



Directive

Page 1 of 5

Number: H-16-02

Date: February 18, 2016

Subject: Housing Provider's Refusal to Offer an RGI Unit

This Directive is to be implemented by Housing Providers listed under the following programs in Schedule 1 of Ontario Regulation 367/11 are listed in the 3 points below:

1 (a) – Local Housing Corporation

6 (a) – Non-Profit Program

6 (b) – Non-Profit Co-Op Program

Directives Archived and Replaced with This Directive:

Directive H-13-14, Housing Provider's Refusal to Offer an RGI Unit.

Background:

The Housing Services Act, 2011 section 75 (2) gives the Service Manager the right to set local standards on prescribed matters.

Refuse to offer is a prescribed matter set out in section 50 of O. Reg. 367/11. It states that a Service Manager's system for selecting households must include rules that permit a Housing Provider, despite any other rule, to not offer a household a rent-geared-to-income unit in certain circumstances. It also requires Housing Providers to advise households, in writing, of the refusal and Housing Providers must follow the internal review process for the initial refusal only.

As per O. Reg. 367/11 section 50 (2), this policy does not apply to the offer of an rent-geared-to-income unit in the Rent Supplement Program however it does apply to rent-geared-to-income households occupying a rent supplement unit applying to the Centralized Waiting List for a social housing unit.

In consultation with Housing Providers, the Service Manager has established criteria under which a Housing Provider may refuse to offer a rent-geared-to-income unit to a household on the Centralized Waiting List.

Action to be Taken:

Housing Providers may refuse to offer a rent-geared-to-income unit to a household on the Centralized Waiting List for one of the eight reasons set out below.

1. The Housing Provider has a mandate to house households in a specific category and offering the unit to the household would be contrary to that mandate.
2. The Housing Provider has reasonable grounds to believe, based on the household's rental history that the household may fail to fulfil its obligations to pay rent for the unit in the amount and at the times the rent is due.

For the purpose of this policy, household's rental history relates only to a current rent-geared-to-income tenant requesting a move to another rent-geared-to-income unit by applying to the Centralized Waiting List, and reasonable grounds means as listed in the five points below:

- The household has a repayment agreement for former social housing arrears and has not maintained the agreement in good standing on more than three occasions; or
 - The household has an outstanding balance on their current rental account which cannot be paid in full prior to the effective date of the offer; or
 - Such other grounds that the Housing Provider deems reasonable.
 - Housing Providers cannot refuse to offer a rent-geared-to-income unit to a household with former social housing arrears if they have a repayment agreement in good standing.
3. The Housing Provider is a non-profit housing co-operative and the household does not agree to accept its responsibilities as a member of the housing co-operative or the Housing Provider has reasonable grounds to believe that the household will not accept or will be unable to accept those responsibilities.
 4. The unit is one in which individuals will reside in a shared living situation and the Housing Provider has reasonable grounds to believe that it is unreasonable for the household to reside in the shared accommodation.
 5. The household is a current or former rent-geared-to-income household requesting to move to a rent-geared-to-income unit by applying to the Centralized Waiting List and willful damage is discovered upon unit inspection.

For the purpose of this policy, there must be documentation and or photos to substantiate the extent of the damages and the cost to repair the damages.

6. By an Ontario Court or the Ontario Rental Housing Tribunal, the household's social housing tenancy has been terminated for cause as allowed for in the Residential Tenancies Act, 2006, sections 60 – 68.

For the purpose of this policy, for cause may include activity related to drug trafficking, physical violence, possession of weapons, uttering threats, setting fires or other willful acts which result in significant property damage or that impact the health, safety, quiet enjoyment, or security of the Housing Provider's staff, other tenants or their guests.

7. A local Housing Provider served a Notice to Vacate for cause to the household with respect to a former tenancy, in accordance with the Residential Tenancies Act, sections 60 – 68, and the household vacated the social housing unit pursuant to the notice prior to application to the Ontario Rental Housing Tribunal and the Housing Provider has sufficient documentation in the household's file to defend the Housing Provider's position for the eviction.

For the purpose of this policy, or cause may include activity related to drug trafficking, physical violence, possession of weapons, uttering threats, setting fires or other willful acts which result in significant property damage or that impact the health, safety, quiet enjoyment, or security of the Housing Provider's staff, other tenants or their guests.

8. The Housing Provider has sufficient evidence to verify that one or more members of the household was convicted of criminal activity while on social housing property and or while a tenant residing in a local social housing unit that could reasonably impact the health, safety or security of the Housing Provider's staff, other tenants, their guests, or the property.

General Principles:

The Service Manager and Housing Providers have an obligation to provide safe, well maintained, and affordable housing to eligible households with low income. The intent of this policy is to provide Housing Providers with the ability to refuse to offer a rent-geared-to-income unit to households who, based on past behaviour and or tenancy have demonstrated that they are not likely to adhere to the principles of safe and well maintained housing.

Housing Providers may require prospective tenants or members to complete an application and sign consent for the Housing Provider to complete a Landlord reference check with other Housing Providers. The application and consent form must meet applicable legislation such as the Residential Tenancies Act and Privacy Acts.

The Human Rights Code, section 2(1), does not include criminal record as prohibited grounds of discrimination in the context of rental housing. However, Housing Providers should seek legal advice where the decision to refuse to offer a rent-geared-to-income unit may relate to, or be considered to relate to, issues of Human Rights.

If the past tenancy or behaviour relates to only a portion of the current applicant household, the Housing Provider must consider whether the current applicant household should be held responsible for the past tenancy and or behaviour and, if the Housing Provider is of the opinion that the current applicant household should not be held responsible, the Housing Provider may offer the unit to the current applicant household.

Where the word "reasonable" is used, the Housing Provider is expected to make decisions based on evidence rather than suspicion. As Housing Providers are responsible to make the decision and conduct the internal reviews, Housing Providers may be subject to legal proceedings and claims of discrimination.

Housing Providers are asked to consider the effects of any decisions made based on this Directive on the entire social housing community especially as some Housing Providers will continue to house all eligible households.

Process:

If the Housing Provider refuses to offer a rent-geared-to-income unit to a household, the Housing Provider must follow the two points as listed below:

- notify the household of the refusal to offer a unit in accordance with the internal review process set out in Directive H-16-01, Internal Reviews Conducted by Housing Providers; and

- hold the unit until the review process has been completed.

In order to avoid vacancy loss, Housing Providers may meet with applicants on the Centralized Waiting List prior to the availability of a unit.

A Notice of Refusal to offer a Rent-Geared-to-Income Unit by Housing Provider form must be provided to the Registry upon completion of the internal review process if the decision is to refuse to offer the unit.

Upon receipt of the Notice of Refusal to offer a Rent-Geared-to-Income Unit by Housing Provider form, the Social Housing Registry shall remove the household from all subsidiary lists for that Housing Provider.

If the household re-applies to the Social Housing Registry or asks to be added to the subsidiary lists of the Housing Provider that has already followed the internal review process to refuse to offer a rent-geared-to-income unit to that household, the Social Housing Registry shall notify the household that since they have been denied by that Housing Provider, the household must provide written confirmation from the Housing Provider that the household may be added to their subsidiary lists. Since the refusal to offer a rent-geared-to-income unit is not an eligibility rule, the responsibility for refusal to offer a rent-geared-to-income unit rests with the Housing Provider.

There may be circumstances where a household may re-apply to the Centralized Waiting List and the Social Housing Registry may no longer have records related to the previous refusal. If the household appears on the subsidiary list of a Housing Provider that has previously followed the internal review process to refuse to offer a rent-geared-to-income unit to that household, the Housing Provider may notify the Social Housing Registry with a Notice of Refusal to offer a Rent-Geared-to-Income Unit by Housing Provider form should they wish to not offer a rent-geared-to-income unit to that household.

Housing Providers must maintain all supporting documentation related to each refusal and may be required to provide such documentation as part of the Service Manager review.

Reference:

As listed in the five points below:

- Housing Services Act, 2011 (HSA) section 75 – Operating Rules for Projects
- O. Reg. 367/11, section 50 - System requirements — Refusals by Housing Provider
- Human Rights Code, section 2(1) - Accommodation
- Residential Tenancies Act (RTA), sections 60 – 68 – Termination for cause
- Directive H-16-01, Internal Reviews Conducted by Housing Providers



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