

Instruction Sheet for Application for an Order of Possession

Important:

(Cette information existe également en français. Composez le 204-945-2476.)

It costs \$60.00 to file an Application for an Order of Possession. You can file an application in person or by mail. If you are sending your application by mail, please include a cheque or money order payable to the Minister of Finance. Don't send cash through the mail. The Branch will charge a \$20.00 fee for any returned cheque it receives.

Our address is: The Residential Tenancies Branch
1700 – 155 Carlton Street
Winnipeg Manitoba R3C 3H8

Be sure to read the **Important Information** on the back of the Application for an Order of Possession form.

To complete sections 1, 2, 3 and 4 of the **Application for an Order of Possession** form, follow these instructions. The Residential Tenancies Branch will complete sections 5 and 6.

Please print all information.

1 Address of Rental Unit

Fill in the address of the rental unit, including city/town and postal code.

2 Landlord/Tenant Information

Fill in your name, or your agent's name, mailing address (including postal code) and daytime phone number. Do not use initials, full names only.

Fill in the name of each person (tenant, co-signer, guarantor) you are claiming against. Do not use initials, full names only. Give their present address, or mailing address (including postal code) and daytime phone number. Use additional pages if needed.

3 Reason for Application

Place a check mark (✓) in the boxes which best describe why the tenant was given a written notice to move. If none apply, place a check mark (✓) in the box beside **Other** and give your reason. Attach a copy of the notice, and any warnings, with the Application for an Order of Possession. The Branch may not be able to accept your application without copies of the relevant notices and warnings.

4 Claim

Place a check mark (✓) in the boxes to show your claim. Fill in the amount you are claiming and give details (attach additional pages if needed). If you do not give enough detail, the Branch may not be able to accept your claim. Remember to total up your claim.

<u>Example</u>	<u>Amount</u>	<u>Details</u>
<input checked="" type="checkbox"/> Rent	\$1,000.00	Aug/02 \$500 + Sept/02 \$500
<input checked="" type="checkbox"/> Damages	\$ 350.00	Replace living room window \$200; repair master bedroom door \$150
<input checked="" type="checkbox"/> Cleaning	<u>\$ 100.00</u>	Carpet cleaning \$50; cleaning walls, fridge, stove, bathroom, kitchen cupboards; 5 hrs. at \$10 per hour.
My total claim is:	<u>\$1,450.00</u>	plus costs*

You can estimate for damages or cleaning, if you don't know the actual costs. You can reduce the estimated amount at the hearing, but you can only increase the amount you are claiming if the tenant agrees.

If claiming utility bills, only list the ones you may be responsible to pay (**for example**: an outstanding water bill applied to owner's property tax bill). If actual amounts are unknown, estimate the bill.

If claiming interest, place a check mark (✓) in the box beside Interest. The Residential Tenancies Branch will calculate any interest when making a decision on your claim.

Fill in the amount of the security deposit, if any, and the date you received it.

***Costs:** may include reasonable costs for filing, serving and proving this claim as well as the costs for obtaining and enforcing a writ of possession.

Finally, **sign** and **date** the **Claim** section.

5 Hearing Date and Time

To be completed by the Residential Tenancies Branch.

6 Mediation Officer

To be completed by the Residential Tenancies Branch.

Important Information

The Residential Tenancies Branch will hear this application under the authority of *The Residential Tenancies Act*.

Giving the tenant the Application for Order of Possession

A landlord must give this application by:

- ◆ handing it to the tenant; or
- ◆ handing it to an adult at the tenant's home.

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If the tenant doesn't come to the hearing, the Branch will ask the landlord to show that the tenant received this Application for an Order of Possession at least five days before the hearing. We'll accept a sworn declaration of service by the person who delivered the application.

If a landlord has made reasonable attempts to serve this application to the tenant but has not been able to, they may call the Residential Tenancies Branch at 204-945-2476 or toll-free at 1-800-782-8403 for information on other ways to serve the application or to reschedule the hearing.

Evidence Requirements

If you have evidence or a written submission you would like the RTB to consider at the hearing, at least **two full business days** before the hearing, you **must** submit:

- One copy to the RTB; this can be sent electronically to rtbevidence@gov.mb.ca.
- One copy to any other party.

Evidence not received by the RTB or the other party at least two full business days prior to the hearing **may not** be accepted.

If you are the claimant or applicant, you must provide a completed Declaration of Service form to show that you served the other person at least five days before the hearing. A Commissioner for Oaths must witness the declaration.

Examples of evidence:

- | | | |
|---|-----------------------|----------------------|
| 1. Condition Reports | 2. Tenancy Agreements | 3. Receipts/Invoices |
| 4. Photos | 5. Notices | 6. USB, DVD's |
| 7. Written statements from witnesses who can't attend the hearing | | |

What happens if you don't take part in the hearing?

If you don't come to the branch or take part in another way (for example, written submission, sending an authorized representative), the hearing may be held without you.

If a person **does not take part** in the hearing, we may make a decision without you. If you do not take part in the hearing and the Branch grants an Order of Possession for Non-Payment of Rent, you will need leave to appeal.

This means that if either a landlord or a tenant doesn't take part in the hearing, they have to get "permission", or leave to appeal the Order of Possession for Non-Payment of Rent, from the Residential Tenancies Commission to appeal the order.

If someone wants to apply for leave to appeal, they must take their evidence, showing why they could not take part in the hearing, to the Commission within the appeal deadline, and pay a filing fee. Leave to appeal may be granted if:

- the person can show why they were reasonably unable to take part in the hearing, or
- they can show that the order was based on false or misleading information.

If leave is granted, the person doesn't have to pay another filing fee to appeal the order.

Mediation

Mediation is a service the Branch offers for people who want to try to settle an application without a hearing. Mediation is a confidential process that can take place in meetings, conference calls or separate telephone conversations. The Branch encourages people to try mediation, but no one is required to do so.

Public Record

When the Residential Tenancies Branch holds a hearing, or makes a determination, it issues an Order stating the decision. This Order is a matter of public record. Mediated agreements are confidential and not a matter of public record.