

Qs and As from March 24 <sup>th</sup> webinar on the new eviction system		
	Question	Answer
1	After the member has received the Landlord and Tenant Board (LTB) N4C with a deadline, can the board of directors change that deadline after hearing from the member that they are willing to correct their arrears but need more time?	There is no maximum deadline for filing an application based on an N4C. But if you extend the deadline for payment beyond the 14 days you should probably issue a new N4C with a new deadline (at least 14 days). There is actually no time limit between the end of the internal process and the beginning of the external process, so you have some leeway here. Alternatively the co-op could apply for an eviction order after the 14 days but take the new payment terms to the Case Management Hearing for a Consent Order. If the member breaches that, the co-op can apply for a quick eviction.
2	If using multiple forms, which termination date should we follow?	You will find that the deadlines for different grounds work together. For instance, the N4C allows 14 days, after which the co-op can apply for an eviction. Other forms have different deadlines but allow the application to be made right away (and up to 30 days after the deadline), so you can co-ordinate the timing of the application.
3	Can the internal process stop at the board table if the co-op membership has removed the appeal process?	Yes. It would stop with the notice of eviction decision.
4	As Canada Post stops door to door delivery can the mail still go in old unit mail box in a town house?	No, you will have to mail the notice to the unit, and could also send it to the member's workplace. Or knock on the unit door and give it to an adult.
5	If breach is persistent late payment would this be given a chance to fix?	No, it does not have a remedy although the LTB hearing officer might allow a settlement if the co-op is agreeable to it.
6	Do other charges include Member Deposits?	No, this is not a charge, it is a deposit. The LTB will want to deduct this from arrears when making an order, unless the co-op has added damage costs in the application. That may be difficult unless the co-op has done an inspection recently and documented damage.
7	What about evicting for unpaid Member Deposits?	You could not evict under grounds of arrears, so will likely need to go to small claims court for this. The co-op may be able to use the nuisance grounds (interfering

		with lawful rights of the landlord). Haven't seen this yet.
8	Can other charges be included elsewhere?	Although only regular monthly housing charges can be included in the arrears amount in Form N4C, other charges can be claimed in the subsequent Application Form C1.
9	If they appeal the decision can they vote at the members' meeting?	The appeal suspends the decision, so the member appealing can attend and vote.
10	I just want to clarify that we need to note both the LTB avenue and the Court avenue as possibilities to take back the unit if the member does not leave? Or does it depend on the reason for the eviction (being under LTB or not)?	The wording is LTB or Court. Yes, this must be on the notice to appear and the notice of eviction sent to the member after the board meeting. Check out the answer to #17.
11	If my Co-op adopts the model Occupancy By-Law does it have to be approved by the membership?	Yes, all by-laws need member approval (at a duly called general members' meeting with 2/3 majority vote).
12	How does the Co-op have to prove the reasons for an NC6 as it relates to drugs?	No hard and fast rules on this, but the co-op needs to be certain of the grounds. This could include reliable witness evidence, maybe security video, possibly evidence gained in unit inspection.
13	What is considered evidence if there is no police involvement?	See above.
14	If the member pays the co-op for the rental of hot water tanks, furnace, and c/a on a monthly basis, would that amount be included in the arrears?	Yes
15	In regards to procedural irregularities, how will the scenario impact the outcome if a staff person signs the notice to appear if the by-law still states that it is a board member?	Probably OK once, but the co-op should get it right. Either follow the by-law or change the by-law.
16	If the legislation has changed regarding appeal in the Co-op Corporation's Act, do we have to send to the member in the Board decision that they have the right to appeal if the co-op's by-law states members have the right to appeal? Will this be considered a procedural irregularity?	Yes, if the co-op's by-law allows an appeal, you must let the member know. This is a procedural irregularity that might have a negative impact on the member, so would be taken seriously.

17	Clarification on notice to appear and board decision forms; if our forms are different as the new Occupancy By-law has not been adopted, can we use the forms of the new model Occupancy By-law?	Yes you should add the required language on the notice to appear and the notice of board decision. See our <i>Evictions: What co-ops need to know</i> , Issue #2, which is available on the Resource Centre on our website. You don't need a members' meeting to make this change.
18	Which form are we to use for collection of late fees and NSFs as those cannot be added to the N4C?	Although only regular monthly housing charges can be included in the arrears amount in Form N4C, other charges can be claimed in the subsequent Application Form C1.
19	In the Board of Directors' Eviction Decision form in the model by-law there is no reference to the text mentioned before "the Co-op will try to end the occupancy of the member by applying to the LTB for an eviction order or to the courts for a writ of possession". Why is it not in the model by-law form?	The new language is only required on notices to the member. The eviction decision is for the minutes of the board meeting and doesn't have to go to the member.
20	Can documents be served on the member by email?	Internal documents cannot be served by email. BUT, LTB forms CAN be served by email, if the member agrees. (see Part D of Response and Certificate of Service)
21	Is the N4C used after the internal process?	Yes, if the ground is arrears.
22	Our co-op has our own mail boxes (super mailbox type), so I can open the mail box. Can I do this? Do I need a by-law change for this?	I think this is illegal. Only Canada Post can access these mail boxes.
23	We just completed a Case Management Hearing with regards to behaviour. We were successful; however, the agreement was to allow member to remain in unit as they have applied to move with Urgent status and would be offered a unit eventually. Therefore, the agreement is that they are not a "member" during this time. We are not sure how this plays out with our new Occupancy By-law. We have put in conditions that we can go back if the behaviour appears again or concern regarding PET (biting children) we can re-open eviction and request to immediate leave.	Hearing Officers will do their best to help the parties settle. In this case the co-op agreed to an unusual condition, allowing the member to remain in the unit as a "non member" with no member rights but of course obligations of an occupant (paying housing charges, caring for unit, following by-laws). The expectation is that the household will soon move to another housing provider. There will be a quick eviction if there is a breach of the terms of the settlement.

24	We sent our member a copy of all the LTB filing forms and so did the LTB. Do we have to send them or are the LTB's copies good enough?	The co-op must give them to the unit even though the LTB sends them directly too. It is a fail-safe process to ensure the member knows about the hearing.
25	What is the logic behind the different termination dates (on the LTB notices)? Why not 14 or 20 days for all?	This is an LTB rule, not ours. It is the same as for all other landlords and I assume has been found to be satisfactory.
26	What would happen if you forgot a form from the internal process (i.e. eviction for violence against board and staff)? We were not able to proceed with a notice to appear due to safety concerns and skipped this process	This is not good, because the internal process is a requirement under the Co-op Act. Plus, when applying for an eviction the co-op signs a declaration that it has followed the rules in the Co-op Act. It is possible that the LTB Hearing Officer won't notice, but don't depend on that in future.
27	We are involved in a LTB eviction right now. The member does not have a mailbox nor can the notice be slid under the door. We have taped the notice of hearing to the door. Should we re-deliver and how should it be done?	The member should have received a notice of hearing directly from the LTB as well as from the co-op so probably you are OK. But you should not be posting notices on the unit door. You might get away with it once, I don't know. If you think the affected member will complain, mail the hearing notice to the unit.
28	Can a member of the property management company be a witness to the case, so that questions can be asked by a Board member?	Staff of the property management company can be a witness and answer questions from the co-op's representative. Remember that management company staff cannot represent the co-op and directors are not allowed to represent the co-op unless they are a licensed paralegal or lawyer. See <i>Evictions: What co-ops need to know</i> , Issue 5 for more details on representation.