

## **CHAPTER 3: DOES THE HOUSEHOLD QUALIFY FOR RGI?**

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### Basic Eligibility Rules for Every Household

The HSA sets out rules about who is eligible for *rent-geared-to-income (RGI) assistance*. To be eligible to apply for RGI assistance or continue to receive RGI assistance, a *household* must meet the following conditions

- At least one member of the household is 16 years of age or older
- At least one member of the household is able to *live independently*, with or without *support services*

Each member of the household is

- a Canadian citizen
  - a permanent resident of Canada or has applied for permanent resident status, or
  - *a refugee claimant* or Convention refugee.
- No *removal order* has become enforceable against any member of a household

**Note:** Visas allow people to legally stay in Canada for a limited time. A household is not eligible for RGI assistance if it includes a visa holder.

**Exception:** a household is eligible for RGI assistance if Immigration Canada has **accepted** an application for permanent resident status from the visa holder.

- No member of the household owes *arrears* (money for rent or damage) from a former tenancy to a social housing provider in Ontario unless
  - Housing Connections or a provider, decides there are extenuating circumstances about the case, or
  - a member of the household has signed and is following an agreement to pay the money owing or
  - a member of the household has made reasonable efforts to enter into a repayment agreement.

**Exception:** Housing Connections or a provider may accept a *special priority* household who commits to repaying 50 per cent of the *arrears*.

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**Exception:** Housing Connections will accept RGI applications from tenants living in social housing who owe arrears.

### **Certain Convictions - Local Rule**

A household is not eligible for RGI assistance if a member or former member of the household has been convicted by a court of

- knowingly obtaining or receiving RGI assistance that they were not entitled to, or
- committing a crime under the *Criminal Code* (Canada) in relation to the receipt of rent-gear-to-income assistance.

A conviction must result from a prosecution in a court of law.

**Note:** the Landlord and Tenant Board may uphold an eviction for misrepresentation. A decision of the Landlord and Tenant Board that a household misrepresented their income is not a court conviction.

If a person has been convicted of RGI fraud or a crime related to the receipt of RGI assistance, no member of the household can reapply for RGI assistance for two years from the date the offence occurred.

**Exception:** A household may apply earlier if

- the member of the household who was convicted of RGI fraud or a crime related to the receipt of RGI assistance is no longer a part of the household, and
- the housing provider is satisfied that current members of the household
  - did not know that the former member was committing this offence, or
  - could not have prevented it.

**Note:** Any person who helps a member of a household get RGI assistance that the household is not eligible for could be charged with an offence. On conviction, they could be fined up to \$5,000 or be imprisoned for up to six months, or both.

### Other Eligibility Issues for Applicants and Residents

#### Eligibility for Special Needs Housing

Units that are modified for accessibility are *special needs* units. Units in which households receive provincially funded support services are also *special needs* units.

To be eligible for special needs units, households must need the specific modifications of that unit and/or need the support care services that are available with the unit. They must remain eligible after they move in.

In many cases eligibility is assessed by the agency providing support care services in the units. Unless you have delegated vacancy management for special needs housing to Housing Connections, you must maintain a special needs waiting list. Or, special needs units may be handled by a referral agreement with an agency.

Applicants and residents of special needs units get RGI when they need it, as long as they meet the initial eligibility requirements [HSA, Reg 367, s.51.2]

#### Special Priority as a Victim of Abuse

Victims of abuse have priority on the centralized waiting list. Housing Connections first assesses applicants for general eligibility, and if they qualify, places the household on the waiting list. Then Housing Connections assesses the applicant for Special Priority Program (SPP) eligibility. If the applicant qualifies, they are ranked above other applicants on each subsidiary list for which they express a preference.

Victims of abuse currently living in social housing may wish to be placed on the provider's internal transfer list. This will most likely only happen when a housing provider has more than one building. Housing Connections reviews all applications for Special Priority Status. See Chapter 8 information on the application process.

To qualify for special priority, the applicant must make a written request to Housing Connections stating that

- the abuser is or was living with the applicant, or
- the abuser is sponsoring the applicant as an immigrant, and
- the applicant being abused intends to live separately from the abuser on a permanent basis.

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If the abuser and the applicant being abused do not live together now, the request must be submitted within three months of their separation. Housing Connections must accept a request after three months if they are satisfied that the abuse is ongoing. There is no time limit for making an application in this situation.

To verify that the applicant is being abused, the applicant must submit a record written by one of the professionals listed in Reg 367, s. 58 (5).

If the applicant is applying for special priority with the current housing provider, Housing Connections will not need a new housing application. If the applicant wishes to apply to a different housing provider, they must submit a new application to Housing Connections.

### **Losing Special Priority Status**

Once special priority status has been given to an applicant they maintain this status until they are housed.

There are some exceptions. Applicants will lose their special priority status on the centralized waiting list if

- Housing Connections confirms that the applicant is adding the abuser to the application for RGI assistance
- Housing Connections confirms that the abuser has died
- Housing Connections confirms that the applicant has accepted an offer of RGI housing.

Housing providers must:

- notify Housing Connections right away if you have information that the abuser is deceased or that the applicant has accepted an offer for RGI housing somewhere else.
- send the household to Housing Connections for an eligibility review, if an approved SPP applicant wants to add a person 16 years of age and over to the household before the lease/occupancy agreement is signed.
- establish a policy that tells applicants how long the provider will wait for the results of an SPP eligibility review before offering the vacant unit to the next household. The policy must give a minimum of 3 days.

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**Exception:** Alternative housing and supportive providers who maintain their own waiting lists do not send SPP applicants to Housing Connections unless the applicant wants to apply to other locations.

### Eligibility Issues Applying only to Residents

There are other eligibility conditions that apply to RGI households, but not applicants.

#### Failure to Obtain Income

If a housing provider believes that a household may be eligible for certain types of income, the housing provider **must** give them a written notice to try to obtain this income. These types of income are

- Ontario Works (OW) assistance
- support payments under the Divorce Act (Canada), the Family Law Act, or the Reciprocal Enforcement of Support Orders Act
- Employment Insurance (EI) benefits
- A pension or supplement under Part I or II of the *Old Age Security Act*, for example, Old Age Security (OAS), Guaranteed Income Supplement (GIS), and Guaranteed Annual Income System (GAINS). This does not include Canada Pension Plan (CPP) benefits.
- support or maintenance from a sponsor (Immigration Act).

See Chapter 10, Appendix 9 – *Failure to Obtain Income* - for more information about eligibility for these forms of income and how to apply. Appendix 9 also includes a template letter for housing providers to use when directing a household to try to obtain income.

The written notice must

- identify the type of income the household may be eligible for
- set a reasonable time for the household to inform the housing provider of their efforts to get this income.

The household may become ineligible for RGI if

- a. they do not respond to the notice from the housing provider within the time stated in the notice

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- b. the housing provider decides that the household has not made a reasonable effort to obtain this income.

The City recommends that households be given 60 days to inform the housing provider of the results of their pursuit of income. This includes 30 days to make a request for income and 30 days to receive and submit the reply to the housing provider.

**Note:** Tenants seeking support from former spouses can go to the provincial *Family Responsibility Office* if they are afraid to approach the former spouse directly.

### Ownership of Residential Property

If a household owns a *residential property* that can be lived in year-round, they must sell (*divest*) the property or their share in it within six months of moving into an RGI unit. If they do not, they may become ineligible for RGI assistance.

If a household already receiving RGI assistance acquires or inherits a residential property that can be lived in year-round, they must sell (*divest*) the property or their share in the property within six months. If they do not, they may become ineligible for RGI assistance.

The housing provider can extend the period of time beyond six months if there are reasonable grounds for doing so.

This rule applies to all residential property regardless of its location, including foreign property.

**Exception:** If a special priority household informs the housing provider that taking steps to sell a property would put them at risk from their abuser, the housing provider **must** extend the period of time past six months.

### Living in another dwelling

If a household establishes a leasehold (rental) interest or freehold (ownership) interest in another housing unit, the household ceases to be eligible for RGI assistance.

### Local Rule - Absence from Unit

1. A household is no longer eligible for RGI assistance if:
  - a. all members of the household have been absent from their unit for more than 90 consecutive days, or



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b. all members of the households have been absent from their unit for more than 90 days in total in a 12 month period.

### **Exceptions to Absence from Unit Rule:**

#### **a. Short Absence**

An absence of 7 consecutive days or less will not be counted in condition 1.b. above.

#### **b. Medical Condition of a Member of the Household**

If a household has only one member and that member has a medical condition that makes it necessary to temporarily leave the unit, the household will not be considered absent from the unit.

If a household includes one or more members that have a medical condition that makes it necessary to temporarily leave the unit, and as a result other household members are absent because they are accompanying them, the household will not be considered absent from the unit.

**Note:** This exemption applies only if a member of the household has a medical condition. It does not apply when the person with a medical condition is not a member of the household.

### **Housing Provider Policy on Medical Conditions Required**

Housing providers must develop a fair policy for deciding what a valid medical reason is and what supporting documents they will accept. This policy must be applied consistently. An example of a valid medical reason for absence may be a long stay in a hospital, rehabilitation, or treatment facility. This must be supported by documentation from a medical professional that details the condition and the reasons for the absence.

#### **c. Absences Due to Criminal Charge/Conviction**

If a household has one member, and the member is absent because they are being held in jail while awaiting trial, the household will not be considered absent from the unit.

If a household has only one member, and a bail condition of release prevents the member from living in the unit, the household is not considered absent from the unit.

If a household has one member, and the member has been convicted of an offence, the household will be considered absent from the unit for more than 90 days if the jail time to be served is more than 90 days.

**Note:** Being convicted of a criminal offence does not make someone ineligible for RGI subsidy (unless the conviction is for RGI fraud or misrepresentation).

However, someone who is convicted of a crime may serve a sentence that makes

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them absent from their unit for more than 90 days. In this case the Local Rule – Absence from Unit applies.

### **d. Extenuating Circumstances**

Housing providers may extend the time a household may be absent from a unit in extenuating circumstances. This applies if a housing provider has reviewed appropriate documentation from the household and has decided that there is a legitimate reason for an extension.

2. Housing providers must include the requirement to comply with the Local Rule - Absence from Unit in the Consent and Declaration section of their household income and assets review form. See the sample Household Income and Assets Review form in the RGI Guide, Chapter 10, Appendix 1.

## **Ceasing to be Eligible for RGI**

A household may cease to qualify for RGI if the household

- does not meet an eligibility requirement
- refuses three offers while on the centralized waiting list
- breaches the Local Rule on providing information and documents within the required timeframe
- is overhoused and cancels their application on the centralized waiting list
- is overhoused and refuses a total of three offers of housing, while on either the internal transfer waiting list or the centralized waiting list. However, the household cannot cease to be eligible until one year after they are notified that they are overhoused. (Reg 367, s. 38 (2))
- has failed to obtain income to which they are entitled (this does not apply to applicants on the waiting list)
- does not divest property (this does not apply to applicants on the waiting list)
- breaches the Local Rule - Absence from Unit.
- has paid market rent for one year.

When a household living in social housing ceases to qualify for RGI assistance, they are entitled to stay in their unit but will be charged market rent.

See Chapter 7 for more information on maintaining or removing eligibility for RGI assistance.

### Suspected Fraud

*The Criminal Code of Canada defines a person who has committed a fraud as:*

*"Every person who by deceit, falsehood or other fraudulent means, whether or not it is a false pretense within the meaning of this Act, defrauds the public or any person, whether ascertained or not, of any property, money or valuable security or any service ..."*

It is commonly accepted that an action is fraudulent only if it is a deliberate act of deception to secure unfair or unlawful gain. In other words, the person taking the action must show intent to deceive. In the social housing context that means that a household that did not report a change in income because they did not know that this was required did not commit fraud. The household did receive a benefit they were not entitled to but there was *no intent to deceive*. On the other hand, if the household has been told in the past about the requirement to report changes in income and does not do so, they have likely shown intent to deceive. In some cases, such as doctoring a pay stub to display a lower income, the intent to deceive to gain a benefit may be more obvious.

#### **The Housing Provider's responsibilities regarding suspected fraud:**

There are many different ways in which rent geared-to-income (RGI) fraud can be committed. RGI fraud results in a household receiving an RGI subsidy they are not entitled to or some other RGI-related benefit (such as living in a unit that is bigger than the household is eligible for). Examples of actions that may be RGI fraud are:

- failing to report sources of income
- failing to report changes in household composition
- falsifying of documents (including changing identity)
- failing to report that students are no longer attending post-secondary courses
- subletting all or part of a subsidized unit
- concealing an absence from a unit in excess of the allowed time periods

There are potential indicators of fraud that should cause you to review the situation further; these could include:

- Obviously altered or doctored payroll statements or forms
- Forms or letters that don't clearly indicate who they are referring to or who has issued them
- Forms or letters that contain spelling mistakes
- Individuals who report that they are unemployed but who are regularly absent

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- from their unit - which may suggest they are working
- Expenditures that are not in line with their reported income such as an expensive car or frequent travel
- Individuals who are not reported as a member of the household but who are regularly seen coming and going from the unit
- Residents that requests more access keys or fobs than the number of people on the Lease
- Vehicles that are regularly parked in the visitor's parking area
- Units or rooms are advertised for rent on websites such as AirBnB and Kijiji

Housing providers must carefully document any suspicions they may have about RGI fraud. Documentation must be kept confidential and should include dates, times and specifically what was seen, read or heard. This review should be as thorough as possible but, no allegations should be made that cannot be verified.

If a housing provider suspects that an RGI household is committing RGI-related fraud, they should immediately report this to their Housing Consultant. The report should include the reasons for this suspicion and any documentation they have collected. The Housing Consultant is required to follow a prescribed protocol to review these suspicions. If warranted, the Housing Consultant will follow up and provide the housing provider with direction on any further actions required.