

# Co-op Evictions

## The nuts and bolts

*October 6, 2021, noon to 1:00 p.m.*  
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# Short-forms

**CCA:** *Co-operative Corporations Act*

**CHF:** Co-operative Housing  
Federation

**CMH:** Case Management Hearing

**GMM:** General Members' Meeting

**HR:** Human Rights

**LSO:** Law Society of Ontario

**LTB:** Landlord and Tenant Board

**MH:** Merits Hearing

**NTA:** Notice to Appear

**RGI:** Rent Geared to Income

**RTA:** *Residential Tenancies Act*

**SJTO:** Social Justice Tribunals of  
Ontario

# Overview

1. Eviction Law Reform
2. Eviction and human rights
3. LTB
  - Grounds for eviction
  - Why else use it?
4. Six steps to eviction
5. Document Service
6. New Model Occupancy By-law
7. Resources





# Legal information?



**Legal advice?**

# Eviction Law Reform

Before June 1, 2014

Internal  
process



Superior  
court

Since June 1, 2014

Internal  
process



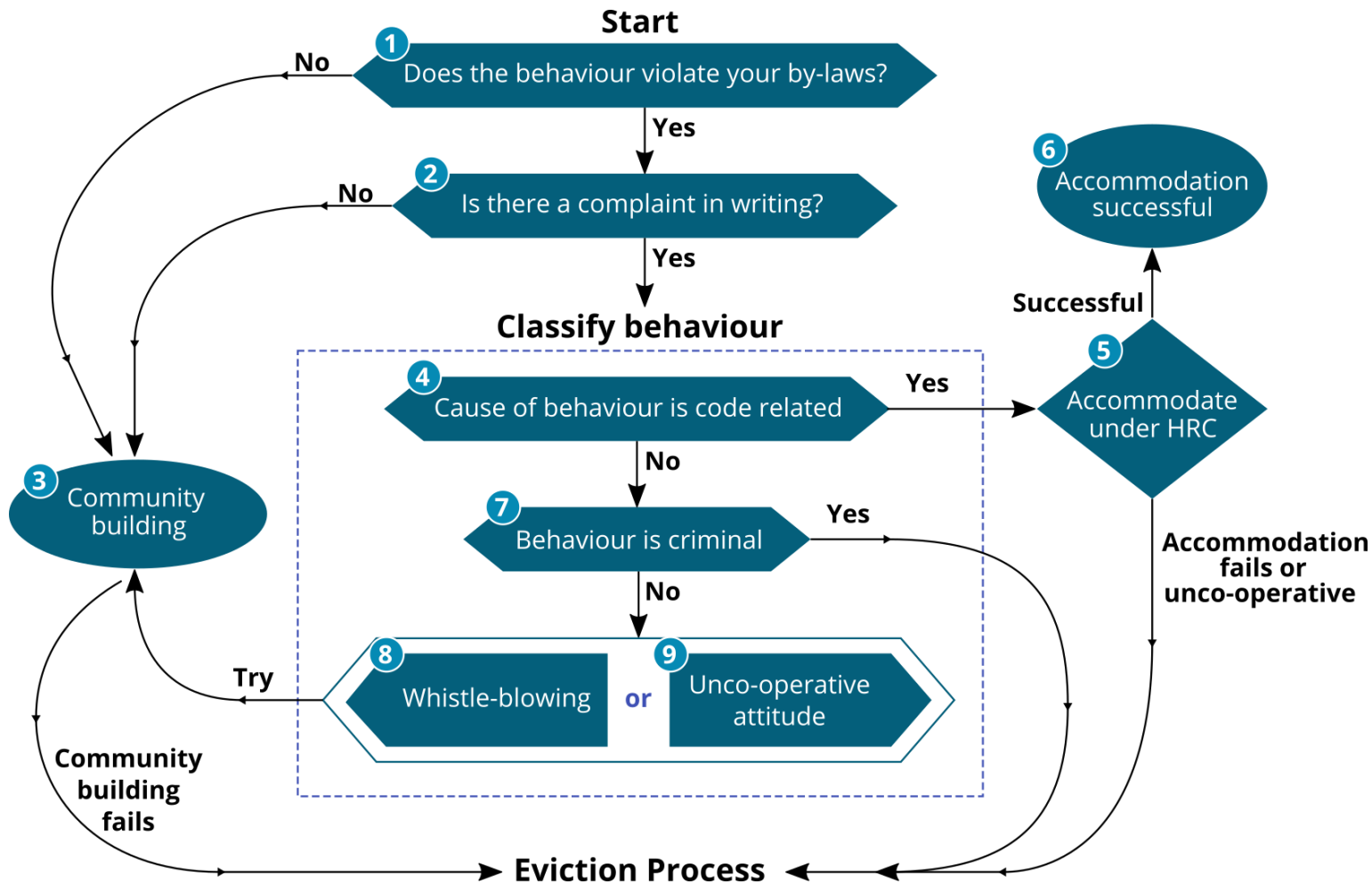
Most to  
LTB

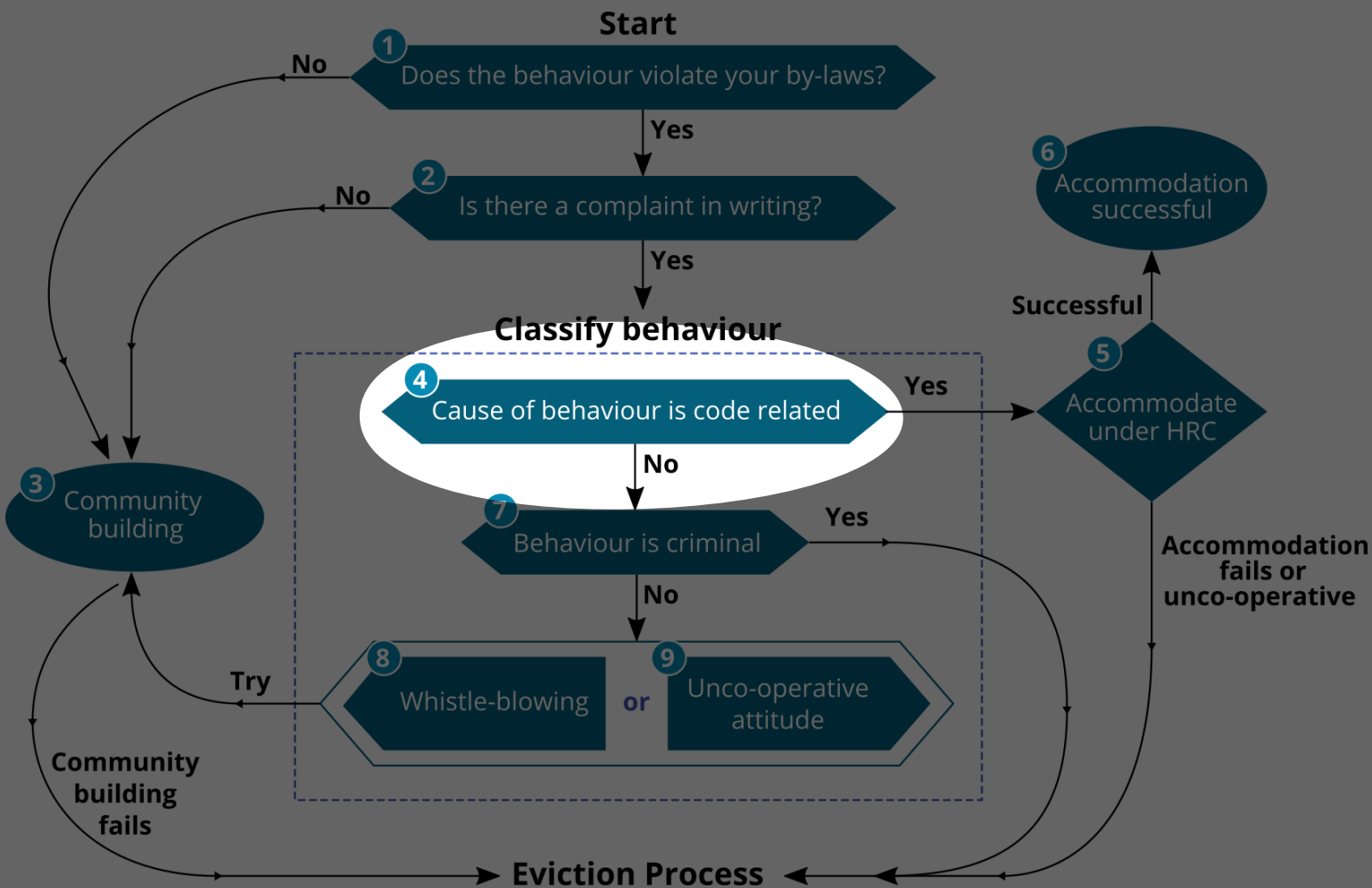


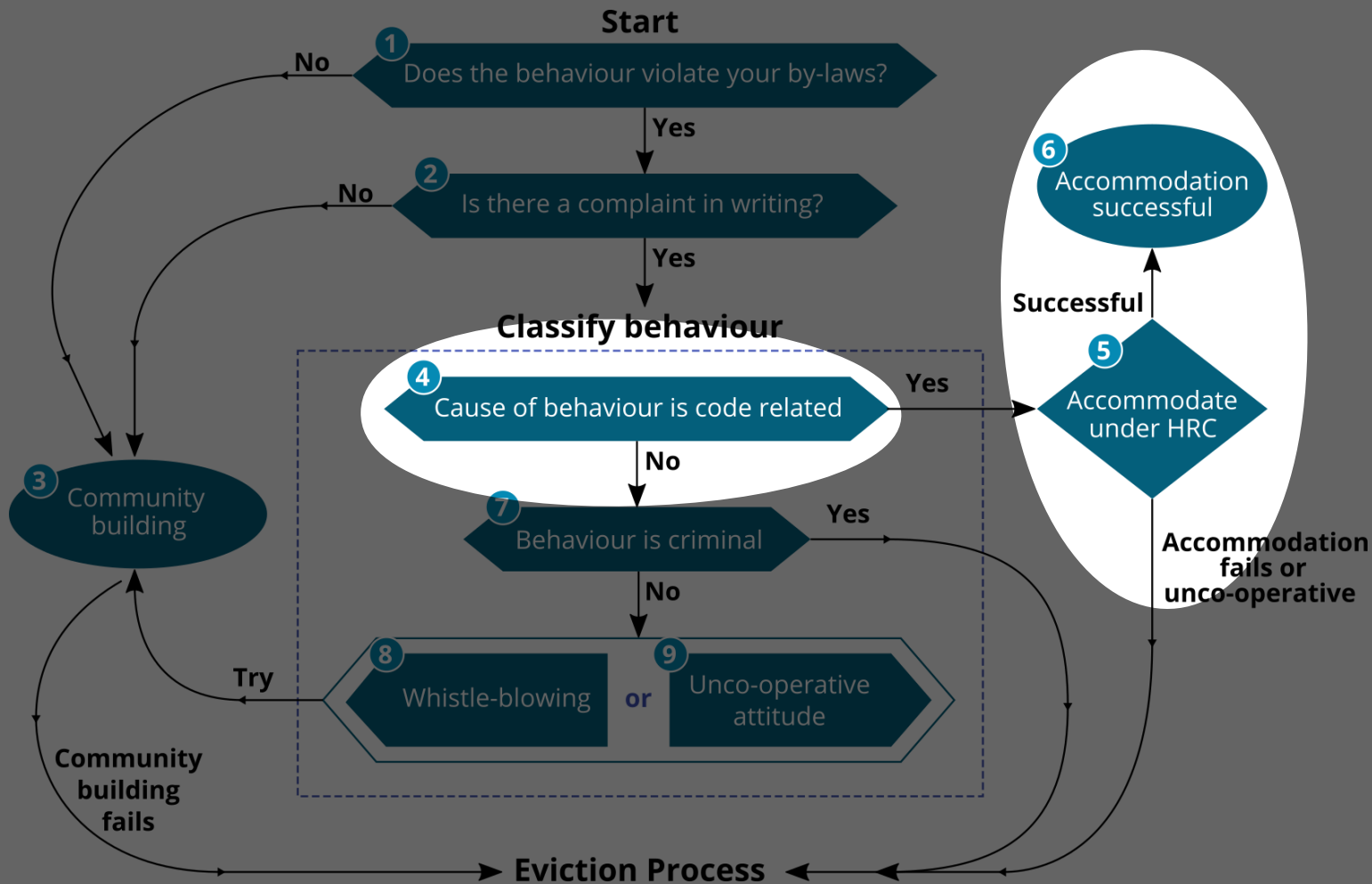
Very rare to  
Superior Court

# Eviction and human rights

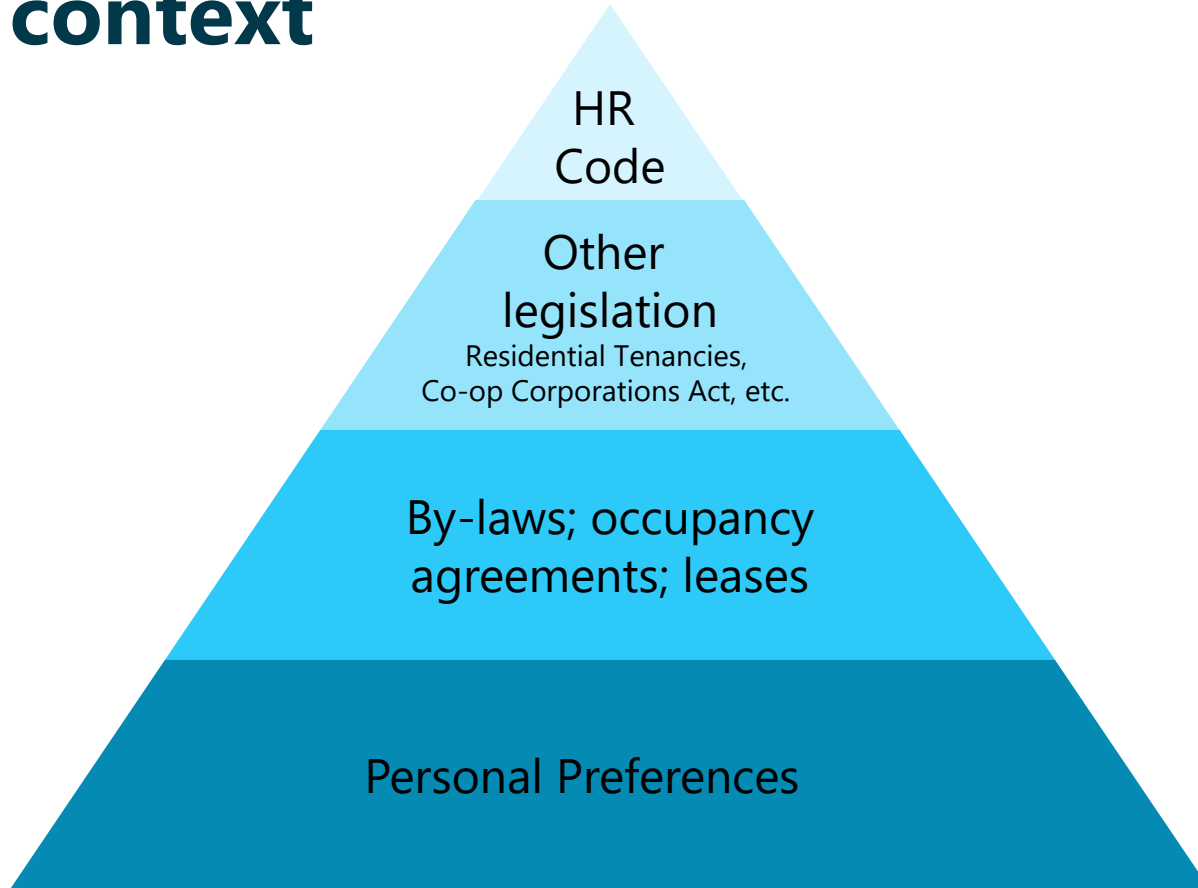




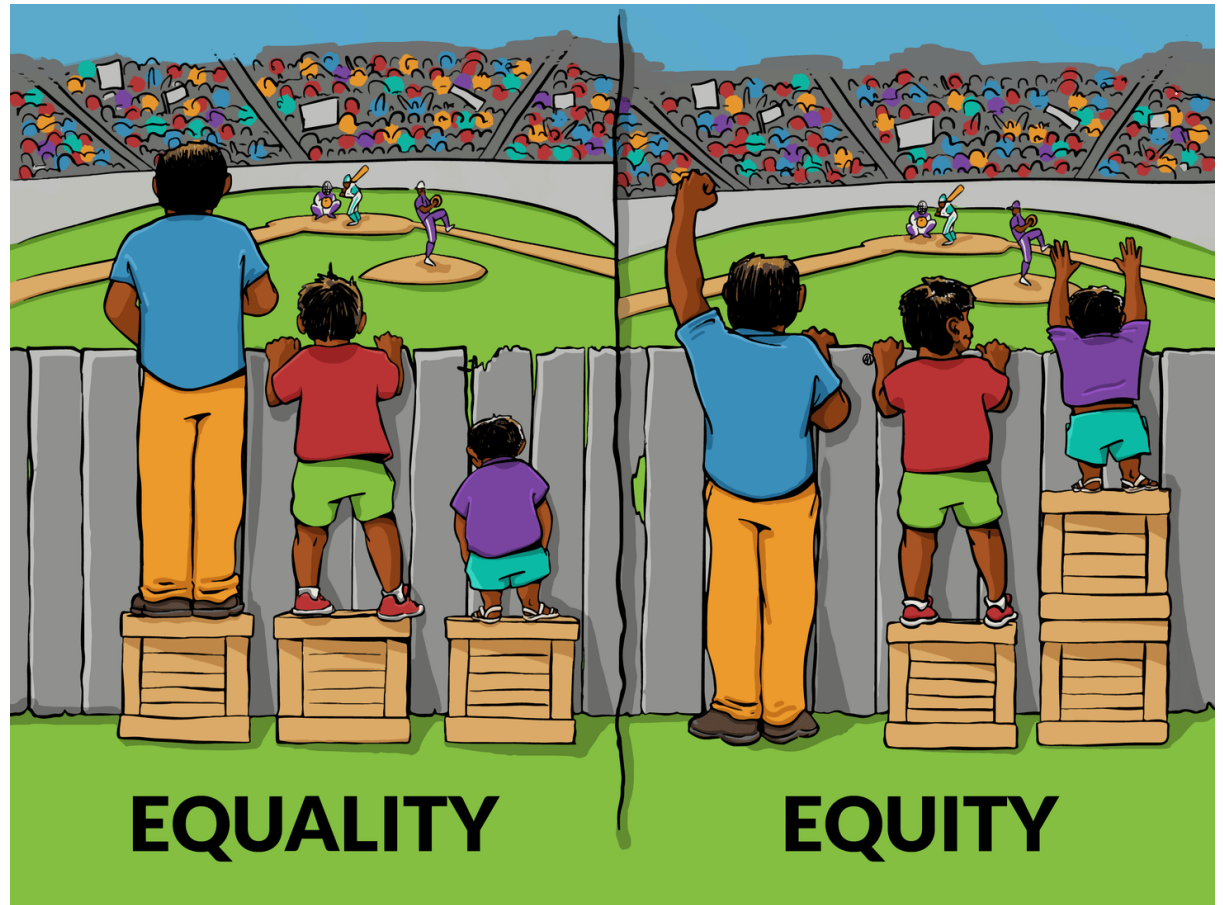




# HR in context



Like this



# LTB

# Grounds for Eviction at LTB *(see s. 94.2(1) RTA)*

1. **Persistent late payment**
2. No longer eligible for social housing
3. **Arrears**
4. Misrepresentation of income in an RGI household
5. Illegal acts
6. Undue damage caused wilfully or negligently
7. Undue damage significantly greater than in #6
8. **Substantial interference with reasonable enjoyment**
9. Serious impairment of another person's safety
10. Too many people in the unit for health and safety standards

# Other reasons for LTB

- Member gives notice – doesn't leave
- Student co-ops – member doesn't leave at end of term
- Unit abandoned



# Superior Court

- No member in unit
- Behaviour doesn't fit into the LTB grounds

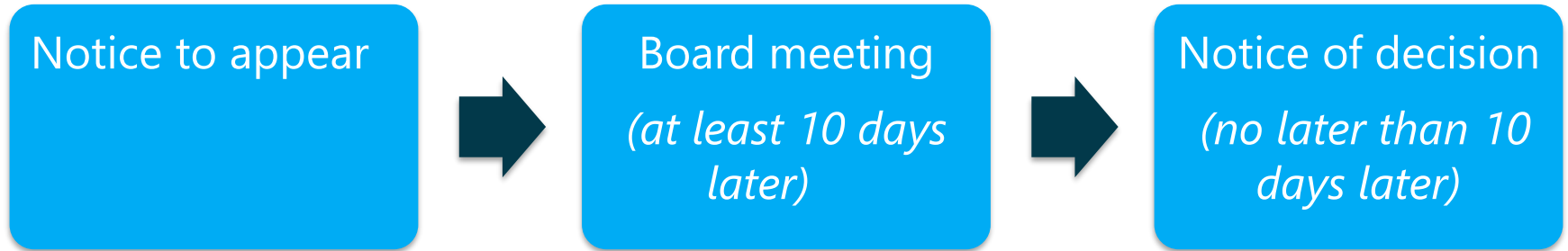
# LTB – a few differences

- Co-ops not the same as landlords
- LTB Hearing Officer (Case Management Hearing)
- LTB Member (Merits Hearing)
- Electronic forms
- Evictee's response

# Six steps

1. Internal process
2. LTB Notice
3. LTB application
4. Case Management Hearing
5. Merits Hearing
6. Enforcement

# Step 1: Internal Process *(see s. 171.8 of CCA)*



# NTA issues

Include:

- manager & security reports
- member complaints
  - consent? vs remove personal info?
- details!!
- what else has been done?

# Document document document !!!



# 4 options at NTA meeting

1. Do nothing
2. Don't evict - Performance Agreement (negotiation) – breach PA, new NTA
3. Evict but suspend the decision – set conditions to stay (no negotiation) – breach condition, eviction takes effect
4. Evict – set termination date





# Internal termination date & appeal (*if any*)

## Step 2: LTB Notice – for \$

**N4C**

arrears

(amt is regular monthly housing charges)

**N8C**

repeated late payments

## Step 2: LTB Notice – for behaviour

### **N5C**

nuisance, overcrowding,  
damage

### **N6C**

illegal acts, misrep of  
income

### **N7C**

serious problems

## Step 2: LTB Notice

- Termination date - depends on the Notice used AND the reason on the Notice

***Follow the Notice instructions!***

## Step 2: LTB Notice – Voiding

*Voiding: no eviction application*

**N4C** – pay within 14 days: voided

**1<sup>st</sup> N5C** – no behaviour in 7 days: voided

**N5C** – damage is paid in 7 days: voided

**N5C** – occupants reduced to acceptable in 7 days: voided

*Follow the Notice instructions!*

## **Step 2: LTB Notice – 2<sup>nd</sup> N5C**

### ***Behaviour***

Behaviour causing 1st N5C doesn't happen in 7 days  
but DOES happen in the first 6 mos – then 2<sup>nd</sup> N5C  
CANNOT be voided

***Follow the Notice instructions!***

# Step 3: LTB Application

**C** – all applications

**C1** – for arrears (after N4C)

**C2** – for nuisance, overcrowding, damage, illegal acts, problems, late payments (after N5C, N6C, N7C, N8C)

**C3** – on consent, after LTB agreement breach (*no notice*)

***Follow the Application instructions!***

# Step 4: Case Management Hearing (CMH)

*Focus on the future, not the past*



- Why?
- What to do before?
- What to do during?
- What to do after?



# Step 5: Merits Hearing

*Focus on the past, not the future*

- Why?
- What to do before?
- What to do during?
- What to do after?



# Step 6: Enforcement

- Eviction
- Collecting the arrears



# Estimated timeline – arrears – pre COVID

## INTERNAL

- Day 0** - serve notice to appear
- Day 10** - hold board meeting
- Day 20** - last day to serve decision
- Day 20** - internal termination date
- Day 21** - serve N4C notice

## EXTERNAL

- Day 35** - no payment received? file C, C1 & fee
- Day 55** - *CMH*
- Day 65** - *MH*
- Day 85** - *decision*
- Day 115** - *sheriff sets date to vacate*
- Day 120** - *sheriff enforces*

***Italics: dates set by LTB or Sheriff***

# Document Service

# Serving Documents

CCA paragraph 171.23(1)

- (a) by handing it to the person;
- (b) by handing it to an apparently adult person in the member unit;
- (c) by leaving it in the mail box where mail is ordinarily delivered to the person;
- (d) if there is no mail box, by sliding it under the door of the member unit or through a mail slot in the door or leaving it at the place where mail is ordinarily delivered to the person; or
- (e) by sending it by mail to the last known address where the person resides or carries on business.

If mailed, deemed served on the fifth day after mailing

***No more taping it to the door!***



# CHF Canada Model Occupancy By-law

# New By-law

- Updates the old by-law
- Reflects other developments in Co-ops since the old by-law



# Resources

- LTB website: <http://www.ltb.gov.on.ca/>
  - Forms, brochures, decisions, ap'n status
- *Evictions: What Co-ops Need to Know* - CHF Canada Ontario Region website  
<http://www.chfcanada.coop/eng/>
- CHF model by-law and guide to model by-law
- Iler Campbell LLP Blog  
<http://www.ilercampbell.com/blog/>
- RTA; CCA
- LTB Rules of Practice and Interpretation Guidelines
  - Rule 34 and SJTO Practice Direction re Co-ops
- CanLii caselaw:  
<http://www.canlii.org/en/on/onltb/>

# More Resources

- Feldman, Residential Tenancies, 11th Edition, 2018
  - Chapter 16: Proceedings before the Landlord and Tenant Board
- Fleming, Residential Tenancies in Ontario, Third Edition, 2015
- Fleming, Ontario Landlord & Tenant Law Practice, 2021
- Butkus, The 2021 Annotated Ontario Landlord and Tenant Statutes
- Small Claims Court website - enforcing judgments  
[http://www.attorneygeneral.jus.gov.on.ca/english/courts/guides/After\\_Judgement\\_Guide\\_to\\_Getting\\_Results\\_EN.pdf](http://www.attorneygeneral.jus.gov.on.ca/english/courts/guides/After_Judgement_Guide_to_Getting_Results_EN.pdf)

**Questions -**  
you likely have some!

