

SH *notification*

social housing

Amendment to Ontario Regulation 367/11 under the Housing Services Act, 2011 that allows housing providers to refuse to offer a unit to a household based on a previous eviction for serious illegal activity.

Legislation/Regulation

September 23, 2019

Operational

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This notification provides an overview of amendments to Ontario Regulation 367/11 under the Housing Services Act, 2011 (HSA) related to community safety.

Ontario Regulation 367/11 sets out rules for filling vacant rent-geared-to-income units and special needs housing units. In general, the housing provider must offer the unit to the highest priority household. For housing projects under Program 1(a) or (b) (public housing) or Program 6(a) or (b) (provincial reformed), a housing provider may refuse to offer a unit to a household only in certain limited circumstances.

Effective September 23, 2019, s. 50 and s. 77 were amended to set out an additional ground upon which a housing provider may refuse to offer a unit to a household. A provider may refuse to offer a unit to a household if a member of the household was previously evicted from an HSA-governed housing project (a “designated housing project”) through an order of the Landlord and Tenant Board based on an illegal act (commonly referred to as an “N6”).

In order to refuse a household, the housing provider must also have reasonable grounds to believe the household would pose a risk to the safety of one or more other people at the housing project (e.g. other residents, staff).

In addition, this ground of refusal is only available where the past eviction order was based on certain types of serious illegal activity (outlined further below). It applies only if the eviction order was issued within the past five years. It does not apply if the eviction order has been overturned by a final decision on an appeal.

What types of illegal activity does the rule address?

The new ground of refusal applies only where there was a previous eviction order based on an illegal act involving one or more of the following:

- Production, trafficking, or possession for the purpose of trafficking an illegal drug;
- Illegal production, distribution or sale of cannabis;
- Physical violence or attempted physical violence against another person;
- Physical harm, attempted physical harm, or a risk of physical harm to another person;
- Human trafficking; or
- Use of threats to, intimidation of, and harassment of another person.

What is an N6 notice?

An N6 notice is a Landlord and Tenant Board form that is given by a housing provider to a tenant to end a tenancy for illegal acts or for misrepresenting income in rent-geared-to-income (RGI) housing. After providing an N6 notice to a tenant, a housing provider may apply to the Landlord and Tenant Board for an eviction order. The new ground of refusal only applies where the Landlord and Tenant Board ordered an eviction based on an N6 notice for an illegal act. The new ground of refusal does not apply where the Board ordered an eviction based on an N6 for misrepresentation of income.

How does the new rule impact housing providers?

The rule provides a new tool for housing providers to address safety concerns. The rule does not require housing providers to refuse a unit to anyone.

If a housing provider is aware that a member of a household was evicted from a designated housing project for serious illegal activity within the past five years and the housing provider has reasonable grounds to believe the household will pose a risk to the safety of others in the housing project, the housing provider will have the option to refuse to make an offer.

As with any other ground of refusal, the first time that a provider refuses a household, the provider must notify the household and the household may request a review of the decision by the housing provider.

Does this rule apply to previous evictions from all housing providers in the province or just housing providers within the service area?

The ability of the housing provider to refuse applies regardless of whether the household was evicted from a designated housing project in the same service area or in a different service area.

How does this rule impact other members of the evicted household?

A person who, as a tenant, was named in an eviction order based on an illegal act could potentially be refused, even if the person was not directly involved in the illegal act. However, in order to refuse, the housing provider must also have reasonable grounds to believe the household poses a risk to the safety of others in the housing project (e.g. residents, staff).

Does this rule also apply to evictions from non-profit housing co-operatives?

Yes, a household whose past occupancy in a non-profit housing co-operative was terminated by the Landlord and Tenant Board due to serious illegal activity could potentially be refused by a housing provider under this rule.

When does the rule take effect?

The community safety rule takes effect immediately, as of September 23, 2019.

The ministry intends to develop guidance material to support housing providers that choose to apply this rule.

Further Information

The amended regulation is available through the following hyperlink:

<https://www.ontario.ca/laws/regulation/r19318>

Should you have any questions, please contact Rhona Duncan, Manager, Community Housing Renewal Unit. Rhona Duncan can be reached by telephone at (416) 585-7228, or by e-mail at rhona.duncan@ontario.ca