

<b>Manitoulin-Sudbury District Services Board POLICY &amp; PROCEDURES MANUAL</b>	
Section: I. Community Housing	Effective Date: <b>July 1, 2021</b>
Topic: I. 2. Access Policies	Replaces: Dec.1, 2010
Subject: 2.5. Former Tenant Arrears	
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**POLICY**

The “Rental Revenue” received from tenants is an important factor in a **Community** Housing Program’s cash flow and budget. Uncollected rental revenue or tenant charge-backs for maintenance or damage could have a significant impact on operation budgets and cash-flow.

When all or part of a tenant’s rent is unpaid at the end of a tenancy, there is arrears of rent. Other examples that create arrears are; when a tenant vacates without notice, a tenant vacates early, subsidy is miscalculated/ misrepresented, or significant / undue damage to a rental unit.

**Responsibilities of housing provider**

**13.** Despite anything in this Part or in Part V, a housing provider operating a housing project is responsible,

- (a) for all rent collection matters in respect of the housing project; and
- (b) for entering into an arrangement with a household occupying a unit in the housing project for the repayment of rental arrears if a service manager has determined that the household has paid an amount of geared-to-income rent that is less than the amount of geared-to-income rent payable by the household. 2000, c. 27, s. 13.

**PROCEDURE**

It is the responsibility of the Program Supervisor to ensure timely collection of rent, and to put in place steps to avoid rental arrears at the end of a tenancy. Every effort should be made to secure payment of rent owing before the tenant vacates the premises.

When a tenant gives notice to vacate;

- Always acknowledge the notice to vacate in writing and remind the tenant of their obligation to provide 60-days notice – RTA section 44 (2) Period of Notice – monthly tenancy
- Short notice will only be considered where a tenant is vacating to enter into a long-term care facility, illness, or death. The notice period hence will be 30 days.
- Notice is accepted at the end of a term, hence if a notice is given on the 15<sup>th</sup> of the month, it is deemed accepted at the end of that month and the notice period starts then.

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- Perform a unit inspection to determine the state of the unit while the tenant still occupies it. You may then discuss any damage or alterations and arrange with the tenant for them to return the unit back to its original state or bring in a contractor to provide estimates
- If the tenant pays rent by means other than Pre-Authorized Payment, discuss how the tenant plans to pay the rent up to the end of the notice period.

Despite all reasonable efforts, from time to time tenants still leave owing arrears.

Tenants who do so are subject to the following;

- A letter sent to them advising of the outstanding rent owed and requesting payment.
- Listing their arrears in the Province-Wide Rental Arrears Database used by the majority of Service Managers in the Province
- Sending for collections
- Obtaining a judgement through Small Claims Court; possible judgement for garnishment of salary or wages; writ of seizure and sale.

In determining which course of action is most appropriate, costs are weighed to the chance of debt recovery.

Bankruptcy of Tenant:

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

Procedures

1. Advise the Trustee of any rental arrears by filling out the Proof of Claim provided by the Trustee
2. Discontinue any other action for arrears against the tenant
3. Treat arrears of rent, on the effective bankruptcy date, as an uncollectible item.
4. 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.

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## **Tenant Charge-backs**

From time to time as Landlords the Manitoulin-Sudbury DSB will incur charges for vandalism or negligence on the part of tenants. It is a tenants responsibility to pay the repair cost for any negligent or willful act.

Charge-backs to tenants can be presented at the Landlord and Tenant Board in proceedings either to terminate a tenancy and collect damage, or to add to an outstanding amount owing if proper evidence is provided to the Board.

Tenant Charge-backs should be based upon damage beyond normal wear and tear. The amount of the charges is not considered rent. However, the Provider may give a notice to terminate (under Part IV section 34 of the RTA) and apply for compensation for damage (under section 89) if the tenant refuses to pay.

If the tenant moves out and damage charges have not been paid, Providers are advised to go through the Small Claims Court to recover the cost.

Charges should be the sum of the labour plus materials, including the depreciated cost of the building components.

The Property Manager should investigate to determine whether the tenant's action was actually a willful or negligent act.

If it is judged that the act was not negligent or willful, then the tenant may not be charged for the repairs.

Tenant charge-backs are made in the following categories :

- maintenance and repair;
- fire and water damage;
- service-related charges;
- removal of unapproved enhancements.

Examples of maintenance and repair items include, but are not limited to:

- front door repairs;
- plastering/drywall, painting, repairs, wallpaper removal;
- broken fixtures;
- broken handrails;
- plugged toilets;
- burnt and damaged countertops;

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- appliance repairs and/or replacement;
- glazing and screen repairs;
- fencing;
- parking lot repairs;
- furnace repairs;

Charges are made for fire damage resulting from tenant negligence, such as careless smoking.

Charges for water damage might result from tenant failure to turn a tap off, or tampering with hot water equipment.

Documents for fire and water damage include :

- an incident report completed by the Provider
- a copy of the Fire Marshall's Report, if appropriate
- documentary photographs of damage (retained on file)
- a copy of the insurance claim by the tenant, if available

The following services should be charged to the tenant, since they are usually caused by tenant neglect. The *Residential Tenancies Act, 1997* does not consider charges related to services listed below as rent related charges but rather a private debt between the Provider and the Tenant. All tenants should be advised that if they agree to have the Provider perform any of these services, payment is required upon completion of the work.

- garbage removal, if caused by the tenant's failure to dispose in a manner prescribed by the Provider;
- removal of furniture, appliances, etc.;
- grounds upkeep, if the tenant has failed to cut the grass or otherwise failed to maintain the exterior portion of the leased premises as per his/her legal responsibility (e.g. shoveling a walk);
- costs, awarded by the Tribunal, when the Provider is required to take legal action against the tenant;
- nuisance calls and additional service charges from an outside contractor, when a tenant who requested maintenance failed to provide entry to the unit;
- lock-outs, or the cost of providing entry when the tenant loses the key to the unit. The cost for the replacement keys are the only charges that can be passed on to the tenant. The RTA prohibits the costs associated with call-out charges and hence these can no longer be passed on to the tenant.