

Policies and Procedures

Subject: Arrears Owed to a Housing Provider

Date: July 01, 2021

Replaces: March 1, 2019

Applicable to The policy and procedures contained in this document apply to the following Housing Providers:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Municipal & Private Non-Profit

<input checked="" type="checkbox"/> Co-operatives

<input checked="" type="checkbox"/> Centralized Waiting List (CWL) | <input checked="" type="checkbox"/> Federal Subsidies

<input checked="" type="checkbox"/> Rent Supplement*
<small>*incl. former OCHAP/CSHP</small> |
|---|--|

Content This document contains the following:

Purpose
Definition
Overview
Responsible for Payment of Arrears Policy
Special Priority Policy Category
Small Claims Court, Collection Agency and Bankruptcy
Housing Provider Procedures
Required Documents and Retention
Limitations Act 2020 and the HSA
Questions

Purpose This document outlines the process for Peel Housing Providers when a tenants/member has vacated the unit and owes money.

Definition Arrears are defined as an outstanding payment owing for the rental of a housing unit, an outstanding payment resulting from damage(s) caused by a current household member, and/or money owing because of a reimbursement request for overpayment of RGI subsidy.

Overview The Region of Peel is responsible for updating the provincial arrears database to monitor and assist with the collection of rent or damage arrears owed to a Housing Providers by a former tenants/member.

Housing Providers are therefore required to provide Peel with information on former tenant/member who have moved owing money.

The Centralized Waiting List (CWL) staff will monitor the provincial arrears database to ensure that a housing applicant does not owe arrears to a Housing Provider. In the event a housing applicant owes arrears, the Housing Provider will be notified by CWL staff.

Housing Providers will be required to reconfirm all aspects of eligibility, including if the household has arrears with a previous Housing Provider and/or if the repayment plan is current and in good standing.

Responsible for Payment of Arrears Policy

A household will not be eligible for RGI subsidy if any member of the household owes arrears to any Housing Provider under any housing program in Ontario, including federal housing projects:

Owing Arrears may include but is not limited to:

- Arrears of rent, including arrears of rent for 'market' units*
- An amount because of an overpayment of RGI subsidy, or
- An amount for damages caused by any current member of the household.

Note: Market rent units in social housing are considered affordable as they are priced at approximately 20% below average market rent (AMR).

A household with rent, damage arrears and/or overpayment of rent subsidy is still eligible if:

- The household has entered a repayment plan and the Service Manager is satisfied it intends to make every reasonable effort to repay the money; or
- There are extenuating circumstances, and
- All other eligibility requirements have been met.

Note: In any case where there may be extenuating circumstances that allow a household's eligibility to remain intact, Housing Providers must contact their Housing Specialist. The Service Manager will determine if an RGI household remains eligible for subsidy.

Note: If a repayment agreement is signed or breached with a former Housing Provider, the CWL will inform the Housing Specialist who will follow-up with the Housing Provider.

**Special
Priority
Policy
Category**

A household member who falls under the special priority policy (SPP) category is responsible for one-half of the arrears if the arrears were incurred during a joint tenancy/ occupancy.

**Small Claims
Court,
Collection
Agency and
Bankruptcy**

When a former tenant/member's arrears file has been sent to a collection agency or to small claims court for settlement, the Housing Provider must use the Arrears Move-Out/Repayment Plan Update Form to document any changes to the original repayment plan, including failure to comply with the repayment plan.

Once the amount owed is paid in full, the former tenant/member must provide verification to the Centralized Waiting List (CWL) in order to reapply for subsidy.

If the former tenant/member filed for bankruptcy a copy of the Bankruptcy Discharge Statement must be provided to the Housing Provider. The Housing Provider will provide a copy to the CWL and update them using the Arrears Move-Out/Repayment Plan Update Form. The former tenant/member's status will be revised within the provincial arrears database.

If the former tenant/member applies to the CWL prior to informing the Housing Provider, the Bankruptcy Discharge Statement will need to be provided to the CWL, by the applicant, to update the provincial arrears database and make them eligible.

**Housing
Provider
Procedure**

Housing Providers are required to provide the Region of Peel with information on former tenants/members that have moved owing arrears of rent and/or damages.

Housing Providers must use the Arrears Move-Out/Repayment Plan Update Form and provide the following mandatory information to CWL:

- Property address
- Names of all household members who were leaseholders that debt is owed by
- Date of birth for any/all household member names(s) provided
- Date household moved out
- Total amount owing, i.e. indicating outstanding amount for rent (including market units) and/or damage arrears; and overpaid subsidy
- Information on: whether a repayment plan has been established (with comments); whether a repayment plan is in good standing (with comments); and whether there has been misrepresentation (with date of order)
- Name of Housing Provider, including name of contact person and telephone number
- Date of when this form was completed

Housing Providers must use the Arrears Move-Out/Repayment Plan Update Form once a repayment plan has been established. The form must be submitted ongoing as changes occur, and should include information such as:

- The tenant/member with whom the repayment plan has been established
- The terms of the repayment plan
- When arrears are repaid in full
- When the tenant/member is not complying with the terms of the repayment plan; including if the tenant/member is not complying to payment terms arranged by a collection's agency or small claims court
- Any changes to the total amount owed, as determined by the Housing Provider or by the outcome of a small claims court case
- Housing Provider has been listed on the bankruptcy discharge statement if the former tenant/member has filed for bankruptcy

-
- Confirming eligibility
-

Required Documents and Retention

When a tenant/member moves out of a unit and owes arrears, the Housing Provider must keep the following documentation as proof of arrears:

- Final Statement of Account
- Matching Account Ledger
- Cheque Requisitions
- Invoices
- Pictures, if available and appropriate

The Final Statement should include a breakdown of the following:

- Rent arrears
- Legal fees
- Utility charge backs
- Itemized damage charge backs

Note: As a best practice, itemized damage charge backs should be prorated based on life expectancy of finishes as well as length of tenancy.

Although policies and legislation indicate a 7-year record retention, when pertaining to arrears Housing Providers are required to maintain documents until the arrears are paid in-full or settled. Maintaining the records will ensure that a former tenant re-applying to the CWL beyond the 7-year retention period is accountable for the arrears owed and the amount cannot be disputed due to inadequate documentation.

Limitations Act 2020 and the HSA

The Limitations Act, 2002 does not apply to HSA eligibility.

The Limitations Act, 2002 does not restrict the Housing Provider from entering into a voluntary repayment agreement with a former tenant/member before or after the expiration of a limitation period. The Housing Provider may find an applicant household eligible the household voluntarily enters a repayment plan.

Questions

If you have any questions pertaining to this document, please contact your Housing Specialist at the Region of Peel.
