

**Lambton County Community Services
Housing Services Department
Operations Policy and Procedure Manual**

SUBJECT: Collection of Arrears		INDEX NO.: 2.007
EFFECTIVE: 01/01/03	APPROVED: 27/03/03	REVISED: 10/29/08

Policy:

When all or part of the rent is unpaid after the first day of the month, a tenant is in arrears. Every effort shall be made to secure payment of rent owing before the tenant vacates the premises.

Procedure:

Attempts to contact the household by telephone and in person will be made immediately after the fifth business day of the month.

Arrears letters will be mailed and preferably delivered by the 10th of each month to those tenants in arrears.

Ontario Works will be provided with a detailed list of any OW clients in arrears of rent. See Yardi Procedures, 20.2 Exception Report for OW.

Any tenant still in arrears by the 15th day of the month will be issued with a Notice to Terminate Tenancy Early, unless reasonable explanation is made with an agreement to pay signed.

Any tenant making their rent payment late for two (2) consecutive months, will be sent a letter advising of Policy 2-11 Continual/Persistent Late Rent Payment and the consequences of Policy 2-11 may result in eviction.

All timelines as per the Residential Tenancies Act will be strictly adhered to i.e. applications will be filed with the Ontario Rental Tribunal as soon as acceptable by law.

Where eviction proceedings go through the Ontario Rental Housing Tribunal and a judgement is obtained, the costs awarded by the tribunal and set forth in the judgement, are added to and form part of the unpaid debt as well as all costs related to charges for carrying out the eviction procedure.

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Where Judgement for Notice to Terminate Tenancy Early for Non-Payment of rent has been received and an agreement has been made with the tenant for repayment of the arrears, eviction will not be sought if the agreement for repayment is being adhered to.

Collecting Rent from Former Tenants

On the first day following the date for which the tenant is responsible for the rent, the tenant is considered a former tenant.

Procedure for Collection of Arrears from Former Tenants:

- A letter will be sent to the forwarding address, or last known address by the 10th day of the month in which the tenant becomes a former tenant advising of arrears owing and consequences of failure to may arrangements for payment
- If no agreement to pay has been made and/or is not being adhered to within 60 days from date of move-out the account will be forwarded to a collection agency
- Upon obtaining a legal judgement, application may be made to the Small Claims or Ontario Court (General Division) for garnishment of salary or wages and obtaining a write of seizure and sale

In determining which course of action is most appropriate, costs must be related to the chance of debt recovery.

Collection Agency Charges

A former tenant's account will be credited with the gross amount received by the collection agency as the charges by the collection agency are regarded as an administrative expense.

Bankruptcy Cases

When a tenant files for bankruptcy, a claim by the County of Lambton, Housing Services Department or its designate for rent arrears is stayed until the Court approves a plan for paying the various creditors.

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A landlord can claim up to three months of rent accrued prior to a tenant filing for bankruptcy.

After the secured creditors' claims are satisfied, the claim of the landlord ranks among those given preference by the Bankruptcy and Insolvency Act, and ahead of regular unsecured creditors.

In determining whether to press a claim or not, the County of Lambton, Housing Services Department or its designate should determine the chance of debt recovery.

Bankruptcy Procedures

On receipt of a bankruptcy notice, the following procedures should be used.

- Advise the Trustee of any rental arrears by filling out the Proof of Claim provided by the trustee.
- Discontinue any other action for collection of arrears against the tenant.
- Treat arrears of rent, on the effective bankruptcy date, as an uncollectible item.
- Ensure that current rent and any rent other than the arrears covered by the bankruptcy, is paid promptly
- Continue, if necessary, any action for securing vacant possession of the property, unless the Trustee elects to take possession of the property for the time being.

Post-Bankruptcy

Once a household provides a copy of the Absolute Order of Discharge of Bankruptcy, whether the County of Lambton, Housing Services Department is mentioned in the discharge order or not, all arrears occurring prior to the discharge of bankruptcy are written off of the tenant account and no further action shall be taken.