

Appendix A

Your landlord wants you to start paying for electricity – Be Careful!

June 2008 Update by the Advocacy Centre for Tenants Ontario

In most high-rise apartments, landlords pay the electricity bill for the whole building. Landlords can't force tenants to start paying for electricity separately. **It only is legal to transfer the cost of electricity to tenants if the tenants agree and the rent is reduced.**

Situation A - If electricity is included in your rent, and you have NOT agreed to pay separately for utilities:

It is not a good idea for you to make a different agreement for your electricity at this time. The Ontario government plans to introduce rules to protect tenants who are told to start paying electricity for their apartments. These rules are not yet law. When they become law, they might be ignored if tenants agree to pay for electricity now.

Some tenants are getting letters from their landlords or companies their landlords have hired. A typical letter asks tenants to fill out a form which would let a sub-metering company charge the tenant for electricity use. Although the form says: "This form must be completed and returned," **you do not have to fill it out.**

If you enroll with a sub-metering company that the landlord hired, you will probably not be able to switch back. You will be responsible for paying your own electricity and possibly other fees and a deposit.

Tenant Questions

1. Can I save money if I pay my own electricity?

No one knows yet. The individual meters have only recently been installed and it is too soon to tell how much electricity you use. You are being asked to accept a rent reduction in exchange for paying your own electricity. Without knowing exactly how much electricity you use, you cannot know whether the rent reduction you are offered is fair or not. You could end up paying more for rent plus electricity than you now pay for rent.

2. Some forms provide options. Mine has two options. Which should I choose?

You don't have to fill out the form. Neither option is good. Option 1 will let the sub-metering company make deductions from your bank account. Option 2 makes you pay a security deposit which may or may not be legal. You should refuse to fill out the form.

3. Can my landlord evict me if I don't agree to pay my own electricity?

No. Failure to agree to sign the form is not grounds for eviction. If your landlord threatens you, get legal help immediately.

4. My landlord wants to inspect the wiring in my unit to install the smart sub-meters -- should I let them in?

The landlord can inspect the wiring in your unit, and can install smart sub-meters. If the landlord gives you a notice to allow a company to inspect your unit, you should co-operate. Just because they install a smart sub-meter or inspect your wiring, doesn't make you responsible to pay for the electricity. Even if they install the meters, the landlord will have to keep paying for electricity unless you actually sign the enrollment form.

Situation B - If electricity is included in your rent, but you signed a lease agreeing that the landlord could later make you pay for electricity:

A few tenants may have signed leases with a clause that says the landlord at any time can stop paying for electricity, reduce the rent, and make the tenant pay for electricity. Most of these clauses do not even say how much money would be taken off the rent. These clauses may not be legal. Many lawyers argue such clauses cannot be used by landlords.

Tenant Questions

1. My landlord says my lease makes me pay for electricity now. What should I do?

If you say the clause in the lease is no good and you don't need to pay for electricity, you might find your landlord doesn't listen to you. You might decide you need to fill out a form from the landlord or a sub-metering company because you are afraid of trouble from your landlord. If you do fill out a form so that you get the electricity bills, write a letter to your landlord at the same time. The letter should say that you are only going to pay the reduced rent and the new electricity charges "without prejudice". Also write that you feel forced by the landlord or any company the landlord hired. Your letter should say that you are filling out the form because you don't want to be evicted. Including these words in the letter to your landlord may protect your rights so that your rent can include utilities again. Before you give a copy of the letter to your landlord, make a copy for yourself as proof.

You could file a T2 Tenant's Rights application at the Landlord and Tenant Board if your electricity supply is threatened or cut off by your landlord, or if you can't enjoy your apartment because your landlord is threatening or harassing you.

For more legal information and help:

Contact your local community legal clinic. You can find out the contact information for your local clinic by visiting <http://www.legalaid.on.ca/en/contact.asp> or calling Legal Aid Ontario at (416) 979-1446 or 1-800-668-8258

Contact the Federation of Metro Tenants' Associations at the Tenant Hotline: (416) 921-9494, Monday - Friday 8:30 a.m. - 6 p.m. or at hotline@torontotenants.org

For more information about Smart Sub-Meters and time-of-use rates, visit:

Smart Meters Ontario web site: <http://www.smartmetersontario.ca>

To complain about your landlord's behaviour:

Contact the Minister of Municipal Affairs and Housing, the Hon. Jim Watson: 416-585-7000 or the Ministry's toll free number: 1-866-220-2290; and
Contact the Ministry's Investigation and Enforcement Unit: 1-888-772-9277.

To make sure the law is not unfair to tenants:

Contact your Member of Provincial Parliament. To find out who that is, go to: http://www.ontla.on.ca/web/members/member_addresses.do?locale=en