

Tenant rights under the *Ontario Human Rights Code*

According to the Ontario Human Rights Centre, a regulation to the *Ontario Human Rights Code* sets out what business practices are acceptable and what information can be used when choosing tenants:

- Rental history, credit references and/or credit checks may be requested. A lack of rental or credit history should not be viewed negatively.
- A landlord can ask for income information, but they must also ask for and consider together any available information on rental history, credit references and credit checks (such as through Equifax Canada).
- Income information can only be considered on its own when no other information is available.
- Income information should be limited to confirming the person has enough income to cover the rent.
- It is illegal for housing providers to apply a rent-to-income ratio. However, income information alone and rent-to-income ratios may be considered when tenants are applying for subsidized units where the rent amount is geared to income level.
- Housing providers can also ask for a “guarantor” to sign the lease – but only if the landlord has the same requirements for all tenants, not just for people identified by *Code* grounds, such as recent immigrants or people receiving social assistance.
- Regulation 290/98 under the *Code* permits no other inquiries.

Any part of a lease that goes against the *Residential Tenancies Act* will be voided.

The *Ontario Human Rights Code*: <https://www.ontario.ca/laws/statute/90h19>

The *Residential Tenancies Act*: <https://www.ontario.ca/laws/statute/06r17>

Guide to the *Residential Tenancies Act*:

[https://tribunalsontario.ca/documents/ttb/Brochures/Guide%20to%20RTA%20\(English\)_dec2020.pdf](https://tribunalsontario.ca/documents/ttb/Brochures/Guide%20to%20RTA%20(English)_dec2020.pdf)

What questions can a potential landlord ask?

Any landlord will want to figure out if you will be a good tenant, but only certain probing questions are allowed. Can a landlord legally ask for your Social Insurance Number (SIN)? What about asking about your ethnic background? As a tenant, it's important to understand what information the landlord can and cannot ask you to provide.

A landlord needs to assess your ability to pay rent in a timely fashion, and your ability to keep the premises in good repair. Be prepared to answer questions about your personal credit and previous rental experiences. A landlord may also expect you to share personal references and contact information of former landlords. You should honestly report information on your rental application because the landlord may contact previous and current landlords, employers and credit references. Only provide the contact information of a previous landlord if you believe that person would offer a good reference.

A landlord can ask:	A landlord cannot ask:
<ul style="list-style-type: none"> • About your income • Your work • How many people will be living with you • If you have pets • Smoke • Permission to do a credit check • References from past landlords • Possibly if you have a guarantor or co-signer 	<ul style="list-style-type: none"> • If you are pregnant or have children or are planning to do so • Your marital status • Religious or ethnic background • Sexual orientation • If you receive welfare or other public assistance • If you have a disability • Your age—even if you are 16-17, provided you are no longer with your parents, they cannot ask your age • If you are a Canadian citizen

A landlord may ask for your SIN but this is optional. **You do not have to provide your SIN to apply for a rental unit.**

More information can be found here: <https://stepstojustice.ca/questions/housing-law/what-information-can-landlord-ask-me-when-i-apply-place/>

Is this information protected under privacy law?

Landlords are required to comply with the *Personal Information Protection and Electronic Documents Act* (PIPEDA). They have obligations under the law including:

- They must obtain an individual's consent when they collect, use or disclose that person's personal information (except in limited, defined circumstances set out in the law.)
- They must identify the reasons for collecting personal information before or at the time of collection. They should ensure that these purposes are limited to what a reasonable person would consider appropriate under the circumstances.
- They need to provide individuals with access to the personal information that they hold about them and allow them to challenge its accuracy.
- They can only use a tenant's personal information for the purposes for which it was collected.
- They are responsible for ensuring the personal information is protected by appropriate safeguards.

Can a landlord ask to see my driver's licence, tax information or pay stubs?

Landlords can ask but the law requires the request be for a purpose a reasonable person would consider appropriate. Landlords should not collect more information than is necessary nor keep it for longer than they need to for the stated purpose. They also likely do not need to keep a copy of these sensitive documents once they see them in person.

What about background checks?

Landlords should get your consent for obtaining and providing reference and/or background checks.

Generally, the federal government advises landlord **not to turn to social media as a means of conducting background checks**. Remember, you can always limit what is public on your social media through your privacy settings.

Which information does PIPEDA cover?

PIPEDA covers personal information including any factual or subjective information, whether recorded or not, about an identifiable individual. This includes:

- name, date of birth, banking information and other financial records,
- identification numbers such as driver's licence number and Social Insurance Number, and
- photographs and video recordings about an identifiable individual.

A landlord should be directly asking you for consent to collect or disclose this information if doing so involves sensitive information, is unexpected, or creates a risk of harm. Regardless of the form of consent used, landlords must provide you with information about:

- what personal information is being collected,
- for what purposes it will be used,
- to which (if any) third-parties it will be disclosed, and
- any risk of harm to you.

My landlord wants to run a credit check. What do I do?

Prospective landlords must have your consent to share your personal information with any third party or organization, such as a credit reporting agency, when desiring to run a credit check. A credit check allows the landlord to see information about if you can pay rent. To run a credit check, the minimum information required would be your name, address and date of birth.

A landlord may ask for your driver's licence, passport, income, or other document. These are not required for credit checks but may just allow for a more detailed check to be sent to the landlord. It also allows for the landlord to ensure you're not confused with someone who has a similar name or date of birth.

For more information, please see: <https://www.priv.gc.ca/en/privacy-topics/landlords-and-tenants/privacy-in-the-landlord-and-tenant-relationship/>.

Which grounds can I not be refused an apartment based on?

You cannot be refused an apartment, harassed by a landlord, or otherwise treated unfairly due to:

- race, colour or ethnic background
- religious beliefs or practices
- ancestry, including people of Aboriginal descent
- place of origin
- citizenship, including refugee status
- sex (including pregnancy and gender identity)
- family status
- marital status, including people with a same-sex partner
- disability
- sexual orientation
- age, including people who are 16 or 17 years old and no longer living with their parents
- receipt of public assistance.

For more information, please see: <http://www.ohrc.on.ca/en/human-rights-tenants-brochure>

Exceptions

There are also limited exceptions to these rules. For example, s. 21(2) of the *Ontario Human Rights Code* provides an exception for a rental complex to be restricted to persons who are of the same sex. As well, if a tenant shares a kitchen and/or bathroom with the landlord (or the landlord's family), the *Code* does not apply. For more information, please see:

<http://www.ohrc.on.ca/en/human-rights-and-rental-housing-ontario-background-paper/rental-housing-and-ontario-human-rights-code>

Signing a Lease

Most tenancy agreements made on or after April 30, 2018, to February 28, 2021, must be on the government's standard lease form from 2018. As of March 1, 2021, parties are expected to use the updated December 2020 lease. If you are moving into a care home, the landlord must provide a written agreement. If there is a clause in your lease that goes against the law, that clause will be deemed void.

For more information, please see: <https://stepstojustice.ca/questions/housing-law/what-should-be-my-rental-agreement/>.

For instructions and a copy of Ontario's standard lease, please see: <https://www.ontario.ca/page/guide-ontarios-standard-lease>.

Deposits

A landlord can collect a rent deposit if they ask for it on or before the day the tenancy agreement is entered into by them and the tenant. The rent deposit cannot be more than 1 month's rent or the rent for 1 rental period—whichever is less. It must be used for the last month's rent before the tenancy ends. It cannot be used for anything else such as paying damages. The only other deposit a landlord can ask for is for keys. Key deposits cannot be more than the actual cost of keys.

A landlord cannot ask a tenant to pay a “pet deposit” or a “damage deposit”.

For more information, please see: <https://tribunalsontario.ca/lrb/faqs/#faq4> or **Steps to Justice:** <https://stepstojustice.ca/questions/housing-law/do-i-have-pay-deposit-when-i-rent-new-place/>

Insurance

A landlord can refuse to rent to you if you don't get insurance. However, this is only if your lease explicitly requires you to get tenant's insurance. For more information, please see: <https://www.cleo.on.ca/en/publications/tenantsaccess/you-move>.

Pets

An example of a void clause in a lease is one stating “No Pets.” A landlord can refuse to rent to you if you have a pet. However, if you rent a unit and obtain a pet later, the landlord cannot evict you for that reason alone. The landlord may be able to ask you to remove the pet or apply for eviction if your pet is making unreasonable noise, is dangerous, causing damage, severe allergic reactions or is not allowed due to condominium by-laws or local city by-laws.

For more information, please see: <https://stepstojustice.ca/questions/housing-law/can-landlord-reject-me-because-i-have-pet/>. More information can also be found on the official Landlord and Tenant Board (LTB) website: <https://tribunalsontario.ca/lrb/faqs/>

Information for New Tenants Brochure

Upon move in, your landlord must give you the LTB's “**Information for New Tenants**” brochure. It explains about the LTB, your legal rights and responsibilities. Please see: <https://www.cleo.on.ca/en/publications/tenantsaccess/you-move>. The brochure can be found at: <https://tribunalsontario.ca/documents/lrb/Brochures/Information%20for%20New%20Tenants.pdf>