

Français

Commercial Tenancies Act

R.S.O. 1990, CHAPTER L.7

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Definitions

1. In this Act,

“crops” means all sorts of grain, grass, hay, hops, fruits, pulse and other products of the soil; (“récoltes”)

“landlord” includes a person who is lessor, owner, the person giving or permitting the occupation of the premises in question, and these persons’ heirs and assigns and legal representatives, and in Parts II and III also includes the person entitled to possession of the premises; (“locateur”)

“spouse” means a person,

- (a) to whom the person is married, or
- (b) with whom the person is living in a conjugal relationship outside marriage, if the two persons,
 - (i) have cohabited for at least one year,
 - (ii) are together the parents of a child, or
 - (iii) have together entered into a cohabitation agreement under section 53 of the *Family Law Act*; (“conjoint”)

“standing crops” means crops standing or growing on the demised premises; (“récoltes sur pied”)

“tenant” includes a person who is lessee, occupant, sub-tenant, under-tenant, and the person’s assigns and legal representatives. (“locataire”) R.S.O. 1990, c. L.7, s. 1; 1994, c. 2, s. 1; 1994, c. 4, s. 1; 1997, c. 24, s. 213 (1, 2); 1999, c. 6, s. 9 (1); 2005, c. 5, s. 10 (1, 2).

Section Amendments with date in force (d/m/y)

1994, c. 2, s. 1 - 31/05/1994; 1994, c. 4, s. 1 - 23/06/1994; 1997, c. 24, s. 213 (1, 2, 5) - 17/06/1998; 1999, c. 6, s. 9 (1) - 01/03/2000

2005, c. 5, s. 10 (1, 2) - 09/03/2005

Application

2. This Act does not apply to tenancies and tenancy agreements to which the *Residential Tenancies Act, 2006* applies. 1997, c. 24, s. 213 (3); 2006, c. 17, s. 247.

Section Amendments with date in force (d/m/y)

1997, c. 24, s. 213 (3) - 17/06/1998

2006, c. 17, s. 247 - 31/01/2007

Application, forfeited property etc.

2.1 This Act does not apply with respect to a property in which the Crown in right of Ontario has an interest if one of the following circumstances applies in respect of the property:

1. The property was forfeited to the Crown in right of Ontario under any Ontario statute or the *Criminal Code* (Canada).
2. Possession of the property has been or may be taken in the name of the Crown in right of Ontario under the *Escheats Act, 2015*.
3. The property is forfeited corporate property to which the *Forfeited Corporate Property Act, 2015* applies. 2015, c. 38, Sched. 7, s. 46.

Section Amendments with date in force (d/m/y)

2015, c. 38, Sched. 7, s. 46 - 10/12/2016

PART I

Relation of landlord and tenant

3. The relation of landlord and tenant does not depend on tenure, and a reversion in the lessor is not necessary in order to create the relation of landlord and tenant, or to make applicable the incidents by law belonging to that relation; nor is it necessary, in order to give a landlord the right of distress, that there is an agreement for that purpose between the parties. R.S.O. 1990, c. L.7, s. 3.

Remedies available to assignees of reversion

4. All persons being grantees or assignees of the Queen, or of any person other than the Queen, and the heirs, executors, successors and assigns of every of them, shall have and enjoy like advantage against the lessees, their executors, administrators, and assigns, by entry for non-payment of the rent, or for doing of waste, or other forfeiture, and also shall have and enjoy all and every such like and the same advantage, benefit, and remedies, by action only, for the non-performance of other conditions, covenants, or agreements, contained and expressed in the indentures of their said leases, demises or grants against all and every of the said lessees and grantees, their executors, administrators, and assigns as the said lessors or grantors themselves, or their heirs or successors, might have had and enjoyed at any time or times. R.S.O. 1990, c. L.7, s. 4.

Lessee’s covenant to run with reversion

5. Rent reserved by a lease and the benefit of every covenant or provision therein contained, having reference to the subject-matter thereof, and on the lessee’s part to be observed or performed, and every condition of re-entry and other condition therein contained shall be annexed and incident to and shall go with the reversionary estate in the land or in any part thereof, immediately expectant on the term granted by the lease, despite severance of that reversionary estate, and shall be capable of being recovered, received, enforced and taken advantage of by any person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased. R.S.O. 1990, c. L.7, s. 5.

Grantee of reversion may enforce covenants

6. The benefit of every condition of re-entry or forfeiture for a breach of any covenant or condition contained in a lease shall extend to and be enforced and taken advantage of by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased, although that person became, by conveyance or otherwise, so entitled after the condition of re-entry or forfeiture had become enforceable. R.S.O. 1990, c. L.7, s. 6.

Action of covenant, etc., against assigns of grantors and lessors

7. All lessees and grantees of lands, tenements, rents, portions, or any other hereditaments for term of years, life or lives, their executors, administrators, and assigns shall and may have like action, advantage, and remedy against all and every person who shall have any gift or grant of the Queen, or of any other persons, of the reversion of the same lands, tenements and other hereditaments so let, or any parcel thereof, for any condition, covenant, or agreement, contained or expressed in the indentures of their leases as the same lessees or any of them, might and should have had against their said lessors, and grantors, their heirs, or successors. R.S.O. 1990, c. L.7, s. 7.

Lessor's covenant to run with reversion

8. The obligation of a covenant entered into by a lessor with reference to the subject-matter of the lease shall, if and as far as the lessor has power to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to and shall go with that reversionary estate, or the several parts thereof, despite severance of that reversionary estate, and may be taken advantage of and enforced by the person in whom the term is from time to time vested by conveyance, devolution in law, or otherwise, and, if and as far as the lessor has power to bind the person from time to time entitled to that reversionary estate, such obligation may be taken advantage of and enforced against any person so entitled. R.S.O. 1990, c. L.7, s. 8.

Apportionment of conditions on severance, etc.

9. Despite the severance by conveyance, surrender or otherwise, of the reversionary estate in any land comprised in a lease, and despite the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry and every other condition contained in the lease shall be apportioned, and shall remain annexed to the severed parts of the reversionary estate as severed, and shall be in force with respect to the term whereon each severed part is reversionary, or the term in any land which has not been surrendered, or as to which the term has not been avoided or has not otherwise ceased, in like manner as if the land comprised in each severed part, or the land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease. R.S.O. 1990, c. L.7, s. 9.

On subdemise title to leasehold reversion not to be required

10. (1) On a contract to grant a lease for a term of years to be derived out of a leasehold interest, with a leasehold reversion, the intended lessee does not have the right to call for the title to that reversion. R.S.O. 1990, c. L.7, s. 10 (1).

Saving

(2) This section applies only if and as far as the contrary intention is not expressed in the contract, and has effect subject to the terms of the contract and to the provisions therein contained. R.S.O. 1990, c. L.7, s. 10 (2).

Effect of lease where there is a deviation from terms of the power to demise

11. Where, in the intended exercise of any power of leasing, whether derived under a statute or under an instrument lawfully creating such power, a lease has been, or is hereafter granted that is, by reason of the non-observance or omission of some condition or restriction or by reason of any other deviation from the terms of such power, invalid as against the person entitled, after the determination of the interest of the person granting such lease, to the reversion, or against other the person who, subject to any lease lawfully granted under such power, would have been entitled to the land comprised in such lease, such lease, in case it was made in good faith and the lessee named therein, the lessee's heirs, executors, administrators, or assigns have entered thereunder, shall be considered a contract for a grant at the request of the lessee, the lessee's heirs, executors, administrators, or assigns of a valid lease under such power, to the like purport and effect as such invalid lease, except so far as any variation may be necessary in order to comply with the terms of such power, and all persons who would have been bound by a lease lawfully granted under such power are bound by such contract; but no lessee under any such

by a lease lawfully granted under such power are bound by such contract, but no lessee under any such invalid lease, the lessee's heirs, executors, administrators, or assigns, are entitled by virtue of any such contract to obtain any variation of the lease, where the persons who would have been bound by the contract are willing to confirm the lease without variation. R.S.O. 1990, c. L.7, s. 11.

What may be deemed a confirmation of invalid lease

12. Where, upon or before the acceptance of rent under any such invalid lease, any receipt, memorandum or note in writing confirming the lease is signed by the person accepting the rent, or some other person thereunto lawfully authorized by the person, such acceptance shall, as against the person so accepting the rent, be deemed a confirmation of the lease. R.S.O. 1990, c. L.7, s. 12.

Duty of lessee to accept confirmation

13. Where, during the continuance of the possession taken under any such invalid lease, the person for the time being entitled, subject to such possession, to the land comprised in the lease, or to the possession or the receipt of the rents and profits thereof, is able to confirm the lease without variation, the lessee, the lessee's heirs, executors, or administrators, or any person who would have been bound by the lease if it had been valid, upon the request of the person so able to confirm it, is bound to accept a confirmation accordingly, and the confirmation may be by memorandum or note in writing signed by the persons confirming and accepting or by some other persons by them thereunto lawfully authorized, and, after confirmation and acceptance of confirmation, the lease is valid and shall be deemed to have had from the granting thereof the same effect as if it had been originally valid. R.S.O. 1990, c. L.7, s. 13.

Effect of invalid leases if grantor continues in ownership

14. Where a lease granted in the intended exercise of a power of leasing is invalid by reason that, at the time of granting the lease, the person granting the lease could not lawfully grant the lease, but the estate of such person in the land comprised in the lease has continued after the time when the lease, or the like lease, might have been granted by the person in the lawful exercise of such power, the lease takes effect and is as valid as if it had been granted at such last mentioned time, and all the provisions of sections 11 to 16 apply to every such lease. R.S.O. 1990, c. L.7, s. 14.

What shall be deemed an intended exercise of a power

15. Where a valid power of leasing is vested in, or may be exercised by, a person granting a lease, and, by reason of the determination of the estate or interest of such person or otherwise, the lease cannot have effect and continuance according to the terms thereof independently of such power, the lease shall for the purposes of sections 11 to 14 be deemed to be granted in the intended exercise of such power although such power is not referred to in the lease. R.S.O. 1990, c. L.7, s. 15.

Saving the rights of the lessees under certain covenants and the lessor's right of re-entry

16. Nothing in sections 11 to 15 extends to, prejudices or takes away any right of action, or other right or remedy to which, but for sections 11 to 15, the lessee named in any such lease, the lessee's heirs, executors, administrators or assigns would or might have been entitled under or by virtue of any covenant for title or quiet enjoyment contained in the lease on the part of the person granting the lease, or prejudices or takes away any right of re-entry or other right or remedy to which, but for such sections, the person granting the lease, the person's heirs, executors, administrators or assigns, or other person, for the time being entitled to the reversion expectant on the determination of the lease, would or might have been entitled for or by reason of any breach of the covenants, conditions, or provisos contained in the lease, and on the part of the lessee, the lessee's heirs, executors, administrators or assigns to be observed and performed. R.S.O. 1990, c. L.7, s. 16.

Effect of surrender or merger of reversion expectant in certain cases

17. Where the reversion expectant on a lease of land merges or is surrendered, the estate which for the time being confers as against the tenant under the lease the next vested right to the land shall, to the extent of and for preserving such incidents to and obligations on the reversion as but for the surrender or merger thereof would have subsisted, be deemed the reversion expectant on the lease. R.S.O. 1990, c. L.7, s. 17.

Rights of re-entry

Re-entry on non-payment of rent

18. (1) Every demise, whether by parol or in writing and whenever made, unless it is otherwise agreed, shall be deemed to include an agreement that if the rent reserved, or any part thereof, remains unpaid for fifteen days after any of the days on which it ought to have been paid, although no formal

demand thereof has been made, it is lawful for the landlord at any time thereafter to re-enter into and upon the demised premises or any part thereof in the name of the whole and to have again, repossess and enjoy the same as of the landlord's former estate. R.S.O. 1990, c. L.7, s. 18 (1).

Re-entry on conviction of tenant, disorderly house

(2) Every such demise shall be deemed to include an agreement that if the tenant or any other person is convicted of keeping a disorderly house within the meaning of the *Criminal Code* (Canada) on the demised premises or any part of it, or carries on or engages in, on the demised premises or any part of it, any trade, calling, business or occupation for which a licence is required under a business licensing by-law, as defined in subsection 1 (1) of the *Municipal Act, 2001* or a by-law passed under paragraph 11 of subsection 8 (2) of the *City of Toronto Act, 2006*, as the case may be, without that licence, it is lawful for the landlord at any time thereafter to re-enter into the demised premises or any part of it and to have again, repossess and enjoy the same as of the landlord's former estate. 2006, c. 32, Sched. C, s. 6.

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

2006, c. 32, Sched. C, s. 6 - 01/01/2007

Notice prerequisite to re-entry or forfeiture

Definitions, ss. 19 to 22

19. (1) In this section and in sections 20 to 22,

“action” includes a proceeding under Part III; (“action”)

“lease” includes an original or derivative under-lease and a grant at a fee farm rent or securing a rent by condition and an agreement for a lease where a lessee has become entitled to have the lessee's lease granted; (“bail”)

“lessee” includes an original or derivative under-lessee and the heirs, executors, administrators and assigns of a lessee and a grantee under such a grant and the grantee's heirs and assigns; (“preneur à bail”)

“lessor” includes an original or derivative under-lessor and the heirs, executors, administrators and assigns of a lessor and a grantor under such a grant and the grantor's heirs and assigns; (“bailleur”)

“mining lease” means a lease for mining purposes, that is a searching for, working, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture, carrying away or disposing of mines or minerals, and substances in, on or under the land, obtainable by underground or by surface working or purposes connected therewith, and includes a grant or licence for mining purposes; (“bail minier”)

“under-lease” includes an agreement for an under-lease where the under-lessee has become entitled to have the under-lease granted; (“sous-bail”)

“under-lessee” includes any person deriving title under or from an under-lessee. (“sous-preneur”)
R.S.O. 1990, c. L.7, s. 19 (1).

Content of notice

(2) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease, other than a proviso in respect of the payment of rent, is not enforceable by action, entry, or otherwise, unless the lessor serves on the lessee a notice specifying the particular breach complained of, and, if the breach is capable of remedy, requiring the lessee to remedy the breach, and, in any case, requiring the lessee to make compensation in money for the breach, and the lessee fails within a reasonable time thereafter to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money to the satisfaction of the lessor for the breach. R.S.O. 1990, c. L.7, s. 19 (2).

Relief against re-entry or forfeiture

20. (1) Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture, whether for non-payment of rent or for other cause, the lessee may, in the lessor's action, if any, or if there is no such action pending, then in an action or application in the Superior Court of Justice brought by the lessee, apply to the court for relief, and the court may grant such relief as, having regard to the proceeding and conduct of the parties under section 19 and to all the other circumstances, the

court thinks fit, and on such terms as to payment of rent, costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future as the court considers just. R.S.O. 1990, c. L.7, s. 20 (1); 2006, c. 19, Sched. C, s. 1 (1).

Where re-entry or forfeiture is under a statute

(2) This section and section 19 apply, although the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease in pursuance of the directions of a statute. R.S.O. 1990, c. L.7, s. 20 (2).

Lease until breach

(3) For the purposes of this section, a lease limited to continue only as long as the lessee abstains from committing a breach of covenant is and takes effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach. R.S.O. 1990, c. L.7, s. 20 (3).

When proceeding may be stayed

(4) Where the proceeding is brought to enforce a right of re-entry or forfeiture for non-payment of rent and the lessee, at any time before judgment, pays into court all the rent in arrear and the costs of the proceeding, the proceeding is forever stayed. R.S.O. 1990, c. L.7, s. 20 (4).

Position of lessee

(5) Where relief is granted under this section, the lessee shall hold and enjoy the demised premises according to the lease thereof made without any new lease. R.S.O. 1990, c. L.7, s. 20 (5).

Application of section

(6) This section applies to leases made either before or after the commencement of this Act and applies despite any stipulation to the contrary. R.S.O. 1990, c. L.7, s. 20 (6).

Exceptions

(7) This section does not extend,

(a) to a covenant or condition against the assigning, underletting, parting with the possession, or disposing of the land leased; or to a condition for forfeiture on the bankruptcy of the lessee, or on the lessee making an assignment for the benefit of creditors under the *Assignments and Preferences Act*, or on the taking in execution of the lessee's interest; or

(b) in the case of a mining lease, to a covenant or condition for allowing the lessor to have access to or inspect books, accounts, records, weighing machines or other things, or to enter or inspect the mine or the workings thereof. R.S.O. 1990, c. L.7, s. 20 (7).

Condition for relief for non-insurance

(8) Where the right of re-entry or forfeiture is in respect of a breach of a covenant or condition to insure, relief shall not be granted if at the time of the application for relief there is not an insurance on foot in conformity with the covenant or condition to insure except, in addition to any other terms that the court may impose, upon the term that the insurance is effected. R.S.O. 1990, c. L.7, s. 20 (8).

Section Amendments with date in force (d/m/y)

[2006, c. 19, Sched. C, s. 1 \(1\)](#) - 22/06/2006

Protection of under-lessees, re-entry or forfeiture under superior lease

21. Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso or stipulation in a lease, the court, on motion by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, in the lessor's action, if any, or in any action or application in the Superior Court of Justice brought by such person for that purpose, may make an order vesting for the whole term of the lease or any less term the property comprised in the lease, or any part thereof, in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of rents, costs, expenses, damages, compensation, giving security or otherwise as the court in the circumstances of each case thinks fit; but in no case is any such under-lessee entitled to require a lease to be granted to him, her or it for any longer term than the under-lessee had under the original sub-lease. R.S.O. 1990, c. L.7, s. 21; 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

[2006, c. 19, Sched. C, s. 1 \(1\)](#) - 22/06/2006

Who must be parties to an action to enforce right of re-entry or forfeiture

22. Where a lessor has commenced an action to enforce a right of re-entry or forfeiture under a covenant, proviso or stipulation in a lease, every person claiming any right, title or interest in the demised premises under the lease, if it is known to the lessor that the person claims such right or interest or if the instrument under which the person claims is registered in the proper land registry office, shall be made a party to the action. R.S.O. 1990, c. L.7, s. 22.

Licence to assign not to be unreasonably withheld

23. (1) In every lease made after the 1st day of September, 1911, containing a covenant, condition or agreement against assigning, underletting, or parting with the possession, or disposing of the land or property leased without licence or consent, such covenant, condition or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject to a proviso to the effect that such licence or consent is not to be unreasonably withheld. R.S.O. 1990, c. L.7, s. 23 (1).

Application to court where consent to assignment or subletting withheld

(2) Where the landlord refuses or neglects to give a licence or consent to an assignment or sub-lease, a judge of the Superior Court of Justice, upon the application of the tenant or of the assignee or sub-tenant, made according to the rules of court, may make an order determining whether or not the licence or consent is unreasonably withheld and, where the judge is of opinion that the licence or consent is unreasonably withheld, permitting the assignment or sub-lease to be made, and such order is the equivalent of the licence or consent of the landlord within the meaning of any covenant or condition requiring the same and such assignment or sub-lease is not a breach thereof. R.S.O. 1990, c. L.7, s. 23 (2); 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Licence to do act otherwise a forfeiture, etc.

24. Where a licence to do any act that, without such licence, would create a forfeiture, or give a right to re-enter under a condition or power reserved in a lease, is given to a lessee or the lessee's assigns, every such licence, unless otherwise expressed, extends only to the permission actually given, or to any specific breach of any proviso or covenant, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but does not prevent a proceeding for any subsequent breach unless otherwise specified in the licence, and all rights under covenants and powers of forfeiture and re-entry in the lease remain in full force and virtue, and are available as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or made punishable by such licence, in the same manner as if no such licence had been given, and the condition or right of re-entry remains in all respects as if the licence had not been given, except in respect of the particular matter authorized to be done. R.S.O. 1990, c. L.7, s. 24.

Restricted operation of partial licences to assign, etc.

25. Where in a lease there is a power or condition of re-entry on assigning or underletting or doing any other specified act without licence, and a licence has been or is given to one of several lessees or co-owners to assign or underlet his, hers or its share or interest, or to do any other act prohibited to be done without licence, or has been or is given to a lessee or owner, or any one of several lessees or owners, to assign or underlet part only of the property, or to do any other such act in respect of part only of the property, the licence does not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees or owner or owners of the other shares or interest in the property, or by the lessee or owner of the rest of the property, over or in respect of such shares or interest or remaining property, but such right of re-entry remains in full force over or in respect of the shares or interests or property not the subject of the licence. R.S.O. 1990, c. L.7, s. 25.

Restriction of effect of waiver of covenant

26. Where an actual waiver of the benefit of a covenant or condition in a lease, on the part of a lessor or the lessor's heirs, executors, administrators or assigns, is proved to have taken place in any one particular instance, such actual waiver shall not be assumed or deemed to extend to any instance or any breach of covenant or condition other than that to which the waiver specially relates, nor to be a general waiver of the benefit of any such covenant or condition unless an intention to that effect appears. R.S.O. 1990, c. L.7, s. 26.

Covenant to pay taxes not to include taxes for local improvements

27. (1) Unless it is otherwise specifically provided in a lease made after the 1st day of September, 1897, a covenant by a lessee for payment of taxes shall not be deemed to include an obligation to pay taxes assessed for local improvements. R.S.O. 1990, c. L.7, s. 27 (1).

Effect of altering form of covenant

(2) In the case of a lease made under the *Short Forms of Leases Act* where the words “except for local improvements” are struck out or omitted from the covenant number 3 in Schedule B of that Act, such striking out or omission shall be deemed to be a specific provision otherwise made within the meaning of subsection (1). R.S.O. 1990, c. L.7, s. 27 (2).

Notice to quit in case of weekly or monthly tenancies

28. A week’s notice to quit and a month’s notice to quit, respectively, ending with the week or the month, is sufficient notice to determine, respectively, a weekly or monthly tenancy. R.S.O. 1990, c. L.7, s. 28.

Penalty on tenant receiving originating process for recovery of land and not notifying his landlord

29. (1) Every tenant to whom an originating process in an action for the recovery of land has been delivered, or to whose knowledge it comes, shall forthwith give notice thereof to the tenant’s landlord, or to the landlord’s bailiff or receiver, and, if the tenant omits so to do, the tenant is answerable to the tenant’s landlord for all damages sustained by the landlord by reason of the failure to give the notice. R.S.O. 1990, c. L.7, s. 29.

Exemption of goods, seizure under execution and by distress

30. (1) The goods and chattels exempt from seizure under execution are not liable to seizure by distress by a landlord for rent, except as hereinafter provided. R.S.O. 1990, c. L.7, s. 30 (1).

Monthly tenancies

(2) In the case of a monthly tenancy, the exemption only applies to two months arrears of rent. R.S.O. 1990, c. L.7, s. 30 (2).

Selection of exempted goods

(3) The person claiming the exemption shall select and point out the goods and chattels that the person claims to be exempt. R.S.O. 1990, c. L.7, s. 30 (3).

Exemption of goods from seizure, not tenant’s property

Definition

31. (1) In this section, subject to section 32, “tenant” includes a sub-tenant and the assigns of the tenant and any person in actual occupation of the premises under or with the assent of the tenant during the currency of the lease, or while the rent is due or in arrear, whether or not the person has attained to or become the tenant of the landlord. R.S.O. 1990, c. L.7, s. 31 (1).

Goods on premises not property of tenant to be exempt

(2) A landlord shall not distrain for rent on the goods and chattels of any person except the tenant or person who is liable for the rent, although the same are found on the premises; but this restriction does not apply in favour of a person claiming title under an execution against the tenant, or in favour of a person whose title is derived by purchase, gift, transfer, or assignment from the tenant, whether absolute or in trust, or by way of mortgage or otherwise, nor to the interest of the tenant in any goods or chattels on the premises in the possession of the tenant under a contract for purchase, or by which the tenant may or is to become the owner thereof upon performance of any condition, nor where goods or chattels have been exchanged between tenants or persons by the one borrowing or hiring from the other for the purpose of defeating the claim of or the right of distress by the landlord, nor does the restriction apply where the property is claimed by the spouse, daughter, son, daughter-in-law, or son-in-law of the tenant, or by any other relative of the tenant’s, if such other relative lives on the premises as a member of the tenant’s family, or by any person whose title is derived by purchase, gift, transfer or assignment from any relative of the tenant’s to whom the restriction does not apply. R.S.O. 1990, c. L.7, s. 31 (2); 1999, c. 6, s. 9 (2); 2005, c. 5, s. 10 (3); 2016, c. 23, s. 40.

Goods in store managed by agent who is in default

(2) Nothing in this section exempts from distress goods or chattels in a store or shop managed or

(5) NOTHING in this section exempts from distress goods or chattels in a store or shop managed or controlled by an agent or clerk for the owner of the goods or chattels where the clerk or agent is also the tenant and in default, and the rent is due in respect of the store or shop or premises rented therewith and thereto belonging, if the goods or chattels would have been liable to seizure but for this Act. R.S.O. 1990, c. L.7, s. 31 (3).

Section Amendments with date in force (d/m/y)

1999, c. 6, s. 9 (2) - 01/03/2000

2005, c. 5, s. 10 (3) - 09/03/2005

2016, c. 23, s. 40 - 5/12/2016

Exemption of goods from seizure, property of under-tenant, etc.

Definition

32. (1) In this section,

“under-tenant” means a tenant to whom the premises or some part of the premises in respect of which rent is distrained for have been sub-let with the consent of the superior landlord or in default of such consent under the order of the judge of the Superior Court of Justice as provided by subsection 23 (2). R.S.O. 1990, c. L.7, s. 32 (1); 2006, c. 19, Sched. C, s. 1 (1).

Declaration by boarder, under-tenant, or lodger that immediate tenant has no property in goods distrained

(2) If a superior landlord distrains or threatens to distrain any goods or chattels of an under-tenant, boarder or lodger for arrears of rent due to the superior landlord by the superior landlord’s immediate tenant, the under-tenant, boarder or lodger may serve the superior landlord, or the bailiff or other person employed by the superior landlord to levy the distress, with a statutory declaration made by the under-tenant, boarder or lodger setting forth that the immediate tenant has no right of property or beneficial interest in such goods or chattels, and that they are the property or in the lawful possession of the under-tenant, boarder or lodger, and also setting forth whether any and what amount by way of rent, board or otherwise is due from the under-tenant, boarder or lodger to the immediate tenant, and to the declaration shall be annexed a correct inventory, subscribed by the under-tenant, boarder or lodger, of the goods and chattels mentioned in the declaration, and the under-tenant, boarder or lodger may pay to the superior landlord, or to the bailiff or other person employed by the superior landlord, the amount if any, so due, or so much thereof as is sufficient to discharge the claim of the superior landlord. R.S.O. 1990, c. L.7, s. 32 (2).

Penalty for improper levy

(3) If the superior landlord, bailiff or other person, after being served with the declaration and inventory, and after the under-tenant, boarder or lodger has paid or tendered to the person the amount, if any, which by subsection (2) the under-tenant, boarder or lodger is authorized to pay, levies or proceeds with a distress on the goods or chattels of the under-tenant, boarder or lodger, the superior landlord, bailiff or other person is guilty of an illegal distress, and the under-tenant, boarder or lodger may replevy the goods or chattels in any court of competent jurisdiction, and the superior landlord is also liable to an action, at the suit of the under-tenant, boarder or lodger, in which the truth of the declaration and inventory may be inquired into. R.S.O. 1990, c. L.7, s. 32 (3).

Effect of payments by under-tenant, boarder or lodger

(4) Any payment made by an under-tenant, boarder or lodger under subsection (2) is a valid payment on account of the amount due from the under tenant to the immediate tenant. R.S.O. 1990, c. L.7, s. 32 (4).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Duty of tenant claiming exemption under s. 30 to surrender premises

33. (1) A tenant in default for non-payment of rent is not entitled to the benefit of the exemption provided for by section 30 unless the tenant gives up possession of the premises forthwith or is ready and offers to do so. R.S.O. 1990, c. L.7, s. 33 (1).

To whom offer of surrender to be made

(2) The offer may be made to the landlord or to the landlord’s agent, and the person authorized to seize and sell the goods and chattels, or having the custody of them for the landlord, shall be

considered an agent of the landlord for the purpose of the offer and surrender to the landlord of possession. R.S.O. 1990, c. L.7, s. 33 (2).

Seizure of exempted goods

34. (1) A landlord that desires to seize exempted goods shall, after default has been made in the payment of rent and before or at the time of seizure, serve the tenant with a notice (Form 1). R.S.O. 1990, c. L.7, s. 34 (1).

Effect of surrender of possession

(2) The surrender of possession in pursuance of the notice is a determination of the tenancy. R.S.O. 1990, c. L.7, s. 34 (2).

Right to set off rent against debt

35. (1) A tenant may set off against the rent due a debt due to the tenant by the landlord. R.S.O. 1990, c. L.7, s. 35 (1).

Notice

(2) Notice of the claim of set off (Form 2) may be given before or after the seizure. R.S.O. 1990, c. L.7, s. 35 (2).

Effect of notice

(3) When the notice is given, the landlord is entitled to distrain, or to proceed with the distress, only for the balance of the rent after deducting any debt justly due by the landlord to the tenant that is mentioned in the notice. R.S.O. 1990, c. L.7, s. 35 (3).

Service of notices to quit, for seizure of exempt goods, to set off rent

36. (1) Service of notices under sections 28, 34 and 35 shall be made either personally or by leaving the same with a grown-up person in and apparently residing on the premises occupied by the person to be served. R.S.O. 1990, c. L.7, s. 36 (1).

Posting up notice instead of service

(2) If the tenant cannot be found and the tenant's place of abode is not known, or admission thereto cannot be obtained, the posting up of the notice on some conspicuous part of the premises is good service. R.S.O. 1990, c. L.7, s. 36 (2).

Formal defects not to invalidate steps under ss. 33 to 36

37. No step taken under sections 33 to 36 shall be rendered invalid by any defect in form. R.S.O. 1990, c. L.7, s. 37.

Lien of landlord in bankruptcy, etc.

38. (1) In case of an assignment for the general benefit of creditors, or an order being made for the winding up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment has been made by or against a tenant, the preferential lien of the landlord for rent is restricted to the arrears of rent due during the period of three months next preceding, and for three months following the execution of the assignment, and from thence so long as the assignee retains possession of the premises, but any payment to be made to the landlord in respect of accelerated rent shall be credited against the amount payable by the person who is assignee, liquidator or trustee for the period of the person's occupation. R.S.O. 1990, c. L.7, s. 38 (1).

Rights of assignee

(2) Despite any provision, stipulation or agreement in any lease or agreement or the legal effect thereof, in case of an assignment for the general benefit of creditors, or an order being made for the winding up of an incorporated company, or where a receiving order in bankruptcy or authorized assignment has been made by or against a tenant, the person who is assignee, liquidator or trustee may at any time within three months thereafter for the purposes of the trust estate and before the person has given notice of intention to surrender possession or disclaim, by notice in writing elect to retain the leased premises for the whole or any portion of the unexpired term and any renewal thereof, upon the terms of the lease and subject to the payment of the rent as provided by the lease or agreement, and the person may, upon payment to the landlord of all arrears of rent, assign the lease with rights of renewal, if any, to any person who will covenant to observe and perform its terms and agree to conduct upon the demised premises a trade or business which is not reasonably of a more objectionable or hazardous nature than that which was thereon conducted by the debtor, and who on application of the assignee,

liquidator or trustee, is approved by a judge of the Superior Court of Justice as a person fit and proper to be put in possession of the leased premises. R.S.O. 1990, c. L.7, s. 38 (2); 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Lien of landlord in bankruptcy, etc., further provisions

Election to surrender

39. (1) The person who is assignee, liquidator or trustee has the further right, at any time before so electing, by notice in writing to the landlord, to surrender possession or disclaim any such lease, and the person's entry into possession of the leased premises and their occupation by the person, while required for the purposes of the trust estate, shall not be deemed to be evidence of an intention on the person's part to elect to retain possession under section 38. R.S.O. 1990, c. L.7, s. 39 (1).

Rights of sub-tenants

(2) Where the assignor, or person or firm against whom a receiving order has been made in bankruptcy, or a winding up order has been made, being a lessee, has, before the making of the assignment or such order demised any premises by way of under-lease, approved or consented to in writing by the landlord, and the assignee, liquidator or trustee surrenders, disclaims or elects to assign the lease, the under-lessee, if the under-lessee so elects in writing within three months of such assignment or order, stands in the same position with the landlord as though the under-lessee were a direct lessee from the landlord but subject, except as to rental payable, to the same liabilities and obligations as the assignor, bankrupt or insolvent company was subject to under the lease at the date of the assignment or order, but the under-lessee shall in such event be required to covenant to pay to the landlord a rental not less than that payable by the under-lessee to the debtor, and if such last mentioned rental was greater than that payable by the debtor to the said landlord, the under-lessee shall be required to covenant to pay to the landlord the like greater rental. R.S.O. 1990, c. L.7, s. 39 (2).

Settlement of disputes

(3) In the event of any dispute arising under this section or section 38, the dispute shall be disposed of by a judge of the Superior Court of Justice upon an application. R.S.O. 1990, c. L.7, s. 39 (3); 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Distress for rents seck

40. Every person has the like remedy by distress and by impounding and selling the property distrained in cases of rents seck as in case of rent reserved upon lease. R.S.O. 1990, c. L.7, s. 40.

Distress for arrears on leases determined

41. A person having any rent due and in arrear, upon any lease for life or lives or for years, or at will, ended or determined, may distrain for such arrears, after the determination of the lease, in the same manner as the person might have done if the lease had not been ended or determined, if the distress is made within six months after the determination of the lease, and during the continuance of the landlord's title or interest, and during the possession of the tenant from whom the arrears became due. R.S.O. 1990, c. L.7, s. 41.

Right of persons entitled to rent during life of another to recover same after death

42. A person entitled to any rent or land for the life of another may recover by action or distress the rent due and owing at the time of the death of the person for whose life such rent or land depended as the person might have done if the person by whose death the estate in such rent or land determined had continued in life. R.S.O. 1990, c. L.7, s. 42.

Distress to be reasonable

43. Distress shall be reasonable. R.S.O. 1990, c. L.7, s. 43.

Right to distrain cut or loose grain, etc.

44. A person having rent due and in arrear upon any demise, lease, or contract may seize and secure any sheaves or cocks of grain, or grain loose, or in the straw, or hay, lying or being in any barn or granary or otherwise upon any part of the land charged with such rent. and may lock up or detain the

same in the place where the same is found, for or in the nature of a distress until the same is replevied, and in default of the same being replevied, may sell the same after appraisement thereof is made; but such grain or hay so distrained shall not be removed by the person distraining, to the damage of the owner thereof out of the place where the same is found and seized, but shall be kept there, as impounded, until it is replevied or sold in default of replevying. R.S.O. 1990, c. L.7, s. 44.

Right to distraint cattle, livestock, standing crops

Distress of cattle or livestock

45. (1) A landlord may take and seize, as a distress for arrears of rent, any cattle or livestock of the landlord's tenant feeding or pasturing upon any highway, or on any way belonging to the demised premises or any part thereof. R.S.O. 1990, c. L.7, s. 45 (1).

Distress of standing crops

(2) Subject to subsection (4), a landlord may take and seize standing crops as a distress for arrears of rent, and may cut, gather, make, cure, carry and lay up the same, when ripe, in the barns or other proper place on the demised premises and, if there is no barn or proper place on the demised premises, then in any other barn or proper place which the landlord hires or otherwise procures for that purpose as near as may be to the premises, and may in convenient time appraise, sell or otherwise dispose of the same towards satisfaction for the rent for which the distress is made, and of the charges of the distress, appraisement and sale in the same manner as other goods and chattels may be seized, distrained and disposed of, and the appraisement thereof shall be taken when cut, gathered, cured and made and not before. R.S.O. 1990, c. L.7, s. 45 (2).

Tenant's right to notice of place of keeping

(3) Notice of the place where the goods and chattels so distrained are lodged or deposited shall, within one week after the lodging or depositing thereof, be given to the tenant or left at the tenant's last place of abode. R.S.O. 1990, c. L.7, s. 45 (3).

Satisfying distress of standing crops

(4) If, after a distress of standing crops so taken for arrears of rent, and at any time before the same are ripe and cut, cured or gathered, the tenant pays to the landlord for whom the distress is taken the whole rent then in arrear, with the full costs and charges of making the distress and occasioned thereby, then, upon such payment or lawful tender thereof, the same and every part thereof shall cease, and the standing crops so distrained shall be delivered up to the tenant. R.S.O. 1990, c. L.7, s. 45 (4).

Sale of standing crop

(5) Where standing crops are distrained for rent they may, at the option of the landlord, be advertised and sold in the same manner as other goods, and it is not necessary for the landlord to reap, thresh, gather or otherwise market them. R.S.O. 1990, c. L.7, s. 45 (5).

Liability of purchaser of standing crops

(6) Any person purchasing standing crops at such sale is liable for the rent of the land upon which they are standing at the time of the sale, and until they are removed, unless the rent has been paid or has been collected by the landlord, or has been otherwise satisfied, and the rent shall, as nearly as may be, be the same as that which the tenant whose goods were sold was to pay, having regard to the quantity of land, and to the time during which the purchaser occupies it. R.S.O. 1990, c. L.7, s. 45 (6).

Conditional exemption of certain beasts

46. Beasts that gain the land and sheep shall not be distrained if there are other chattels sufficient to satisfy the demand. R.S.O. 1990, c. L.7, s. 46.

WHERE DISTRESS MAY BE TAKEN

Chattels not to be distrained off the premises

47. Save as herein otherwise provided, goods or chattels that are not at the time of the distress upon the premises in respect of which the rent distrained for is due shall not be distrained for rent. R.S.O. 1990, c. L.7, s. 47.

FRAUDULENT REMOVAL

Landlords may distraint goods fraudulently carried off the premises

48. (1) Where any tenant, for life or lives, term of years, at will, sufferance or otherwise, of any messuages, lands, tenements or hereditaments, upon the demise or holding whereof any rent is reserved,

messages, bills, cheques or receipts, upon the failure of holding thereof any rent is reserved, due, or made payable, fraudulently or clandestinely conveys away, or carries off or from the premises the tenant's goods or chattels to prevent the landlord from distraining them for arrears of rent so reserved, due, or made payable, the landlord or any person lawfully empowered for that purpose by the landlord, may, within thirty days next ensuing such conveying away or carrying off, take and seize such goods and chattels wherever they are found, as a distress for such arrears of rent, and sell or otherwise dispose of them in such manner as if they had actually been distrained by the landlord upon such premises for such arrears of rent. R.S.O. 1990, c. L.7, s. 48 (1).

Exception

(2) No landlord or other person entitled to such arrears of rent shall take or seize, as a distress for the same, any such goods or chattels that have been sold in good faith and for a valuable consideration, before such seizure made, to any person not privy to such fraud. R.S.O. 1990, c. L.7, s. 48 (2).

Right of landlord to break open houses where goods fraudulently secured

49. Where any goods or chattels fraudulently or clandestinely conveyed or carried away by any tenant, the tenant's servant, or agent, or other person aiding or assisting therein, are or are believed to be in any house, barn, stable, outhouse, yard, close or place, locked up, fastened or otherwise secured so as to prevent them from being taken and seized as a distress for arrears of rent, the landlord or the landlord's agent may take and seize, as a distress for rent, such goods and chattels, first calling to the landlord's assistance a peace officer who is hereby required to aid and assist therein, and, in case of a dwelling house, oath being also first made of a reasonable ground to believe that such goods or chattels are therein, and, in the daytime, break open and enter into such house, barn, stable, outhouse, yard, close or place and take and seize such goods and chattels for the arrears of rent as the landlord might have done if they were in an open field or place upon the premises from which they were so conveyed or carried away. R.S.O. 1990, c. L.7, s. 49.

Penalty for fraudulently removing, or assisting to remove, goods

50. If a tenant so fraudulently removes, conveys away or carries off the tenant's goods or chattels, or if any person wilfully and knowingly aids or assists the tenant in so doing, or in concealing them, every person so offending shall forfeit and pay to the landlord double the value of such goods or chattels, to be recovered by action in any court of competent jurisdiction. R.S.O. 1990, c. L.7, s. 50.

How distrained beasts, goods, etc., may be kept

Beasts distrained

51. (1) Beasts or cattle distrained shall not be removed or driven out of the local municipality in which they were distrained except to a fitting pound or enclosure in the same upper-tier municipality or district not more than three miles distant from the place where the distress was taken. 2002, c. 17, Sched. F, Table.

Impounding in one place only

(2) No cattle or other goods or chattels distrained or taken by way of distress for any cause at one time shall be impounded in several places. R.S.O. 1990, c. L.7, s. 51 (2).

Penalty

(3) Every person contravening this section shall forfeit to the person aggrieved \$20 in addition to the damages sustained by the person aggrieved. R.S.O. 1990, c. L.7, s. 51 (3).

Where goods may be impounded

(4) Any person lawfully taking any distress for any kind of rent may impound or otherwise secure the distress so made in such place or on such part of the premises chargeable with the rent as is most fit and convenient for that purpose, and may appraise, sell and dispose of the same upon the premises, and it is lawful for any person to come and go to and from such place or part of the premises where any distress for rent is so impounded and secured to view, appraise and buy, and to carry off or remove the same on account of the purchaser thereof. R.S.O. 1990, c. L.7, s. 51 (4).

Section Amendments with date in force (d/m/y)

2002, c. 17, Sched. F, Table - 01/01/2003

Pound breach or rescue

52. Upon any pound breach or rescue of goods or chattels distrained for rent, the person

offending or the owner of the goods distrained in case they are afterwards found to have come to the owner's use or possession shall forfeit to the person aggrieved \$20 in addition to the damages sustained by the person aggrieved. R.S.O. 1990, c. L.7, s. 52.

Sale of distress, when it may be made

53. Where any goods or chattels are distrained for any rent reserved and due upon any demise, lease or contract, and the tenant or owner of them does not, within five days next after such distress taken and notice thereof, with the cause of such taking, left at the dwelling house or other most conspicuous place on the premises charged with the rent distrained for, replevy the same, then, after the distress and notice and the expiration of such five days, the person distraining shall cause the goods and chattels so distrained to be appraised by two appraisers, who shall first be sworn to appraise them truly, according to the best of their understandings, a memorandum of which oath is to be endorsed on the inventory, and after such appraisal the person so distraining may lawfully sell the goods and chattels so distrained for the best price that can be got for them towards satisfaction of the rent for which they were distrained and of the charges of the distress, appraisal and sale, and shall hold the overplus, if any, for the owner's use and pay it over to the owner on demand. R.S.O. 1990, c. L.7, s. 53.

Irregularities not to make distress void from the beginning

54. Where a distress is made for any kind of rent justly due, and any irregularity or unlawful act is afterwards done by the person distraining, or by that person's agent, or if there has been an omission to make the appraisal under oath, the distress itself shall not be therefore deemed to be unlawful, nor the person making it be deemed a trespasser from the beginning, but the person aggrieved by the unlawful act or irregularity may recover by action full satisfaction for the special damage sustained thereby. R.S.O. 1990, c. L.7, s. 54.

Wrongful distress

55. (1) A distrainer who takes an excessive distress, or takes a distress wrongfully, is liable in damages to the owner of the goods or chattels distrained. R.S.O. 1990, c. L.7, s. 55 (1).

Where no rent due

(2) Where a distress and sale are made for rent pretended to be in arrear and due when, in truth, no rent is in arrear or due to the person distraining, or to the person in whose name or right such distress is taken, the owner of the goods or chattels distrained and sold, the owner's executors or administrators are entitled, by action to be brought against the person so distraining, to recover full satisfaction for the damage sustained by the distress and sale. R.S.O. 1990, c. L.7, s. 55 (2).

Goods taken in execution not to be removed till rent paid

56. (1) Goods or chattels lying or being in or upon any land leased for life or lives, or term of years, at will, or otherwise are not liable to be taken by virtue of any execution issued out of the Superior Court of Justice on any pretence whatsoever, unless the party at whose suit the execution is sued out before the removal of such goods or chattels from the premises by virtue of such execution pays to the landlord or the landlord's bailiff all money due for rent of the premises at the time of the taking of such goods or chattels by virtue of such execution if the arrears of rent do not amount to more than one year's rent. R.S.O. 1990, c. L.7, s. 56 (1); 2006, c. 19, Sched. C, s. 1 (1).

When execution may be proceeded with

(2) If such arrears exceed one year's rent, the party at whose suit such execution is sued out, on paying the landlord or the landlord's bailiff one year's rent, may proceed to execute the judgment. R.S.O. 1990, c. L.7, s. 56 (2).

What to be paid to execution creditor

(3) The sheriff or other officer shall levy and pay to the execution creditor as well the money so paid for rent as the execution money. R.S.O. 1990, c. L.7, s. 56 (3).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Liability of growing crops seized and sold under execution for accruing rent

57. Where all or any part of the standing crops of the tenant of any land is seized and sold by a sheriff or other officer by virtue of a writ of execution, such crops, so long as they remain on the land in default of sufficient distress of the goods and chattels of the tenant, are liable for the rent that may accrue and become due to the landlord after any such seizure and sale, and to the remedies by distress for

and become due to the landlord after any such seizure and sale, and to the remedies by distress for recovery of such rent, and that despite any bargain and sale or assignment that may have been made or executed of such crops by any such sheriff or other officer. R.S.O. 1990, c. L.7, s. 57.

Penalty of double value for overholding

58. Where a tenant for any term for life, lives or years, or other person who comes into possession of any land, by, from, or under, or by collusion with such tenant, wilfully holds over the land or any part thereof after the determination of the term, and after notice in writing given for delivering the possession thereof by the tenant's landlord or the person to whom the remainder or reversion of the land belongs or the person's agent thereunto lawfully authorized, the tenant or other person so holding over shall, for and during the time the tenant or the other person so holds over or keeps the person entitled out of possession, pay to such person or the person's assigns at the rate of double the yearly value of the land so detained for so long as it is detained, to be recovered by action in any court of competent jurisdiction, against the recovering of which penalty there is no relief. R.S.O. 1990, c. L.7, s. 58; 1993, c. 27, Sched.

Section Amendments with date in force (d/m/y)

1993, c. 27, Sched. - 31/12/1991

Penalty of double rent for overholding after notice to quit

59. Where a tenant gives notice of an intention to quit the premises held by the tenant at a time mentioned in the notice and does not accordingly deliver up the possession thereof at the time mentioned in the notice, the tenant shall from thenceforward pay to the landlord double the rent or sum that the tenant should otherwise have paid, to be levied, sued for and recovered at the same times and in the same manner as the single rent or sum before the giving such notice could be levied, sued for or recovered, and such double rent or sum shall continue to be paid while the tenant continues in possession. R.S.O. 1990, c. L.7, s. 59.

Right of personal representatives to distrain for arrears

60. The executors or administrators of a landlord may distrain for the arrears of rent due to the landlord in the landlord's lifetime, and may sue for the same in like manner as the landlord might have done if living, and the powers and provisions contained in this Act relating to distresses for rent are applicable to the distresses so made. R.S.O. 1990, c. L.7, s. 60.

Nullity of attornment to stranger

61. Every attornment of a tenant of any land to a stranger claiming title to the estate of the tenant's landlord is void, and the possession of the tenant's landlord shall not be deemed to be changed, altered or affected by any such attornment; but nothing herein vacates or affects any attornment made pursuant to and in consequence of an order of a court, or made with the privity and consent of the landlord, or to any mortgagee after the mortgage has become forfeited. R.S.O. 1990, c. L.7, s. 61.

Attornment of tenant, in what cases not necessary

62. (1) Every grant or conveyance of any rent or of the reversion or remainder of any land is good and effectual without any attornment of the tenant of the land out of which such rent issues, or of the particular tenant upon whose particular estate any such reversion or remainder is expectant or depending. R.S.O. 1990, c. L.7, s. 62 (1).

Tenant not to be prejudiced

(2) A tenant shall not be prejudiced or damaged by the payment of rent to any grantor or by breach of any condition for non-payment of rent before notice to the tenant of such grant by the grantee. R.S.O. 1990, c. L.7, s. 62 (2).

Chief leases may be removed without surrendering all the under-leases

63. (1) Where a lease is duly surrendered in order to be renewed and a new lease is made and executed by the chief landlord, the new lease is, without a surrender of all or any of the under-leases, as good and valid as if all the under-leases derived thereout had been likewise surrendered at or before the time of taking of such new lease. R.S.O. 1990, c. L.7, s. 63 (1).

Rights and remedies of parties thereunder

(2) Every person in whom any estate for life, or lives, or for years, is from time to time vested by virtue of such new lease is entitled to the rents, covenants and duties, and has like remedy for recovery thereof, and the under-lessees shall hold and enjoy the land in the respective under-leases

comprised as if the original lease had been kept on foot and continued, and the chief landlord has and is entitled to such and the same remedy by distress or entry in and upon the land comprised in any such under-lease for the rents and duties reserved by the new lease, so far as they do not exceed the rents and duties reserved in the lease out of which the under-lease was derived, as the chief landlord would have had if such former lease had been still continued or as the chief landlord would have had if the respective under-leases had been renewed under the new principal lease. R.S.O. 1990, c. L.7, s. 63 (2).

Who may renew on behalf of persons out of Ontario

64. (1) Where a person who, in pursuance of any covenant or agreement in writing, if in Ontario and amenable to the process of the Superior Court of Justice, might be compelled to execute any lease by way of renewal, is not in Ontario or is not amenable to the process of the court, the court, upon the application of any person entitled to such renewal, whether such person is or is not under any disability, may direct such person as the court thinks proper to appoint for that purpose to accept a surrender of the subsisting lease and to make and execute a new lease in the name of the person who ought to have renewed it. R.S.O. 1990, c. L.7, s. 64 (1); 2006, c. 19, Sched. C, s. 1 (1).

Validity of such new lease

(2) A new lease executed by the person so appointed is as valid as if the person in whose name it was made was alive and not under any disability and had executed it in person. R.S.O. 1990, c. L.7, s. 64 (2).

Discretion of court to direct action to be brought

(3) In every such case it is in the discretion of the court to direct an action to be brought to establish the right of the person seeking the renewal, and not to make the order for such new lease unless by the order to be made in such action, or until after it has been entered. R.S.O. 1990, c. L.7, s. 64 (3).

Conditions

(4) A renewed lease shall not be executed by virtue of this section in pursuance of any covenant or agreement unless the sum or sums of money, if any, that ought to be paid on such renewal and the things, if any, that ought to be performed in pursuance of such covenant or agreement by the tenant be first paid and performed, and counterparts of every such renewed lease shall be duly executed by the tenant. R.S.O. 1990, c. L.7, s. 64 (4).

Premiums, how to be paid

(5) All sums of money that are had, received or paid for, or on account of, the renewal of any lease by any person out of Ontario or not amenable to the process of the Superior Court of Justice, after a deduction of all necessary incidental charges and expenses, shall be paid to such person or in such manner or into the Superior Court of Justice to such account, and be applied and disposed of, as the court directs. R.S.O. 1990, c. L.7, s. 64 (5); 2006, c. 19, Sched. C, s. 1 (1).

Costs

(6) The court may order the costs and expenses of and relating to the applications, orders, directions, conveyances and transfers, or any of them, to be paid and raised out of or from the land, or the rents in respect of which they are respectively made, in such manner as the court considers proper. R.S.O. 1990, c. L.7, s. 64 (6).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

PART II

Definition, Part II

65. In this Part, “judge” means a judge of the Superior Court of Justice. R.S.O. 1990, c. L.7, s. 65; 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Disputes as to right to distrain

66. (1) Where goods or chattels are distrained by a landlord for arrears of rent and the tenant disputes the right of the landlord to distrain in respect of the whole or any part of the goods or chattels,

or disputes the amount claimed by the landlord, or the tenant claims to set off against the rent a debt that the landlord disputes, the landlord or the tenant may apply to a judge to determine the matters so in dispute, and the judge may hear and determine them in a summary way, and may make such order in the premises as he or she considers just. R.S.O. 1990, c. L.7, s. 66 (1).

Application to judge by landlord or tenant

(2) Where the tenant disputes the right of the landlord to distrain in respect of the whole or any part of the goods or chattels, or disputes the amount claimed by the landlord, the landlord or the tenant may, before any distress has been made, apply to a judge to determine the matter so in dispute, and the judge may hear and determine it in a summary way, and may make such order in the premises as he or she considers just. R.S.O. 1990, c. L.7, s. 66 (2).

Where application made, heard and determined

(3) An application under this section shall be made, heard and determined in the county or district in which the distress is made. 1993, c. 27, Sched.

Section Amendments with date in force (d/m/y)

1993, c. 27, Sched. - 31/12/1991

Order of judge pending determination of dispute

67. When notice of such an application has been given to the landlord or tenant, as the case may be, the judge, pending the disposition of it by him or her, may make such order as he or she considers just for the restoration to the tenant of the whole or any part of the goods or chattels distrained, or preventing a distress being made, upon the tenant giving security, by payment into court or otherwise as the judge directs, for the payment of the rent that is found due to the landlord and for the costs of the distress and of the application before the judge and of any appeal from his or her order, or such of them as the tenant may be ordered to pay. R.S.O. 1990, c. L.7, s. 67.

Jurisdiction of judge

68. The judge has jurisdiction and authority to determine any question arising upon the application that the Superior Court of Justice has jurisdiction to determine in an action brought in that court. R.S.O. 1990, c. L.7, s. 68; 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

When decision of judge final

69. Where the amount claimed by the landlord does not exceed \$100, the decision of the judge is final. R.S.O. 1990, c. L.7, s. 69.

Appeal from summary determination

70. Where the amount claimed by the landlord exceeds \$100, an appeal lies from any order of the judge made on an application to him or her under section 66 by which the matters in dispute are determined. R.S.O. 1990, c. L.7, s. 70.

Appeal where action brought or issue tried

71. Where an issue is tried, there is the same right to appeal from the judgment as if the judgment had been pronounced in an action. R.S.O. 1990, c. L.7, s. 71.

Scale of costs

72. The costs of the application before the judge shall be on the Small Claims Court scale if the amount claimed by the landlord does not exceed the monetary jurisdiction of the Small Claims Court. R.S.O. 1990, c. L.7, s. 72.

Other remedies of tenant

73. Nothing in this Part takes away or affects any remedy that a tenant may have against the tenant's landlord or requires a tenant to proceed under this Part instead of by bringing an action, but where the tenant brings an action, the court in which the action is brought, if of opinion that it was unnecessarily brought and that a complete remedy might have been had under this Part, may direct the tenant, although the tenant succeeds, to pay any additional costs occasioned by the tenant's having brought the action. R.S.O. 1990, c. L.7, s. 73.

Application to judge against overholding tenant

74. (1) Where a tenant after the tenant's lease or right of occupation, whether created by writing or by parol, has expired or been determined, either by the landlord or by the tenant, by a notice to quit or notice pursuant to a proviso in a lease or agreement in that behalf, or has been determined by any other act whereby a tenancy or right of occupancy may be determined or put an end to, wrongfully refuses or neglects to go out of possession of the land demised to the tenant, or which the tenant has been permitted to occupy, the tenant's landlord may apply upon affidavit to a judge of the Superior Court of Justice to make the inquiry hereinafter provided for and the application shall be made, heard and determined in the county or district in which the land lies. R.S.O. 1990, c. L.7, s. 74 (1); 1993, c. 27, Sched.; 2006, c. 19, Sched. C, s. 1 (1).

Inquiry and determination

(2) The court shall in writing appoint a time and place at which a judge will inquire and determine whether the person complained of was tenant to the complainant for a term or period that has expired or has been determined by a notice to quit or for default in payment of rent or otherwise, and whether the tenant holds the possession against the right of the landlord, and whether the tenant, having no right to continue in possession, wrongfully refuses to go out of possession. R.S.O. 1990, c. L.7, s. 74 (2).

Notice

(3) Notice in writing of the time and place appointed, stating briefly the principal facts alleged by the complainant as entitling the complainant to possession, shall be served upon the tenant or left at the tenant's place of abode at least three days before the day so appointed, if the place appointed is not more than twenty miles from the tenant's place of abode, and one day in addition for every twenty miles above the first twenty, reckoning any broken number above the first twenty as twenty miles, to which notice shall be annexed a copy of the judge's appointment and of the affidavit on which it was obtained, and of the documents to be used upon the application. R.S.O. 1990, c. L.7, s. 74 (3).

Section Amendments with date in force (d/m/y)

1993, c. 27, Sched. - 31/12/1991

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Application, how entitled

75. Application under this Part shall be styled in English or French, as may be appropriate:

In the matter of (*giving the name of the party complaining*), Landlord, against (*giving the name of the party complained against*) Tenant.

R.S.O. 1990, c. L.7, s. 75.

Procedure

On default of appearance

76.(1) If, at the time and place appointed, the tenant fails to appear, the judge, if it appears to him or her that the tenant wrongfully holds against the right of the landlord, may order a writ of possession (Form 3) directed to the sheriff of the county or district in which the land lies to be issued commanding him or her forthwith to place the landlord in possession of the land. R.S.O. 1990, c. L.7, s. 76 (1).

In case of appearance

(2) If the tenant appears, the judge shall, in a summary manner, hear the parties and their witnesses, and examine into the matter, and, if it appears to the judge that the tenant wrongfully holds against the right of the landlord, he or she may order the issue of the writ. R.S.O. 1990, c. L.7, s. 76 (2).

Power of amendment

77. The judge has the same power to amend or excuse irregularities on an application as he or she would have in an action. R.S.O. 1990, c. L.7, s. 77.

Appeal

78.(1) An appeal lies to the Divisional Court from the order of the judge granting or refusing a writ of possession. R.S.O. 1990, c. L.7, s. 78 (1).

Discharging order for possession on appeal

(2) If the Divisional Court is of opinion that the right to possession should not be determined under this Part, the court may discharge the order of the judge, and the landlord may in that case proceed by action for the recovery of possession. R.S.O. 1990, c. L.7, s. 78 (2).

Restoring tenant to possession

(3) When the order is discharged, if possession has been given to the landlord under a writ of possession, the court may direct that possession be restored to the tenant. R.S.O. 1990, c. L.7, s. 78 (3).

PART IV (SS. 79-130) REPEALED: 1997, C. 24, S. 213 (4).

Section Amendments with date in force (d/m/y)

1997, c. 24, s. 213 (4) - 17/06/1998

FORM 1
NOTICE TO TENANT

FORM 1
NOTICE TO TENANT

(Section 34 (1))

Take notice that I claim \$ for rent due to me in respect of the premises that you hold as my tenant, namely *(here briefly describe them)*; and unless the said rent is paid, I demand from you immediate possession of the said premises; and I am ready to leave in your possession such of your goods and chattels as in that case only you are entitled to claim exemption for.

Take notice further, that if you neither pay the said rent nor give me possession of the said premises within three days after the service of this notice, I am by the *Landlord and Tenant Act* entitled to seize and sell, and I intend to seize and sell, all your goods and chattels, or such part thereof as may be necessary for the payment of the said rent and costs.

Dated this day of, 20....

(Landlord)

To *(tenant)*.

R.S.O. 1990, c. L.7, Form 1.

FORM 2
NOTICE TO LANDLORD

FORM 2
NOTICE TO LANDLORD

(Section 35 (2))

Take notice that under the *Landlord and Tenant Act* I wish to set off against rent due by me to you the debt that you owe to me on your promissory note for dated
(or as the case may be).

Dated this day of, 20....

(Tenant)

R.S.O. 1990, c. L.7, Form 2.

FORM 3
WRIT OF POSSESSION

FORM 3
WRIT OF POSSESSION

(Section 78 (1))

ONTARIO,
To WIT,

Elizabeth the Second, by the Grace of God, of the United Kingdom, Canada and Her other Realms and Territories Queen, Head of the Commonwealth, Defender of the Faith.

[L.S.]

To the Sheriff of the

Greeting:

Whereas

..... Judge of the Court
of, by order dated the
day of, 20....., made under the *Landlord
and Tenant Act*, on the complaint of
..... against adjudged
that was entitled to the possession
of
with the appurtenances in your bailiwick, and that a Writ should
issue out of Our said Court accordingly (*if costs are awarded add*
and also ordered and directed that the said
should pay the costs of the application under the said Act, which
have been assessed at the sum of

THEREFORE, WE COMMAND YOU that without delay you cause the
said to have possession of the said land and
premises, with the appurtenances (*if costs are awarded add* and We
also command you that of the goods and chattels and lands and
tenements of the said in
your bailiwick, you cause to be made
being the said costs so assessed and have that money in Our said
Court immediately after the execution hereof, to be rendered to the
said). And in
what manner you have executed this Writ make appear to Our said
Court immediately after the execution hereof, and have there then
this Writ.

Witness,, Judge of Our Said
Court at, this day
of, 20.....

Local Registrar.

Issued from the office of the Local Registrar, Superior Court of
Justice

.....
Local Registrar.

R.S.O. 1990, c. L.7, Form 3; 2006, c. 19, Sched. C, s. 1 (1).

Section Amendments with date in force (d/m/y)

2006, c. 19, Sched. C, s. 1 (1) - 22/06/2006

Français

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