



March 17, 2020

Hon. Doug Downey
Attorney General – Ontario
Ministry of the Attorney General
11th Floor, 720 Bay St.
Toronto, ON M7A 2S9

Dear Mr. Downey,

Re: State of Emergency for COVID-19 and housing evictions

Given the announcement this morning regarding the declaration of emergency under s 7.0.1 (1) the *Emergency Management and Civil Protection Act*¹ by the Premier, we call on you to take measures to protect the most vulnerable members of our society, specifically in ways that would directly prevent the spread of COVID-19.

Although Tribunals Ontario announced on March 13, 2020 that all in-person hearings would be suspended,² we are concerned about the ongoing or future hearings for evictions at the Landlord and Tenant Board.

We know that most individuals who are evicted from their homes end up homeless, and can then be found in shelters and the emergency rooms of our hospitals.³ While all of these outcomes are unfortunate outside of a pandemic, it is even more important to increase supports for these populations given the risk of facilitating communicable diseases. Increasing the number of people in shelters and hospitals unnecessarily poses a significant and additional public health risk.⁴

¹ RSO 1990, c E.9.

² Tribunals Ontario, "Tribunals Ontario's New Policy for Hearings," March 13, 2020, available at: <http://www.sjto.gov.on.ca/en/latest-news/>.

³ See, for example, Feldman, B. J., Calogero, C. G., Elsayed, K. S., Abbasi, O. Z., Enyart, J., Friel, T. J., Abunamous, Y. H., Dusza, S. W., & Greenberg, M. R. (2017). Prevalence of Homelessness in the Emergency Department Setting. *The western journal of emergency medicine*, 18(3), 366–372. <https://doi.org/10.5811/westjem.2017.1.33054>; Sahli, B, White, M. H., Pitts, S. R., Wright, D. W. (2017). Homelessness and Emergency Medicine: A Review of the Literature. *Academic Emergency Medicine*, 25(5), 577-593. <https://doi.org/10.1111/acem.13358>; Shinn, M, Baumohl, J, Hopper, K. (2004). The Prevention of Homelessness Revisited. *Analysis of Social Issues and Public Policy* 1(1), 95-127. <https://doi.org/10.1111/1530-2415.00006>.

⁴ Buccieri, K, Gaetz, S. (2013). Ethical Vaccine Distribution Planning for Pandemic Influenza: Prioritizing Homeless and Hard-to-Reach Populations. *Public Health Ethics* 6(2), 185–196, <https://doi.org/10.1093/phe/pht005>; Leung C. S., Ho, M. M., Kiss, A., Gundlapalli, A. V., Hwang, S. W. (2008). Homelessness and the Response to Emerging Infectious Disease Outbreaks: Lessons from SARS. *Journal of Urban Health* 85, 402–410.

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The declaration of emergency announced today, while medically justified, will invariably impact low-income residents of Ontario more than anyone else in our province. They are the ones who are precariously employed, working in minimum wage jobs, for employers who may now have to close their businesses or provide reduced services.⁵ Their inability to pay rent in these unique circumstances requires some flexibility from all of those involved, especially since we expect further announcements around financial stimulus and emergency benefits in the coming days and weeks.

Please consider postponing all eviction hearings at the Landlord Tenant Board, and suspending all orders for eviction, until the declaration of emergency is lifted, in the public interest, and in the interest of helping to curb the spread of COVID-19 further. We believe that this government has this power under ss. 7.02-7.04 of the *Emergency Management and Civil Protection Act*, ss. 83, 183 of the *Residential Tenancies Act*,⁶ s. 2 of the *Statutory Powers Procedure Act*,⁷ as well as the Landlord Tenant Board's Interpretation Guidelines 1 and 7.

If a tenant raises circumstances which might fall into relevant provisions for a mandatory refusal of eviction, the Member **must** decide whether it applies.⁸ If these provisions are found to apply, the Member **must** refuse an eviction.⁹ Rather than litigating these issues at the Tribunal on behalf of tenants in our community, we believe it is a far better use of resources, and in the public interest, to suspend all of these hearings temporarily.

Thank you for your consideration.

Sincerely,

Omar Ha-Redeye

AAS, BHA (Hons.), PGCert, JD, LL.M.
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Executive Director

Durham Community Legal Clinic & Access to Justice Hub

cc: Lindsey Park, MPP (Parliamentary Assistant to the Attorney General)

⁵ Sara Mojtehdzadeh, "Paid time off is rare for low-wage earners in Toronto. So what will they do now?," *Toronto Star*, Mon., March 16, 2020, available at: <https://www.thestar.com/news/gta/2020/03/16/paid-time-off-is-rare-for-low-wage-earners-in-toronto-so-what-will-they-do-now.html>.

⁶ 2006, SO 2006, c 17.

⁷ RSO 1990, c S.22.

⁸ *Forgie v. Widdicombe Place* [2002] O.J. No. 2956 (Div. Ct.) at paras 5-6.

⁹ *Chin v. Hunt* (sub nom. *Chin v. Lawson*) (1986), 17 O.A.C. 267; [1986] O.J. No. 796 (Divisional Court); "... the judge "shall refuse" to grant the application. The judge does not have a discretion."

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