

Eviction and Expulsion Policy

Waterloo Co-operative Residence Incorporated

As approved by the Board of Directors and incorporating all changes through **August 7th, 2011**.

(Note that in this policy the singular includes the plural)

Table of Contents

Revision History.....	3
External Cross-References	3
Definitions	4
Article 1: Introduction	4
Article 2: Eviction and Expulsion	4
Appendix A: Membership Review Hearing Procedures.....	5
Appendix B: Appealing a Hearing	7
Appendix C: Example Hearing Agenda.....	8
Appendix D: Sample Membership Review Request	10

Revision History

Date	Revisionist	Summary of Changes
2011 August 7	Erik Louie	New Board policy

External Cross-References

Section(s)	Policy/Section Referenced	Referencing Policy	Section(s)
	Admissions Policy		
	Bylaws		

Definitions

“*Eviction*” shall be defined to be the termination of occupancy rights as required by CCA §171.8 for termination of membership.

“*Expulsion*” shall be defined to be the termination of membership, which includes eviction by CCA §171.8.

A “*General Meeting*” shall include both annual and general meetings of the co-operative.

The “*Judicial Body*” shall consist of the Board of Directors during a Membership Review Hearing.

Article 1: Introduction

Occasionally, WCRI staff, the Board of Directors, the Judicial Committee, and/or members feel that a particular member is inhibiting the operation of WCRI or a division, or the freedom of the members of WCRI or a division.

This policy brings together the various references to infractions which could result in eviction and expulsion from WCRI which are made in other WCRI policies and other sources, and lists some which are independent of other policies. This policy also describes the procedure for proceeding with both eviction and expulsion.

This policy is superseded by all other WCRI policies, as may be amended from time-to-time by the Board of Directors.

Article 2: Eviction and Expulsion

Item 2.1: The Board of Directors is the only body in WCRI with the power to revoke membership.

Item 2.2: An individual member may be summoned for a membership review hearing for a variety of reasons. This policy outlines a guide for grounds for eviction and/or expulsion. These grounds include, but are not limited to:

Item 2.2.1: The use of an assumed name on an application.

Item 2.2.2: Unreasonable financial arrears to WCRI. This can include, but is not restricted to, non-payment of fees longer than one (1)-month, at the General Manager's discretion.

Item 2.2.3: Failure to maintain reasonable cleanliness in residence room or apartment (according to the Admissions Policy).

Item 2.2.4: Having or harbouring a person(s) under the age of sixteen (16) on WCRI premises without consent of their parent(s) or guardian(s).

Item 2.2.5: General unco-operative behaviour, including violations of the policies and/or bylaws of WCRI.

Item 2.3: Requests to the board for a membership hearing may arise from the judicial committee, general manager, or any three directors in writing using the format in Appendix D.

Item 2.4: The process for termination must be conducted in accordance with CCA §171.8(2), as may be amended from time-to-time and as outlined in Appendix A and B.

Appendix A: Membership Review Hearing Procedures

Article 1: Calling a Hearing

Item 1.1: Membership review hearings shall be attended by the Board of Directors acting as the judicial body.

Item 1.2: In order to initiate a membership review hearing the Judicial Committee, six (6) members, or the General Manager shall formally request the review and act as the plaintiff. If the party requesting the review is unavailable to the hearing, the General Manager shall act as the plaintiff.

Item 1.3: Membership Review hearings shall be chaired by the President of the Board of Directors or another member of the Board of Directors in accordance with WCRI's Bylaws.

Item 1.4: The meeting must be called no later than thirty (30) days before the date set for a general meeting of the co-operative.

Item 1.5: The defendant must have ten (10) days written notice to be signed by the Corporate Secretary before the membership review hearing according to the notification procedure as outlined in CCA §171.8(2)3 and §171.8(2)4.

Article 2: Conduct of a Hearing

Section 2.1: Conduct of a Hearing

Item 2.1.1: The hearing shall be held as a closed session and the proceedings shall be confidential unless the decision is appealed and brought before the membership at a general meeting.

Item 2.1.2: Both parties and all witnesses must answer all relevant questions. The relevance of the question being asked will be decided by the chairperson. If an objection is made about the chairperson's decision, the judicial body shall decide by a two-thirds (2/3) majority vote. If the decision is still unsatisfactory, the objection shall be noted in the minutes of the hearing and may be used as the grounds for an appeal of the decision.

Item 2.1.3: The hearing begins with the plaintiff's case being presented followed by the defendant's case being presented. The plaintiff's witnesses may be called for questioning. After the plaintiff's witnesses have been questioned, the defendant may cross-examine the witness. After all the plaintiff's witnesses have been questioned, the defendant's witnesses may be called for questioning. After the defendant finishes the questioning of each witness, the plaintiff may cross-examine the witness. At any point, members of the judicial body may interrupt the questioning or cross-examination to have their questions(s) answered. After all witnesses have been questioned and cross-examined, the plaintiff's concluding remark and recommendations to the judicial body will be presented, followed by the defendant's concluding remarks and recommendations.

Item 2.1.4: The deliberations of the judicial body are to be conducted in confidential session immediately following the hearing and no minutes are to be taken. During deliberations, the judicial body must decide if or when to evict and expel the defendant.

Item 2.1.5: In all cases the judicial body must abide by relevant provincial laws, the CCA, bylaws of the co-operative, policies of the Board of Directors, policies of the General Manager, and relevant division constitutions and policies.

Item 2.1.6: If the defendant is evicted, the occupancy right terminated, and is expelled from the membership, the judicial body must clarify whether the defendant can or cannot apply for membership again in the future.

Item 2.1.7: An analogue tape recording or digital recording to be permanently recorded on to a disc of the hearing must be made. If the member is expelled from the co-operative, then the recording is kept by WCRI for a period of not less than five (5) years. The member is to be notified in advance that the hearing is going to be recorded.

Item 2.1.8: The Corporate Secretary, or another person authorized by the Board of Directors will act as the recording secretary for a membership review hearing. The Corporate Secretary shall, within five (5) days of the date of the hearing, notify the member of the decision of the board personally in writing by registered letter addressed to the member's latest known address (CCA §172.(1)). The Corporate Secretary shall inform the member of the process for appealing the membership review hearing decision, including the requirement for approved minutes from the hearing to be presented at such an appeal.

Item 2.1.9: Unless otherwise noted in the membership review hearing decision, a person whose membership and occupancy rights have been terminated shall have no access to WCRI's buildings or property. Such person may arrange to retrieve stored possessions through the General Manager.

Appendix B: Appealing a Hearing

Item 1: The member may appeal the decision of the Board of Directors at the next general meeting of the membership and the members by majority vote may confirm, vary, or set aside the decision (CCA 171.8(2) 14). The decision will be suspended before the appeal is heard. If a resident member's membership is terminated, then the member must give written notice of the intention to appeal within seven (7) days of notification of the decision to the Corporate Secretary (CCA §171.8(2)10). If the member is not a resident member, then the member must give written notice of the intention to appeal within twenty-one (21) days of notification of the decision to the Corporate Secretary (CCA §66(5)). There must be a minimum fourteen (14) day period between the notification of the appeal and the meeting of the membership (CCA §171.8(2)11). If no decision is made, the Board of Directors' decision shall be deemed to have been confirmed (CCA §171.8(2)14).

Item 2: In order for an appealed case to be reheard, the appellant must establish that one (or several) of the following criteria were met by the decision being appealed:

- a) New evidence surfaced after the decision;
- b) A member of the judicial body hearing the case was biased;
- c) One party was not able to get copies of relevant documentation;
- d) Inadequate summons were issued;
- e) Part of a relevant Bylaw, Board policy, constitution, or division policy was not presented;
- f) Any member present objected to the process being followed;
- g) The reasoning reported for the decision fails to abide by an overriding authority.

Item 3: The appeal hearing should begin with the chair of the General Meeting introducing the case. The appellant may then argue that one of the above listed grounds for appeal is met. A copy of the approved minutes from the original hearing will be made available during the General Meeting. The general membership will then deliberate and decide whether to accept the appeal in a closed session (excluding the appellant). If the appeal is accepted, the general membership should immediately re-hear the case (opening remarks, calling and cross-examination of the witnesses and closing remarks). New arguments and evidence may be presented, and old arguments and evidence should be re-iterated. After further closed deliberations (excluding the appellant), the general membership shall vote to uphold the decision or to vary the decision.

Item 4: An analogue tape recording or digital recording to be permanently recorded on to a disc of the appeal must be made.

Appendix C: Example Hearing Agenda

Article 1: Agenda Example

Saturday, July 16th 2011

A1 Board Room

7:00 P.M. – 9:00 P.M. EDT

Session #1		7:00 P.M.
Chair: Jane Doe		
Judicial Body: Board of Directors		
Plaintiffs: John Smith, Jane Smith		
Plaintiff Witnesses: Jim Smith, Jane Smith		
Defendant: John Smith		
1. Membership Review Recommendation	John Smith	10 min
2. Reading of Member Grievance	John Smith	15 min
3. Reading of Member Grievance	Jane Smith	15 min
4. Member Defense	John Smith	30 min
5. Statements from Witnesses		8:10 P.M.
Plaintiff Witness #1	Jim Smith	10 min
Plaintiff Witness #2	Jane Smith	10 min
6. Final Questions	Board of Directors	30 min
Session #2	Judicial Body	9:00 P.M.
7. Discussion	Jane Doe	25 min

Confidential Session.

Witnesses will be called into the room during agenda item #4 and #5.
Meeting will be recorded, no minutes will be taken.

Additional witnesses and documents should be e-mailed to president@wcri.coop to adjust time to schedule.

Article 2: Membership Review Example

Membership Review – John Smith

July 16th, 2011

This meeting was held in A1 boardroom of Waterloo Co-operative Residence Inc. (WCRI). The president and corporate secretary were present. Jane Doe chaired the meeting.

Call to Order: 7:00 P.M. EDT

Attendance:

Directors: John A. Doe, Jane B. Doe, John C. Doe

On the phone: Jane D. Doe

Late: John E. Doe (7:15 P.M. EDT)

Plaintiffs: Smith John, Smith Jane

Plaintiff Witnesses: Jim Smith, Jane Smith

Defendant: John Smith

Absent: Judicial Chair: Jane Doe

The following potential conflicts of interest were disclosed to the plaintiff's and defendant:
John Smith was a previous judicial representative.

These potential conflicts of interest were discussed in a closed board discussion and the board decided the judicial committee was impartial to the decision of the judicial body and the filing of the member grievance.

Special Resolution:

To place John Smith under a probational period where the terms of this probation are included in an attached contract. After one month's time, the board will reconvene to review the contract and John Smith's behavior.

John A. Doe
Jane B. Doe
Carried

Appendix D: Sample Membership Review Request

Persons making request:

Persons making the infraction:

Policy Infraction:

Brief summary of the situation:

Signature of requestee:

Date: