



Mohawk Council of Kahnawà:ke

Housing Tenant in Arrears Policy

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1.0 Objectives

- 1.1 The objective of this policy is to ensure that the Mohawk Council of Kahnawà:ke (MCK) applies a standard method to collect rent arrears from Tenant(s). This policy aims to:
- 1.2 Work towards making Community Housing Units available to Kahnawà:ke Kanien'kehá:ka Registry Approved Residents who will pay rent by following a method for evicting Tenant(s) in default.
- 1.3 Relieve the MCK from the burden of continuously pursuing Tenant(s) for rent payment.
- 1.4 Support the financial stability of the MCK.
- 1.5 This policy is established in accordance with the Record of Decision (ROD #10/2023-2024) issued by the MCK Council of Chiefs on September 11, 2023.

2.0 Definitions

- 2.1 **Community Housing Program(s):** Any program administered by the Housing Unit that provides housing for Kahnawà:ke Kanien'kehá:ka Registry Approved Residents.
- 2.2 **Community Housing Tenancy Agreement (CHTA):** A formal document that specifies the responsibilities and obligations of both the Mohawk Council of Kahnawà:ke (MCK) and the Tenant(s) regarding the use of a Community Housing Unit.
- 2.3 **Community Housing Unit:** A residence owned by the MCK, provided to community members through a Community Housing Program and administered by the Housing Unit through a Community Housing Tenancy Agreement (CHTA).
- 2.4 **Occupant (or Co-Occupant):** A person who is listed in a Community Housing Tenancy Agreement, without the right to renew.

- 2.5 **Tenant (or Co-Tenant):** A person named in a Community Housing Tenancy Agreement for a Community Housing Unit.

3.0 Application

- 3.1 This policy applies to all Mohawk Council of Kahnawà:ke (MCK) employees, including contractors and third parties connected to the MCK, and to all Community Housing Unit Tenants in arrears.

4.0 Policy

- 4.1 The Mohawk Council of Kahnawà:ke (MCK) is committed to maintaining the financial stability of its Community Housing Program(s) by ensuring timely rent payments from Tenants. To achieve this, the MCK will follow a standardized approach to manage and collect rent arrears, as captured in the *Community Housing Arrears Procedure*.

- 4.2 The MCK is committed to supporting transparency and consistency with their Tenants by providing regular financial monitoring, clear communication with Tenants regarding their financial obligations, and the application of consistent measures to address arrears.

- 4.3 Roles and Responsibilities:

Credit Management (CM): A role or team within the MCK that implements and manages the credit collection functions related to Housing Unit Tenants on behalf of the MCK.

Client Experience Manager (CEM): A role or team within the Housing Unit that is responsible to oversee Community Housing Tenant Agreements (CHTA), to manage Community Housing Units for move-ins, transfers, vacates, or evictions. The role involves collaboration with the General Manager of Properties and Construction and the Director of Housing to select Tenants for Community Housing Units. The CEM also manages Community Housing Unit changes and emergency triage.

- 4.4 Tenant Arrears Management Process: The MCK is dedicated to supporting Tenants in managing their rental obligations. A structured, three-level approach to address arrears ensures clear communication and fair opportunities for resolution:

Level One (1) Notice: Notification of Arrears

Action: Credit Management (CM) collaborates with the Customer Experience Manager (CEM) to verbally notify the Tenant of their arrears, either by phone or in person.

Follow-Up: The CEM provides a written summary of the conversation to the Tenant, delivered in person or via mail.

Options: The Tenant is offered the choice to pay the full arrears amount or agree to a payment schedule.

Escalation: If the Tenant does not cooperate with the payment schedule, the CEM will proceed to Level Two.

Level Two (2) Notice: Letter of Default

Trigger: Upon notification from Credit Management that the rent or arrears have not been paid by the due date, the CEM drafts a *Letter of Default*.

Review and Delivery: The letter is reviewed by Legal Services and served to the Tenant by a Bailiff.

Next Steps: If the Tenant fails to pay the arrears by the date specified in the *Letter of Default*, the CEM will proceed to Level Three.

Level Three (3) Notice: Termination of Community Housing Tenancy Agreement

Final Action: If the Tenant continues to default on payments, a *Notice of Eviction* is issued, specifying the eviction date and termination of the Community Housing Tenancy Agreement.

4.5 The MCK must ensure that eviction procedures are carried out fairly and transparently, with due consideration for the circumstances of each Tenant, as captured in the *Community Housing Program Eviction Procedure*.

4.6 Eviction Criteria: Eviction may occur due to one or more of the following reasons:

- Past Due Rent Notification: When the Customer Experience Manager (CEM) informs the Tenant of overdue rent, which could be a single missed payment, the Tenant has ten (10) business days to settle the overdue amount as specified in the Community Housing Tenancy Agreement. A key consideration is the Tenant's cooperation with the CEM regarding rent payments.
- Single Default in a Year: A Tenant who defaults on a rental payment once within a year.
- Late Arrears Payments: If a Tenant is two calendar weeks late on arrears payments after signing a *Letter of Agreement to Pay Arrears* and fails to notify the CEM.
- Failure to Pay Arrears in Full: If a Tenant defaults on arrears payments by the agreed timeframe outlined in the *Community Housing Arrears Procedure*, the CEM will prepare a *Notice of Eviction* and end the tenancy, with the notice served by a Bailiff.

4.7 Appeal Process: A Tenant has the following options to contest an eviction. The appeal process consists of two levels:

Level One (1) Appeal: A Tenant who receives a *Notice of Eviction* has fifteen (15) business days from the notice date to file an initial appeal. This appeal must be

submitted in writing to the Director of Housing, detailing the reasons for contesting the eviction.

Level Two (2) Appeal: If the Tenant is not satisfied with the response to the Level One Appeal, they may request an Administrative Review by the Client Based Services Committee (CBSC). This request must be made in writing within ten (10) business days from the date of the Director's response, with no exceptions.

4.8 Community Housing Program Eligibility: A Tenant evicted for arrears is ineligible to apply for MCK Community Housing Programs for a period of three (3) years after the arrears are paid in full.

4.9 Conflict of Interest: The Mohawk Council of Kahnawà:ke (MCK) is committed to ensuring that the eviction process is fair, impartial, and free from conflict of interest. MCK Employees involved in the eviction process must disclose any personal, financial, or familial relationships with Tenants, Co-Tenants, or Occupants. Employees who have a conflict of interest must disclose this to the Executive Operations Officer and excuse themselves from the eviction process. Failure to disclose may result in disciplinary action and nullify the eviction decision. For a more comprehensive overview, consult the *Conflict of Interest Policy*.

5.0 References

5.1 **Record of Decision:** *MCK Council of Chiefs ROD #10/2023-2024*

5.2 **Procedure:** *Community Housing Arrears Procedure*

5.3 **Template:** *Letter of Default*

5.4 **Template:** *Notice of Eviction*

5.5 **Procedure:** *Community Housing Program Eviction Procedure*

5.6 **Template:** *Letter of Agreement to Pay Rental Arrears*

5.7 **Policy:** *Conflict of Interest Policy* (HRU-POL-002-005)