdf)

## The Problem of Bed Bugs

In recent years, the problem of bed bugs has re-emerged in many mid to large size North American metropolitan areas. In Toronto, the problem became large enough that a special action plan was drawn up by City of Toronto staff to help the public understand and deal with the presence of these pests.

The Integrated Pest Management Plan recommended for the city's shelter operators can be useful for all housing providers, since bed bugs can be found anywhere from upscale hotels, to rooming houses, apartments, dormitories or any other kind of accommodation.

**What are bed bugs?** Bed bugs feed on the blood of birds, humans, and other mammals. They feed only in the dark and can be found hiding in cracks and crevices such as mattress seams, carpet edges, furniture and even metal bed frames, radios or telephones. They can travel along pipes and wiring into other parts of the property.

Bed bugs are about 1/2cm long, are light-brown, and quite flat before feeding or oval shaped and reddish-brown after feeding. The female can live up to one year and lay up to 400 eggs in that time. Red, itchy flat lesions usually result from bed bug bites, although people who have been bitten can have other kinds of reactions, ranging from mild itching to severe allergic reactions. Other than the bugs and their tiny white eggs, fecal spots made up of digested blood are a good indicator of where the bugs have been.

**Who is responsible to get rid of bed bugs?** The Residential Tenancies Act requires *landlords* to maintain their properties, and to comply with health, safety, housing and maintenance standards. In most cases this means municipal or city codes and bylaws. The RTA holds *tenants* responsible for the "ordinary cleanliness" of their rental unit, except where the landlord is required to clean the units (usually in rooming houses). The municipality, as is the case in Toronto, may require the tenant (occupant) to maintain the property they occupy in a clean and sanitary condition. It is next to impossible to prove how bed bugs come onto a particular property, and even if the tenant admits responsibility, the key concern for both parties is working together to get rid of an infestation immediately.

The additional challenges for small landlords and other private sector housing providers involve the privacy rights of their tenants, and getting the tenant's cooperation in controlling bed bugs and other pests. A tenant may have all sorts of reasons why they will not or cannot help the landlord get rid of pests - denial, embarrassment, or even not realizing the seriousness of what is happening - but landlords must work with their tenants to ensure that the problem is completely resolved.

**How can you get rid of bed bugs?** This problem is usually very difficult to resolve. If possible, hire a pest control professional to inspect, and treat the unit (usually multiple times). Try to have the pest control professional explain the health and side effect implications to the tenant before settling on which treatment to use.

Here are some suggestions if you plan to control the bedbug infestation yourself, with the tenant's help:

- ✓ Try to vacuum in and around sleeping areas on a daily basis using a brush attachment, and dispose of the bag contents immediately;
- ✓ Ask the tenant to remove unnecessary clutter, and to dispose of, and dismantle any furniture found to contain bed bugs or their eggs;
- ✓ A thorough steam cleaning of affected areas will also help kill bugs and eggs.
- ✓ Wash bed linens in the hottest water temperature the fabric allows, then dry on hot setting for at least 20 minutes;
- ✓ Cover mattresses in plastic if possible;
- ✓ Seal cracks and crevices in baseboards, wood bed frames, floors and walls with caulking. Seal any holes around electrical sockets, or where pipes or wires lead from one unit to another;
- ✓ Use glue traps, and double-sided tape or petroleum jelly on metal bed frame legs;
- ✓ Speak to your local municipal health or property standards department about obtaining the appropriate insecticide required to deal with the infestation.

Remember: The landlord must first give proper 24 hour *written notice* prior to entering the tenant's unit to do this kind of work, or for you or a professional trades person to do a maintenance inspection.

Visit [http://www.toronto.ca/health/bed\\_bugs/index.htm](http://www.toronto.ca/health/bed_bugs/index.htm) to view City of Toronto fact sheets in many languages for landlords, tenants and pest management professionals. For more detailed information in French and English visit [http://www.hc-sc.gc.ca/cps-spc/pubs/pest/\\_pnotes/bed\\_bugs-punaises-lits/index-eng.php](http://www.hc-sc.gc.ca/cps-spc/pubs/pest/_pnotes/bed_bugs-punaises-lits/index-eng.php).

## Self-Help TIPS:

*Landlords are often faced with situations where tenants break their leases and move out of the rental unit or they move out owing for rent and/or damages. In this issue of our **Self-Help Tips** we will discuss when and how a landlord should sue in Small Claims Court.*

### When does a landlord file in Small Claims Court?

Once a tenant has vacated the rental unit a landlord can no longer file any application with the Landlord and Tenant Board, therefore the only option is to sue the tenant in Small Claims Court for any money the tenant owes either for arrears and/or damages.

You can file a claim in **Small Claims Court** for the payment of money or the recovery of possession of personal property where the amount claimed does **not exceed \$10,000**, excluding interest and costs such as court fees.

### Plaintiff's Claim

The form you need to file to commence the action is a Plaintiff's Claim (Form 10A). Small Claims Court forms are available at court offices and on the following website: [www.ontariocourtforms.on.ca](http://www.ontariocourtforms.on.ca). The fee for filing a claim at Small Claims Court is **\$75.00**. There are additional fees to pay for other steps in a proceeding, such as requesting a trial date, and enforcing a judgment. If you are successful you can ask that the other party be ordered to pay your costs.

### Where is a claim filed?

A claim must be filed in the court office that satisfies any of the following criteria:

- The court in the territorial division where the event took place or the problem occurred;
- The court in the territorial division in which the defendant (tenant) lives or carries on business; or
- At the court's place of sitting that is nearest to the place where the defendant (tenant) lives or carries on business.

### Evidence to support your claim

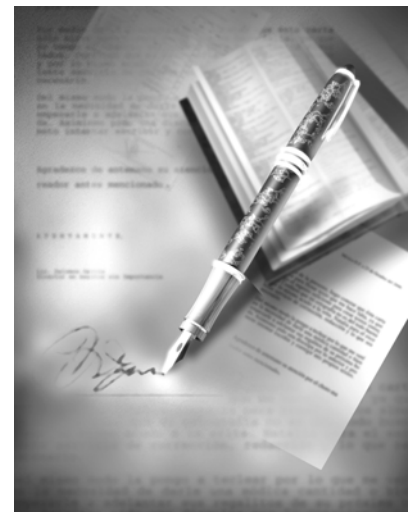
Your claim will be decided by the evidence you have to prove your case. Consider what witnesses and/or documents you intend to use to support your claim, for example, leases, NSF cheques, record of payments, invoices, quotations for repair work. Copies of documents that you intend to use to support your claim must be attached to the claim form.

### Service of a Plaintiff's Claim form

Once you have filed your claim, make enough photocopies of the stamped copy of the claim and supporting document to serve on each defendant. The Rules of Small Claims Court allow parties to arrange for service of their own claims as follows:

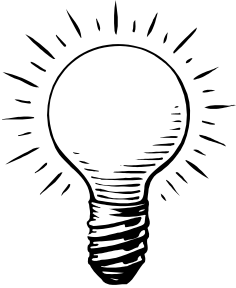
- You may serve the claim yourself.
- You can have a friend, a business associate, or a private process server serve the claim for you.
- You can have your lawyer or agent arrange for service of your claim.

A claim must be served on each defendant within **six months** after the date it is filed with the court. The defendant must file a defence (form 9A) at the court within 20 days of being served with the claim.



## Self-Help TIPS

- It is important that you know the legal name of the person or business you wish to sue and their current residential or business address. For a fee you can search a corporation or registered business name by contacting the Companies Helpline, Ministry of Government Services at (416)314-8880 or 1(800) 361-3223.
- If you win and obtain a judgment, will you be able to collect from the person? In order for you to collect from the person named on the judgment they must have one of the following: money, assets that can be seized and sold, or a debt owed to them by someone else (e.g. bank account, employment income) that can be garnished.



## Did You Know?

***Question: I usually include a clause in my lease agreements stating that if the tenant decides to break the lease there will be a two month penalty. One of my tenants has told me that I cannot do that. What can I do when the tenant breaks the lease?***

Answer: Under the Residential Tenancies Act there is no provision that allows landlords to charge a fixed penalty when a tenant breaks the lease. The landlord's recourse is to mitigate his losses and try to re-rent the unit as soon as possible. The tenant is liable for any loss of rent the landlord incurs as well as for advertising costs. If the tenant refuses to pay then the landlord's recourse is to file a claim in Small Claims Court to recover these losses.



***Question: Is there a standard form that must be used when giving notice to enter the rental unit and how do I serve this notice to the tenant?***

Answer: There is no prescribed form for this type of notice. It is acceptable to draft up your own notice either hand-written or typed as long as it contains all the pertinent information which includes the reason for entry, the day of entry and a time of entry between the hours of 8:00 a.m. and 8:00 p.m. This notice can be given by hand to the tenant; placed in the tenant's mailbox or where mail is normally delivered; sliding it under the tenant's door; handing it to an apparently adult person; by facsimile to the residence or place of business; by courier with an additional day or mail with an additional five days added or by posting it on the tenant's door. Please note that the notice to enter is the only notice that may be posted on the door. If you are serving any other document do not post it on the door.



***Question: One of my tenants has given me written notice that he's moving out, however he still owes me two months rent, is there anything I can do now about the arrears of rent?***

Answer: In this case you have the option of filing an application with the Landlord and Tenant Board to obtain an Order for the arrears of rent only. The form required is a Form L9 and you can only file this application with the Board as long as the tenant is still in possession of the premises. Once the tenant has moved out you cannot apply to the Board but you can still file a claim in Small Claims Court.



***Question: When my tenants fail to pay their rent on the due date, I ask them to pay a late payment fee of \$30.00, I haven't had a problem collecting this fee but now I am wondering if this is actually legal as some of the tenants are objecting to it. Is this legal?***

Answer: Under the Residential Tenancies Act a landlord is not permitted to charge a late payment fee. There are certain charges that are legal but only when it relates to NSF cheques, in this case you can ask the tenant to pay for the bank charges plus an administrative fee not greater than \$20.00.



***Question: I have to serve my tenants a notice of rent increase, can I send it to them by email?***

Answer: There are specific rules under the Residential Tenancies Act on how a document can be served to a tenant, the rules do not include email service as a permitted method of service.



Did you know that we've posted a broad range of questions and answers just like these on our website? Visit the Information Exchange and browse the answers to actual questions received from landlords, [www.landlordselfhelp.com/education/forum\\_subcategories.asp?cat\\_id=1](http://www.landlordselfhelp.com/education/forum_subcategories.asp?cat_id=1).

## Sound Advice for Landlords

Landlord's Self-Help Centre has produced and posted three podcasts: Serving Documents to Tenants; Tenant's Belongings; and Entering a Tenant's Rental Unit to help you learn and understand more about your rights and responsibilities as landlord.

Podcasting allows you to listen to audio content on your computer or portable audio player, *at your convenience*. LSHC's podcasts are an MP3 audio file format that you can either listen to immediately or download to your iPod or computer and listen to later, even when you are no longer online.

### Sound Advice



for landlords

To listen to an MP3 file, you need an audio player, available for download free of charge on the Internet (e.g. Windows Media Player, RealMedia or iTunes).

[http://www.landlordselfhelp.com/sound\\_advice\\_index.htm](http://www.landlordselfhelp.com/sound_advice_index.htm)

## Small Claims Court: Monetary limit set to increase

The government of Ontario has announced that the monetary limit of the Small Claims Court will increase from the current \$10,000 to \$25,000.

The change, as announced by Ontario's Attorney General Chris Bentley at the Law Society of Upper Canada, is aimed at providing greater access to justice to all Ontarians and to all Ontario businesses.

Small Claims Court is the forum where many landlords must file claims for damages, lost rent, etc., typically when a tenant is no longer in possession of the rental unit.

The increase in the Small Claims Court monetary limitation will take effect in January 2010.

Save the date!



## Landlord Learning and Networking Forum: May 25<sup>th</sup>

Don't miss this opportunity to learn! For details visit:

[http://www.landlordselfhelp.com/landlord\\_forum/forum\\_intro.htm](http://www.landlordselfhelp.com/landlord_forum/forum_intro.htm)

## Landlord and Tenant Board Update

There have been some recent changes at the Landlord and Tenant Board that impact landlords:

- Fee Increase - The Board has announced that the fee for landlord applications will increase from \$150 to \$170 effective April 6, 2009. The applications that are impacted by this increase include: L1; L2; L3; L7; L9; and A2.

Be sure to use the updated N4 when issuing notice of termination for nonpayment of rent. This form has been updated to reflect the revised application fee of \$170 in the notes.

The fees for other applications remain the same.

Use the updated forms if filing an application on or after April 6, 2009, the updated forms are available at [www.LTB.gov.on.ca](http://www.LTB.gov.on.ca).

- L5 Form for Above Guideline Increase - The LTB has made two changes to this form: 1) landlords must now complete a field that indicates whether they have previously applied for an above guideline increase for the building; and 2) landlords are now required to indicate the useful life of any capital expenditure for which they have applied.

For information on other LTB changes, visit [www.ltb.gov.on.ca/en/About\\_Us/STEL02\\_111230.html](http://www.ltb.gov.on.ca/en/About_Us/STEL02_111230.html) and scroll down the page to "**Upcoming changes - Spring 2009**"

## Sharing your Landlord and Tenant Board Decisions

We're inviting small-scale landlords across Ontario to share decisions they've received from the LTB which **favour the landlord** and involve **issues out of the ordinary**.

LSHC has recently spoken with several landlords who indicated they've received orders from the Board that, surprisingly, ruled in their favour. One such example is the landlord who received an order that directed the tenant to pay the outstanding utility arrears. Typically the LTB will not deal with utility issues, so this decision is a rare one. Decisions like this could be used by other landlords to support their cases.

If you've received an order that may be of interest to other small-scale landlords let us know, or better yet, send a copy by fax to 416-504-1932 or by email to [info@landlordselfhelp.com](mailto:info@landlordselfhelp.com).

## Disclaimer

The material contained in this publication is intended for information purposes only. It is not legal advice.